



WARRNAMBOOL  
CITY COUNCIL

# Procurement Policy

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# PROCUREMENT POLICY

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# PROCUREMENT POLICY

## DEFINITIONS AND ABBREVIATIONS

Term	Definition
<b>Act</b>	<i>Local Government Act 2020 (Vic).</i>
<b>Collaborative Procurement Arrangement</b>	A contract established by Council, state government or a nominated agent, such as Procurement Australia, Municipal Association of Victoria (MAV), South West Regional Councils or a local government entity, for the benefit of numerous state, federal and/or local government entities and others that achieves best value by leveraging combined economies of scale.
<b>Commercial in Confidence</b>	Information that, if released publicly or to a third party, may prejudice the business dealings or commercial interests of Council or another party, e.g. prices, discounts, rebates, profits, methodologies, and process information, etc.
<b>Contract Management</b>	The process of ensuring both parties to a contract 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.
<b>Council Staff</b>	All Council officers, temporary employees, contractors, volunteers and consultants while engaged by Council.
<b>Expression of Interest (EOI)</b>	An Expression of Interest is to gauge interest in tendering. It's an approach to market for organisations or individuals to express an interest in providing particular goods, services or works.
<b>Goods, Services or Works</b>	The deliverable(s) the preferred Invitee will be required to provide to Council, when the conditions of contract have been agreed between the preferred Invitee and Council.
<b>GST</b>	Means GST within the meaning of <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
<b>Invitee</b>	A company, person or other legal entity which submits a tender or quote; and includes, where the context permits, prospective Invitees and other recipients of the request for tender or request for quote.
<b>Local Business</b>	Commercial business with an operational premises that is physically located within the municipal borders of the South West Regional Councils.
<b>Procurement</b>	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to disposal of an asset at the end of its useful life or completion of the contract.
<b>Records Management System</b>	Electronic Content Management system used by Council.
<b>Request for Quotation (RFQ)</b>	A formal statement of promise, submitted usually in response to a request for quotation, by a potential supplier to supply the goods, services or works required by a buyer at specified prices and within a specified period.
<b>Social Procurement</b>	Strategic approach to meeting social and economic objectives throughout procurement using procurement processes and purchasing power to generate positive social and economic outcomes in addition to the delivery of efficient goods, services and works.

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<b>Standing Offer Arrangements / Panel Contracts</b>	A contract that sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
<b>Tender Process</b>	The process of inviting parties from either a select list or via public advertisement to submit an offer by tender followed by evaluation of submissions and selection of a successful bidder or tenderer in accordance with pre-determined evaluation criteria.
<b>Thresholds</b>	The value above which procurement, unless exempt, is subject to the mandatory procurement processes.

## REFERENCES

Council's procurement activities will be carried out in compliance with the following legislation and Council policies, procedures and plans:

- Local Government Act 2020 (Vic)
- [Warrnambool City Council Plan](#)
- Freedom of Information Act 1982 (Vic);
- Gift and Benefits Policy;
- Councillors Code of Conduct;
- Gender Impact Assessment Policy;
- Health & Safety Policy;
- [Green Warrnambool 2018 Plan](#);
- Public Records Act 1973 (Vic);
- Privacy Act 1988 (Cth);
- [MAV's Best Practice Guidelines](#);
- [Risk Management Policy](#);
- Corporate Card Policy;
- Staff Code of Conduct;
- [Fraud and Corruption Control Policy](#);
- Sustainable Council Buildings Policy;

# PROCUREMENT POLICY

## 1. INTRODUCTION

This Procurement Policy is made under Section 108 of the *Local Government Act 2020 (Vic)* (Act). The Act requires each council to (amongst other things):

- Prepare and adopt a Procurement Policy which specifies the ***principles, processes and procedures*** applying in respect of the purchase of goods, services and carrying out of works by the Council to promote open and fair competition and provide value for money;
- Establish the thresholds and processes for public procurements;
- Provide for collaboration in procurement with other councils or public bodies; and
- Review its procurement policy at least once during each 4-year term of Council.

## 2. PURPOSE

The purpose of this Procurement Policy is to:

- Establish a procurement framework to achieve continual improvement and Value for Money in the timely acquisition of goods, works and services;
- Ensure consistency, control and best practice over procurement activities;
- Ensure Council resources are used efficiently and effectively
- Support collaboration and partnership opportunities;
- Support the achievement of Council's strategies, aims and objectives as stated in the Council Plan;
- Provide guidance and achieve high standards of probity, transparency, accountability; and risk management; and
- Enhance Council's ability to obtain the best outcome from purchasing activities referring to a range of considerations, including but not limited to environmental, financial, ethical sourcing, social sustainability and support for the local economy.

## 3. SCOPE

Procurement is the whole process of acquisition of external goods, services or works. It can include planning, design, standards determination, specification writing, preparation of quotation and tender documentation, selection of suppliers, financing, contract administration, asset disposals, and other related functions. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.

Procurement also includes the organisational and governance frameworks that underpin the procurement function.

This Procurement Policy represents the principles and processes involved in, and mandates procedures that will be applied to all procurement activity undertaken by Council. The application of this Procurement Policy commences when Council has identified a need to procure goods, works or services, and continues through to the delivery of goods or completion of works or services.

This Procurement Policy will apply to Councillors, Council Staff and all persons undertaking procurement on Council's behalf. Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services, or the carrying out of works.

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The procurement function for Council is currently both centre-led from a strategic, leadership, compliance and policy perspective with decentralised purchasing and contract management execution. The Procurement Policy applies to all purchases made by Council, regardless of the funding source.

## 4. TREATMENT OF GST

All monetary values stated in this Policy exclude GST, unless specifically stated otherwise.

## 5. GOVERNANCE

### 5.1. Owner

Manager Financial Services

### 5.2. Policy Review

In accordance with Section 108(5) of the Act, Council must review the Policy at least once during its 4-year term. The Owner will review the policy for any necessary amendments no later than 4 years after its formulation or after the last review.

The CEO may cause the policy to be reviewed before then if there is a significant change in organisational circumstances or changes in legislation.

### 5.3. Model of Procurement

The procurement function for Council is currently centre-led from a strategic, leadership, compliance and policy perspective, with decentralised purchasing and contract management execution being carried out by the relevant business unit.

All purchases greater than \$300,000 (excluding GST) must be undertaken in conjunction with the procurement department.

### 5.4. Controls

Council will maintain a framework of internal controls over procurement processes that will ensure:

- Transparency in the procurement process;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained, exercised and documented;
- Systems are in place for appropriate monitoring and performance measurement; and
- A process is in place for escalation, where appropriate, of procurement matters (including procedural non-compliance) to the relevant Director, Executive Management Team, the Audit and Risk Management Committee or Council itself.

### 5.5. Financial Accountability

All Council Staff are to ensure that procurement approvals are in accordance with Council financial policies and delegations, as determined by Council and the CEO, in line with instruments of delegation.

Responsibility for financial management must be accepted and adhered to by Council Staff in undertaking any procurement activities. Council funds must be used efficiently and effectively to procure goods, works and services and every attempt must be made to contain the costs of the



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procurement process without compromising any of the procurement principles as set out in this Procurement Policy.

Council Staff must:

- Ensure budgets have been allocated prior to the commencement of the procurement activity;
- Not authorise the expenditure of funds in excess of the applicable financial delegation for their position;
- Not authorise or write multiple purchase orders to avoid the authorisation process requirements or circumvent their procurement or financial authority;
- Not approve expenditure that relates to them personally – any expenditure of this nature must be referred to the next higher level of authority for approval; and
- Ensure that any purchase orders are generated with consistency to this Policy at the point where the commitment to purchase goods, services or works has been made i.e. a purchase order must be raised in the finance system when the goods, services or works are ordered and not when an invoice is received by Council. There are very few exemptions to this requirement (**refer to Appendix 1**).

### 5.6. Compliance Responsibility

Party / Parties	Roles and Responsibilities
Chief Executive Officer	Ensure overall organisation compliance with the policy.
Managers	Ensure compliance with the policy by all Council Officers under their supervision.
Finance Manager	Overall responsibility for the policy implementation and compliance.
Procurement Coordinator	Responsible for reviewing, updating and implementing policy. Primary source for procurement advice, training and guidance.
Council Officers	Compliance with the provisions of this policy.

### 5.7. Further Information

For further information please contact Council's procurement team via email to [procurement@warrnambool.vic.gov.au](mailto:procurement@warrnambool.vic.gov.au).

### 5.8. Charter of Human Rights Compliance

Council will ensure that all of its procurement operations are consistent with the Victorian *Charter of Human Rights and Responsibilities Act 2006*, including that Act's fundamental rights.

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## 5.9. Audit and Risk Committee

Council's Audit and Risk Committee may, at any time, make a recommendation to Council that a procurement investigation be undertaken regarding procurement activities.

The Audit and Risk Committee will also be provided with a report on CEO expenditure on a quarterly basis.

## 6. POLICY NON-COMPLIANCE

Non-compliance with this Procurement Policy may result in a contravention of legislative requirements and disciplinary action that could include dismissal. In addition, criminal and civil penalties may be imposed if any Councillor or Council Staff act in contravention of any laws.

## 7. PROCUREMENT PRINCIPLES

Council is committed to effective procurement through adopting best practice principles, policies and procedures to support Council objectives regarding sustainable and socially responsible procurement, supporting local economy and obtaining Value for Money, which in turn, will lead to a better outcome for Council in the provision of services for the community.

Council will apply the following fundamental best practise principles to procurement, irrespective of the value and complexity of that procurement:

### 7.1 Value for Money

Value for Money is the achievement of a desired procurement outcome at the best possible price, not necessarily the lowest price, based on a set list of financial and non-financial criteria relevant to the procurement. Value for Money considers the total cost of procurement including:

- Contribution to Council's priorities and strategic objectives;
- Fitness for purpose, quality, social and environmental impacts, innovation, service and support; Supplier capability including expertise, capacity, supply chain, commercial viability and lawful and ethical behaviour; and
- Cost related factors including whole of life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing the goods, services or works.

### 7.2 Open, Fair, Honest and Transparent Dealing

All prospective suppliers must be treated fairly, with access to the same information to afford them an equal opportunity to tender, submit a quotation or otherwise participate in a competitive procurement process. Impartiality must be maintained in selecting suppliers to fulfil Council's needs.

Council will provide open and honest feedback to suppliers who participate in any competitive procurement process for Council's business, subject to confidentiality of Commercial in Confidence information.

Any suspected improper conduct, including (without limitation) suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment or other

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detrimental action must be managed by members of Council Staff in accordance with Council's internal policies and processes.

### 7.3 Accountability

Accountability in procurement means being able to justify and provide evidence of the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair reasonable and transparent.

Council Staff must be able to account for all procurement decisions and ensure all procurement activities leave an audit trail for monitoring and reporting purposes.

### 7.4 Risk Management

Risk management principles are to be appropriately applied at all stages of procurement to ensure procurement is properly planned and carried out in a manner that will protect and enhance Councils capability to prevent, withstand and recover from interruption to the supply of goods, services or works.

Council will minimise its risk exposure by:

- Allowing sufficient planning and lead time for procurement preparation and consideration;
- Integrating risk identification at the earliest planning stage to inform the process;
- Using Council bespoke, standard form or Australian Standard contracts which mitigate risk to Council;
- Requiring security deposits where appropriate;
- When required, referring specifications to relevant industry experts;
- Ensuring service providers maintain adequate insurance cover for the goods, services or works;
- Reviewing and negotiating contract departures and non-standard contracts prior to the award of the contract;
- Ensuring agreements are executed prior to commencement of goods, services or works; and
- Ongoing and timely contract management including monitoring and enforcement performance.

### 7.5 Support for Local Content

Council can include in its evaluation criteria up to five percent (5%) for Local Content. This aims to acknowledge the suppliers whose activities contribute to the financial and social wellbeing of the region, notwithstanding Council's objective of obtaining value for money.

### 7.6 Sustainable Procurement

Council recognises it has an implicit role in furthering sustainability objectives, through its procurement of goods, services and works. Council will maintain a procurement framework designed to support Value for Money and embed organisational environmental, social and economic development objectives.

Council demonstrates sustainable procurement by:

- Being accountable for its impacts on society, the economy and the environment including the impacts of the organisation's supply chain;
- Examining anticipated organisational, project and/or community needs;
- Continually improving sustainability specifications, practices and outcomes, and
- Planning and undertaking sustainability evaluations as part of contracting activities.

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For more detailed information on sustainability please refer to Council's [Green Warrnambool Strategy](#).

## 8 PROBITY AND ETHICS

Council's procurement activities shall be performed in an open, transparent and ethical manner with demonstrated integrity, fairness and accountability that meets relevant legal requirements.

All quotation and tender processes shall be conducted in accordance with the requirements of this procurement policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and the Act.

### 8.1 Conduct of Councillors and Council Officers

Councillors and Council Staff will at all times act in accordance with the Councillor Code of Conduct or the Staff Code of Conduct respectively. They must perform their duties ethically and with integrity, and must:

- Ensure that they avoid personal or private interests either real or perceived that intersect or overlap with their official duties;
- Treat potential and existing suppliers with equality and fairness;
- Not seek or receive personal gain;
- Seek external probity advice and/or appoint an external probity auditor in accordance with this Policy under section 8.3;
- Maintain confidentiality of 'Commercial in Confidence' information;
- Present the highest standards of professionalism and probity;
- Invite quotations and tenders only where there is a clear intention to procure the goods, services or works in the near future;
- Comply with all legal and Policy requirements;
- Disclose all personal or private interests associated with the supplier (including interests from previous employment, personal business dealings and matters affecting family members) that might compromise their ability to act solely in the public interest;
- Report to the Procurement team and the relevant Director any behaviour by a contractor and / or supplier that may be considered to disrupt a fair and equitable procurement process;
- Query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or Probity or established policies and procedures; and
- Be able to account for all decisions and demonstrate and provide evidence of the processes followed.

### 8.2 Conflict of Interest

In accordance with Sections 126-131 of the Act, Councillors and Council Officers have an overriding responsibility to act impartially and with integrity, avoiding a Conflict of Interest. Councillors and Council Officers, must:

- Avoid conflicts of interest, whether material or general or actual, potential or perceived, wherever possible (this includes the receipt of any gifts, benefits or hospitality, as further detailed in section 8.4 of this Procurement Policy);

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- Complete and lodge a conflict of interest declaration in respect of the procurement;
- Not participate in any action or matter associated with the arrangement of a tender or contract where that person has a Conflict of Interest; and
- When becoming aware of a conflict, promptly declare the Conflict of Interest in accordance with Fraud and Corruption Control Policy, or seek advice and support from the Manager Governance.

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract.

### 8.3 Probity Advisor

When the value of the goods, services or works exceeds \$2,000,000 an assessment for the need of a probity advisor is required. This assessment is the formal review for the requirement of an external, independent probity advisor on the goods, services or works.

For tenders less than \$2,000,000 Council will consider the appointment of a probity advisor when:

- The purchase is highly complex, or of a high risk or sensitive in nature; and
- There is a significant public and or tendered interest.

### 8.4 Gifts, Benefits and Hospitality

No Councillor or Council officer shall either directly or indirectly solicit or accept gifts or presents from any supplier, provider or contractor, or any other member of the public, involved with any matter connected with the procurement of goods, works or services.

Any gift or benefit offered to a Councillor or Council officer will be managed in accordance the [Councillor Gift Policy](#) and Council Employees Gifts and Benefits Policy & Procedures.

### 8.5 Disclosure of Information

Council deals with large volumes of confidential and commercial in confidence information in the context of its procurement activities. Improper disclosure of this information can undermine the competitive nature of Council's procurement, and breach legal obligations to maintain confidentiality owed to third parties.

Confidential information received by the Council must not be disclosed and is to be stored in a secure location. A confidentiality declaration must be signed as part of the procurement process (this is combined with the Conflict of Interest Form). Information must be stored securely and in accordance with the *Privacy and Data Protection Act 2014* (Vic).

Council will make every effort to maintain the confidentiality of information provided by existing and prospective suppliers to protect their commercial interests, particularly in relation to commercially sensitive material, including (but not limited to) prices, discounts, rebates, profit, methodology and intellectual property.

### 8.6 Competition and Consumer Act Compliance

Council will comply with the *Competition and Consumer Act 2010* (Cth) and other fair-trading legislation applicable to its operations and is committed to ensuring the protection of consumers and promotion of competition.

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Council Officers need to be informed of their obligations under competition and consumer legislation and ensure that the following does not occur:

- Restrictive trade practices (including price fixing and exclusionary provisions relating to an interstate boundaries);
- Market sharing (including allocation of customers), anti-competitive agreements, exclusive dealing and misuse of market power;
- Inaccurate communication or promotion (including misleading or deceptive conduct, false claims and unsubstantiated predictions); and
- Unconscionable or unfair business practices.

### 8.7 Record Keeping

Council officers need to ensure that all records relating to procurements are stored in the records management system including decisions evidencing:

- The processes followed and substantiated decisions made during the procurement; and
- Adequate records to support contract matters or disputes.

The structure and extent of records will depend on the value and complexity of the procurement.

Records will be kept in accordance with the *Public Records Act 1973 (Vic) - Public Record Standard PROS 09/05 (Retention and Disposal Authority for Records of Local Government Functions)*.

## 9 GENDER IMPACT ASSESSMENT

In accordance with the *Gender Equality Act 2020 (Vic)*, Council is committed to ensuring a gender lens is applied to all new policies, programs and services that directly and significantly impact the public and ensure that a gender impact assessment (GIA) is conducted as needed. Records of GIA conducted must be saved in the records management system with the relevant procurement in accordance with the GIA Policy.

## 10 COLLABORATIVE PROCUREMENT ARRANGEMENTS

In accordance with section 108(3)(c) of the Act, Council will consider collaborating with other Councils and public bodies or utilising Collaborative Procurement Arrangements when procuring goods, services and works to take advantage of economies of scale. Council officers should consider any opportunities for collaborative procurement concerning a procurement process undertaken by Council.

When an evaluation report recommending awarding of a contract is presented to Council for approval, it must include information relating to any collaborative arrangement opportunities that were explored as part of the procurement process.

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## 11 FINANCIAL DELEGATIONS

Delegations define the limitations within which Council staff are permitted to commit Council to the procurement of goods, services or works and the associated costs.

Council must approve the decision to award a contract where the contract value exceeds the Chief Executive Officer's delegation.

The Instrument of Delegation allows specified Council staff to undertake certain purchases, quotation, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Limit of Financial Delegation (GST Exclusive)	Authorised Council Officer
\$400,001+	Council
\$400,000	Chief Executive Officer (Level 1)
\$200,000	Director (Level 2)
\$100,000	Manager (Level 3)
\$50,000	Specified Positions
\$25,000	Service Manager / Coordinator (Level 4)
\$10,000	Supervisor / Team Leader / Specialist Roles

## 12 PROCUREMENT THRESHOLDS

Section 108 of the Act details that each Council will establish the public tender threshold above which tenders or expressions of interest must be publicly invited.

Subject to an exemption set out in section 13 of this Procurement Policy, a public Tender Process or expression of interest process, must be used for all procurement spends valued at \$300,000 (excl. GST) and above for goods, services and works.

The table below identifies the market engagement methods to be employed taking into consideration the procurement thresholds:

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Estimated Procurement Value (GST Exclusive)	Procurement Requirement
\$0 to \$2,000	<p>Best price available - One (1) verbal or written quote</p> <ul style="list-style-type: none"> <li>• A Purchase Order must be raised and approved by the Council Officer with the relevant financial delegation</li> <li>• Engage successful supplier via Purchase Order prior to ordering and receiving goods, services or works</li> </ul>
\$2,001 - \$10,000	<p>Minimum of one (1) written quote</p> <ul style="list-style-type: none"> <li>• A Purchase Order must be raised and approved by the Council Officer with the relevant financial delegation</li> <li>• Quotation must be saved as an attachment to the requisition in the finance system when seeking approval to proceed with the purchase (recommended to use Quotation Recommendation Form to document decision)</li> <li>• Engage successful supplier via Purchase Order prior to ordering and receiving goods, services or works</li> </ul>
\$10,001 - \$50,000	<p>Minimum of two (2) written quotes</p> <ul style="list-style-type: none"> <li>• A Purchase Order must be raised and approved by the Council Officer with the relevant financial delegation</li> <li>• Quotation must be saved as an attachment to the requisition in the finance system when seeking approval to proceed with the purchase (recommended to use Quotation Recommendation Form to document decision)</li> <li>• Engage successful supplier via Purchase Order prior to ordering and receiving goods, services or works</li> </ul>
\$50,001 - \$300,000	<p>Minimum of three (3) written quotes (Procurement Unit to facilitate process if a contract is required)</p> <ul style="list-style-type: none"> <li>• Specification must be prepared that provides a clear description of the goods, service or works being purchased</li> <li>• Must include evaluation criteria relevant to the purchase</li> <li>• All quotations to be undertaken through eProcure to document the decision and saved in the records management system as evidence of compliance to this policy</li> <li>• The successful quotation must be saved as an attachment to the requisition in the finance system, including the Quotation Recommendation Form when seeking approval to proceed with the issue of a purchase order</li> <li>• Liaise with the Procurement Unit to prepare the contract agreement for signing (via DocuSign)</li> <li>• Engage the successful supplier via contract agreement and purchase order prior to ordering and receiving goods, services or works</li> <li>• Contract must be created and managed in the Contract Management System</li> </ul>
\$300,001+	<p>A public Tender / EOI process is required for goods, services or works where the Total Contract Sum, over the period of the contract is expected to exceed \$300,000</p>



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## 12.1 Contract Value

The value of all contracts for the purposes of compliance with the above procurement thresholds includes:

- Costs for the full term of the contract including any options for either party to extend the contract;
- Anticipated contingency allowances for variations; and
- All other known, anticipated and reasonably foreseeable costs.

Due diligence must be exercised to ensure that realistic assessments are made of all factors which may impact the value of a contract.

Procurements may not be split to avoid procurement thresholds or circumvent the requirements of this Procurement Policy.

## 12.2 Cumulative Spend

Care must be taken to ensure that Council complies with its procurement obligations in circumstances in which cumulative purchase and subsequent payments are made to a single supplier, or to multiple suppliers in respect of similar goods, services or works, and the value of those payments meet or exceed the thresholds set out in this policy.

Council Staff should, wherever possible, leverage this cumulative spend, rather than treating each discrete arrangement as a separate procurement, to achieve greater Value for Money. This might occur by bundling future transactions into one more substantial Tender, which attracts more competitive pricing.

Under no circumstances are purchases or orders to be split so that the total value of the procurement activity falls under the amount of the individual's authority level or so that the value falls under the applicable threshold.

## 12.3 Purchase Order Requirements

The purchase of goods, works and services must be acquired under an official purchase order that documents the type of services, items and/or quantities and agreed price.

The purchase order must be raised and approved before any commitment is made to purchase goods, works or services from a supplier in the finance system. In other words, the purchase order must be raised when the goods, services or works are ordered and not when an invoice is received by Council.

The purchase order must clearly and explicitly communicate Council's requirements. Once accepted by the supplier, the purchase order is binding on both Council and the supplier and any procurement spend is limited by and must not exceed the purchase order. Purchase orders are subject to Council's Standard Terms of Purchase.

## 13 EXEMPTIONS FROM COMPETITIVE PROCUREMENT PROCESSES

Unless the Act or Regulations require otherwise from time to time, the following circumstances are exempt from the requirements of a competitive procurement process (such as a general publicly advertised tender, quotation or expression of interest).

- The goods, services or works are of an urgent nature particularly in matters of an emergency including public health, security or safety;

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- Government entity / approved third party. This general exemption allows engagements:
  - o With another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by a Federal, State or Local Government; and/or
  - o In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, such as Municipal Association of Victoria (MAV) or Procurement Australia (PA);
- Specialist knowledge and skill – It only one or two suppliers could supply the goods and/or services or perform the works due to the level of specialist expertise required (i.e. a demonstrated absence of competition for technical reasons);
- Information technology resellers and software developers. Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software;
- Installations where a change in supplier would necessitate the procurement of goods, services or works that do not meet the requirements for interoperability or interchangeability;
- The goods, services or works are required as part of a grant, funding agreement, lease or similar arrangement specifically stating how the goods, service or works are to be provided or undertaken;
- Where an existing contract has expired and the procurement process for the new contract has not been finalised and the existing contract needs to be temporarily extended on a rolling basis for a period of not more than three months;
- Where no quotes or tenders were submitted or no quotes or tenders were submitted that conform to the essential requirements of the specification document – in this instance direct contact with the supplier of choice may be appropriate;
- Where a ministerial exemption has been sought and provided;
- Where an existing contract is novated to a supplier to complete the goods, services or works on substantially similar terms following completion of suitable due diligence;
- Where the acquisition is of a cultural or artistic nature i.e. a live show or art piece;
- Organisations that are auspiced by Council; and
- Where the procurement is on Council's exemption list (**refer to Appendix 1**).

A Procurement Procedural Exemption application that has been approved and signed by the relevant Director must be provided to Procurement, saved in the records management system and included in the exemption register.

## 14 CONTRACT VARIATIONS

During the course of a contract there may be valid reason(s) for a contract to be varied. Variations often involve a financial cost. Contract variation expenditure may be exempt from the procurement procedure described in section 12 of this Procurement Policy if the variation:

- forms part of an existing contract; and

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- in itself does not change the contract to such an extent that it could be deemed that a new contract has been established (typically up to 20% of the original contract value).

If the contract variation:

- is so extensive that the variation would be deemed a new contract, then a competitive procurement process may be required as set out in section 12 of this Procurement Policy; or
- changes the nature of the procurement substantially (e.g. a software acquisition for a particular purpose, morphs into acquisition of a series of programs that will impact beyond the original intent of the procurement) then a new competitive procurement process may be required as set out in section 12 of this Procurement Policy; or
- is a genuine variation and would not be deemed a new contract, then internal approval procedures will be followed, in accordance with the applicable delegations of authority, with the variation (in excess of any contingency sum approved previously) to be approved by the appropriate authorising delegate, determined by the total revised value of the contract, including the proposed variation.

Variations should not exceed the available project budget. It is important that these changes are captured, approved and monitored via a formal process. All variation requests must be raised and approved promptly within Council's Contract Management System.

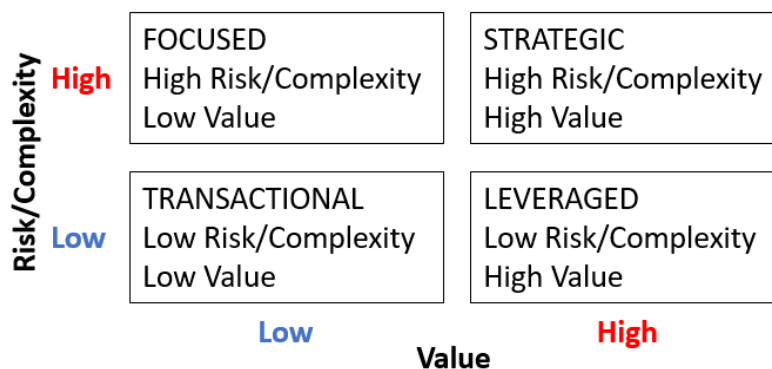
Only one purchase order is to be raised per contract or engagement (the exception to this is Panel Contracts). Where variations to the Contract are approved, the initial purchase order will be updated to reflect the reason for the variation and the variation amount.

Council Staff should be cautious in readily determining that a contract variation is not a new contract, in order to minimise the risk of Council's processes being questioned and investigated, reputational damage to Council or complaints from dissatisfied or aggrieved suppliers. Council Staff should seek guidance from the Procurement Department when considering significant contract variations.

## 15 PROCUREMENT VALUE AND RISK – COMPLEXITY ASSESSMENT

Procurement complexity means the level of difficulty involved in sourcing goods, services or works. An assessment of complexity considers a broad range of factors; including risk, total cost of ownership and what is happening in the market.

The complexity assessment determines whether a procurement activity is transactional, leveraged, focused or strategic in nature.



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Assessment can be broken down to the following classifications:

- (a) **Transactional** - low value and low risk purchases where approved suppliers (e.g. panel contracts) are not available;
- (b) **Leveraged** - Frequently used goods or services in a competitive marketplace that are procured by an individual business unit or the whole of Council, where Council has the ability to drive value;
- (c) **Focused** - Procured goods, services or works of a riskier nature but of a lesser value where a limited number of suppliers are available or where novel commercial arrangements may be required; and
- (d) **Strategic** - Goods, services or works in a limited or competitive market that are of high value, where business criticality is high, and/or where the goods, services or works are of strategic significance.

The position of the procurement activity on the complexity quadrant will influence:

- a) The market approach strategy
- b) How procurement risk is managed; and
- c) The contractual arrangements.

Council staff are to complete a complexity assessment for all new procurement activities with an estimated value of over \$300,000 and for all existing goods and/or services contracts that have expired and are due for review & renewal.

## 16 PROCUREMENT PROCESSES

Council's standard methods of procurement include:

- Purchase cards (purchases made in line with Corporate Credit Card Policy);
- Purchase Order (PO) / Quotation;
- Formal Request for Quotation (RFQ);
- Request for Tender (RFT); and
- Expression of Interest (EOI).

## 17 MARKET ENGAGEMENT

Council recognises that in order to achieve sustainable outcomes and Value for Money, a strategic assessment of the approach to market should be undertaken to determine whether to approach the market directly, participate in regional or sector wide Collaborative Procurement Arrangements, access aggregator or State Government contracts or use other means.

Council will consider supply arrangements that are more likely to deliver the best value outcomes in terms of time, expertise, cost, Value for Money and quality, as such lowest price is not necessarily the sole determinate of selecting a supplier.

Suppliers will be encouraged to compete for Council work and services. Where appropriate, Council will encourage new suppliers for categories that have low competition.

Council will also carefully plan how it packages its requirements for significant goods, services and works by considering the market landscape (competitiveness, market size and Local Supplier capabilities) so as to maximise competition and optimise the best Value for Money outcome for Council.

Council recognises the importance of effective and open working relationships with its suppliers and is committed to developing and managing supplier relationships.

# PROCUREMENT POLICY

## 18 PUBLIC TENDERING

A public tender process must be applied to all procurements valued at \$300,000 (excl. GST) and above. Tenders are facilitated by Council's Procurement department.

All public tenders invited by Council will be published via Council's e-Procurement Portal, as well as on Council's website and advertised in papers circulating within the municipality. These are the minimum requirements that will apply to all public tenders. Tender advertisements may also be published in various state or national newspapers with a wider distribution.

Council may undertake a public tender where the value of goods, services or works do not reach the public tender threshold value. There may be situations where a public tender may produce a better outcome in price, competition, or delivery.

The timeframe given to tenderers will be reasonable with regard to the level of complexity of the tender, however a minimum of 15 working days will be allowed between advertising of the tender until the tender closing date.

Advertising at times of major holidays such as Easter, Christmas and early January will be avoided if possible. If it is necessary to advertise at these times, the closing date will be extended to accommodate these holiday periods.

## 19 EXPRESSION OF INTEREST

Typically, a multi-stage tender process will commence with an Expression of Interest (EOI) stage followed by a tender process involving the organisations short-listed as a consequence of the EOI stage. Council may determine to seek to publically advertise an EOI where:

- The requirement is complex, difficult to define, unknown or unclear;
- The requirement is capable of several technical solutions;
- Council wishes to consider ahead of formal tender processes such issues as whether those tendering possess the necessary technical, managerial and financial resources to successfully complete the project;
- 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; and/or
- The requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

## 20 SHORT-LISTING AND NEGOTIATIONS

Council may conduct a short-listing process during any of the public processes including EOI, tender and quotation processes. Short-listing can be based on any criteria but only in pursuit of the most advantageous outcome for the Council. Short-listed tenderers may be invited by the Council to submit a best and final offer in relation to all or certain aspects of their respective tenders.

Once one or more preferred tenderers are selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements within the original scope and intent of the tender.

# PROCUREMENT POLICY

## 21 PROCUREMENT MANAGEMENT PLAN

Prior to commencing the sourcing process for all purchase amounts above \$300,000 (excl. GST), a Procurement Management Plan is to be completed.

The Procurement Management Plan is to be completed by the appropriate business unit, reviewed by the Coordinator Procurement and approved by the relevant Branch Director.

## 22 SPECIFICATIONS / PROJECT BRIEF

Specifications used in procurements must aim to inform tender and quotation requests. They should aim to accurately detail the services, works or goods required in order to ensure that submissions received address Council's requirements.

Well drafted specifications greatly assist when evaluating submissions as they allow a clearer comparison between offers received. Specifications will be incorporated into the contracts and therefore should be written in a manner that:

- Sets out the performance and functional requirements;
- Clearly describes what Council wishes to procure;
- Ensure impartiality and objectivity;
- Encourage the use of standard products;
- Takes into consideration ethical sourcing requirements;
- Encourage sustainability; and
- Eliminate unnecessarily stringent or market restricted requirements.

## 23 EVALUATION CRITERIA

Council's procurement activities will be carried out on the basis of obtaining Value for Money, taking into account both financial and qualitative factors, including but not limited to:

- Mandatory tender selection criteria (such as OH&S, quality systems, risk management, insurances, financial viability etc) by the tender evaluation team prior to the release of the tender package;
- Financial cost to Council;
- Capacity of respondents to provide the goods and/or services and/or works;
- Capability of respondents to provide the goods and/or services and/or works in accordance with Council's requirements;
- Community benefit, including local, social, economic and/or environmental sustainability;
- Quality; and
- Previous experience and past performance.

Evaluation will be carried out by a Panel of experts for the relevant procurement activity. The Panel can comprise of Council staff and external members. The Panel will score responses by using factors as outlined in the relevant procurement specification. This score will be weighted and assist with Council to determine the successful submission.

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### **24 LATE TENDERS**

A late tender is a submission that has not been received in the electronic Tender Box prior to the published tender closing date. Council will not accept late tenders.

### **25 PANEL CONTRACTS / STANDING OFFER ARRANGEMENTS**

Council may award the provision of particular goods, services or works to multiple suppliers by way of a Panel Contract. A Panel Contract is a standing offer agreement where multiple contractors are appointed under a panel arrangement rather than an agreement with a single contractor. Individual packages of works are then directed by Council and the works order is subject to agreed terms and conditions.

Panel Contracts are formed after a public tender process has occurred. The appointment of a supplier to a panel Contract does not infer any guarantee of engagement. Where a panel arrangement exists, it should only be used for the circumstances it was designed for.

Council may choose to run a tender process to add suppliers to a panel during its term if it determines that the panel may benefit from having additional suppliers incorporated before the end of the initially advertised term.

For procurements where there is an existing Panel Contract, staff are required to:

- a) Obtain the relevant number of quotes from suitable Panel members, in line with this Policy as set out in section 12;
- b) Raise a purchase order including the relevant information.

### **26 OH&S AND OTHER MANDATORY REQUIREMENTS**

Council undertakes due diligence activities on all prospective suppliers to ensure compliance with legislative and business requirements. Council will require all contractors, service providers and volunteers to comply with all OH&S legislative requirements. These requirements are mandatory and non-compliance will disqualify prospective suppliers. Suppliers must provide evidence of insurances in providing goods, services or works.

### **27 ANNUAL FORWARD PROCUREMENT PLAN**

Forward Procurement Plans provide a high-level summary of procurement Council plans to undertake over the next twelve months. These plans are provided for planning purposes only and subject to revision, withdrawal or cancellation.

At the start of each financial year every directorate is required to create a forward procurement plan for all contract purchases greater than \$100,000.

Plans are to be approved by the relevant Director and endorsed by the Manager Financial Services. A consolidated view of all Annual Forward Procurement Plans is to be presented to Council for their information.

### **28 AUSPICE ARRANGEMENTS**

External organisations that are auspiced by Council must still follow Council's Procurement Policy requirements. An exemption under section 13 must be completed and a Purchase Order raised and approved within financial delegation limits as per section 11.

# PROCUREMENT POLICY

## APPENDIX 1 - EXEMPTIONS

The following procurements are either exempt from market engagement and/or the requirement for a Purchase Order. With the Chief Executive's approval, exemptions can be added or removed from this list at any time.

Category	Description	Exempt from market engagement	Exempt from purchase order
Utilities	Electricity, gas, water and telephone services. Note: market exemption where there is only a single provider e.g. Wannonwater and Powercor.	No	Yes
Insurance premiums and claims	WorkCover and other insurances.	Yes	Yes
Prescribed contracts	Legal services	Yes	No
Payroll expenses	Superannuation and PAYG.	Yes	Yes
GST	Goods and Services Tax payable.	Yes	Yes
Postage	Australia Post.	Yes	Yes
Vehicle registrations	VicRoads vehicle registrations.	Yes	Yes
Councillor expenses	Allowances and Reimbursements.	Yes	Yes
Refundable trust funds	Includes Security Bonds, Contract Retentions and other funds held in trust.	Yes	Yes
Collaborative procurement providers	Municipal Association of Victoria, Procurement Australia, State Government prequalified supplier lists.	Yes	No
Levies	EPA Victoria Levy.	Yes	Yes
	Fire Services Property Levy.	Yes	Yes
State and Federal Statutory Fees	DELWP fees and charges and Regional Roads Victoria.	Yes	Yes



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Category	Description	Exempt from market engagement	Exempt from purchase order
Other	Acquisition of Land and Buildings.	Yes	Yes
	Medical expenses.	Yes	Yes
	Venue hire.	Yes	Yes
	Fuel including Diesel (with relevant supplier).	No	Yes
	Memberships and subscriptions. <i>Note: personal memberships require pre-approval</i>	Yes	No
	External audit fees – Victorian Auditor-General’s Office.	Yes	No
	Annual community grants.	Yes	Yes
	Professional workshop and conference registration fees and associated costs.	Yes	No
	Loans and investments.	Yes	Yes
	General advertising.	Yes	No
	Accommodation associated with provision of employment.	Yes	No
	Recruitment advertising.	Yes	No
	Employee expense reimbursements	Yes	Yes
Purchases using Coles and Woolworths online portals.	Yes	Yes	