



Procurement Policy

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Environmental Sustainability and Corporate and Social Responsibility.

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Purpose

The Port Phillip City Council (Council) purchases approximately \$160 million of goods, services and works each year to support service delivery and the maintenance and development of infrastructure. The Council is required under sections 108 and 109 of the *Local Government Act 2020* (Act) to prepare, approve and comply with a procurement policy. In accordance with the Act, this Procurement Policy (Policy) sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council.

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

Outcomes

This Policy seeks to ensure Council and the community receive value for money from its significant expenditure of public funds on the purchase of goods, services and works.

In doing so, Council will abide by the following guiding principles:

- value for money – the best mix of cost, quality (i.e. ability to meet user requirements) and sustainability (environmental, social and economic);
- efficiency and effectiveness – the cost of procurement to Council, tenderers and respondents should be minimised while delivering procurement objectives;
- probity – procurement should demonstrate fairness and impartiality, transparency and accountability, confidentiality and effective management of conflicts of interest;
- advanced practice – a commitment to achieving advanced practice in procurement, including accreditation of contractors by relevant bodies and, where possible and beneficial, collaboration with other councils and public bodies;
- health and safety – Council will describe the processes and management in the procurement of goods, services and works to ensure that identified hazards, are controlled so far as Reasonably Practicable;
- social sustainability – ensuring purchasing decisions include child safe standards, equity, inclusion, diversity, indigenous suppliers and social enterprise outcomes that will collectively generate social value and benefit;
- environmental sustainability - reducing the environmental impacts of goods, services and works, supporting Victoria's transition to a circular economy and improving environmental outcomes for the organisation and community; and
- economic sustainability - while remaining compliant with fair-trading legislation, encouraging procurement that supports local businesses and economic diversity and viability.

Definitions

Table 1: Definitions of terms

Term	Definition
Collaborative Procurement	procurement resulting from a procurement process involving other councils or public bodies conducted by or on behalf of Council.
Contract Sum	the potential total value of the contract including: <ul style="list-style-type: none"> • costs for the full term of the contract, including any options for either party to extend the contract; • applicable Goods and Services Tax (GST); • anticipated contingency allowances or variations; and • all other known, anticipated and reasonably foreseeable costs.
Corporate Social Responsibility (CSR)	is when suppliers comply with Council’s relevant CSR requirements and/or use their buying power to generate social and environmental value above and beyond the financial value of the goods, services or works being procured.
Council Officer	means a current member of Council staff with the authority to engage in activities on behalf of Council.
Emergency	a sudden or unexpected event requiring immediate action including the occurrence of a natural disaster, flooding or fire event such as flooding or fire at a Council property, the unforeseen cessation of trading of a core service provider or other situation which is liable to constitute a risk to life or property and situations which arise when: <ul style="list-style-type: none"> • a state of emergency has been declared under the <i>Public Health and Wellbeing Act 2008</i>; or • a state of disaster has been declared under the <i>Emergency Management Act 1986</i>.
Material Breach	any breach of this Policy may also represent a breach of legislation such as fraud or corruption and occupational health and safety.
Probity	probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.
Procurement	procurement is the whole process of the acquisition of external goods, services and works. It can include planning, design, standards determination, specification writing, preparation of quotation, EoI and tender documentation, selection of suppliers, financing, contract administration, disposals, and other related functions. It also includes the organisational and governance frameworks that underpin the procurement function.



Term	Definition
Reasonably Practicable	that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.
Value for Money	the best mix of cost, quality (i.e. ability to meet user requirements) and sustainability (environmental, social and economic). The lowest price will not necessarily represent the best value.

Responsibilities

Table 2: Responsibilities of roles

Role	Responsibility
All financial delegates	Ensure that all procurement exercised under their financial delegation complies with this Policy.
Chief Financial Officer	Ensure that assurance reviews of contract management activity occur on a monthly basis and are reported to the Executive Leadership Team (ELT).
ELT Members	Responsible for approving exemptions from compliance with this Policy and for ensuring that such deviations provide best value, and that legislative compliance is achieved.
Head of Procurement, Contracts & Fleet	Responsible for the centre-led procurement and contract management function as per Section 1.1 of this Policy

Delegation Limits

Council approves delegations to the CEO. Delegations to Council Officers are authorised by the CEO and recorded in the delegations register. The delegations below are as at 1 December 2021. With the exception of the CEO’s delegation, these position titles and dollar thresholds may be amended from time to time by the CEO.

Table 3: Delegation Limits

Limit of delegation	Delegate
\$1,000,000	Chief Executive Officer
\$500,000	General Managers - Customer, Operations and Infrastructure



Limit of delegation	Delegate
\$350,000	General Manager City Growth and Organisational Capability General Manager Community Wellbeing and Inclusion General Manager Development, Transport and Amenity
\$300,000	Executive Manager Construction Contracts and Operations
\$200,000	Chief Customer Officer Chief Financial Officer Chief Information Officer Executive Director South Melbourne Market Executive Manager People Culture and Safety Executive Manager Property and Assets Manager Safety & Amenity
\$100,000	All other Managers Head of Project Delivery
\$50,000	Coordinators Heads
\$15,000	Team Leaders

Table 4: Additional Delegation to the Chief Executive Officer

Limit of delegation	Delegation
\$5,000,000	Power to declare a contract is required to be entered into due to an emergency and to award, enter into and sign such contracts up to a value of \$5,000,000.

Spend Thresholds

The dollar thresholds may be amended from time to time by the CEO. All values include GST.



Table 5: Spend Thresholds

Procurement value	Procurement action	Management requirement	Record keeping requirement
Up to \$1,000	A minimum of one quotation (can be verbal, email or screenshot).	A procurement card to be used (whose limit permits) or a purchase order to be raised at the time of ordering.	Records to be kept within the One Council system or in accordance with purchasing card requirements.
\$1,001 to \$15,000	A minimum of one written quotation (can be an email or screenshot).	A procurement card to be used (whose limit permits) or a purchase order to be raised at the time of ordering.	Records to be kept within the One Council system or in accordance with purchasing card requirements.
\$15,001 to \$50,000	A minimum of two written quotations are to be sought. No advertising is necessary, a specification is required.	A purchase order must be raised at the time of ordering and a contract considered. All procurements for professional services and labour must have a contract.	Records of quotations must be stored in the One Council system.
\$50,001 to \$300,000	A minimum of three written quotations are to be sought in response to a brief or specification. Amounts over \$150,000 require a review by the Procurement, Contracts and Fleet Unit before proceeding to market. No advertising is necessary. Quotation/probity declaration required.	RFQ Specification/Brief. Evaluation criteria and weighting must be incorporated. Tenderlink may be used / TechOne Portal. Evaluation Panel. A purchase order must be raised at the time of ordering and a formal (ie: documented) contract considered.	Records of quotations, evaluation reports and materials must be stored in the One Council system.
\$300,001 and greater	Public tender process or eligible panel contracts.	In accordance with the Procurement and Contracts Standard Procedures.	In accordance with the Procurement and Contracts Standard Procedures.



Scope

This Policy applies to all Council procurement activities and all Councillors, Council Officers and other persons undertaking procurement on Council's behalf.

Policy

1. Procurement Structure, Processes, Procedures and Systems

- 1.1. The Council maintains a centre led procurement function. The Procurement, Contracts and Fleet Unit is responsible for:
- a) developing and reporting against a rolling four-year strategic procurement plan updated annually outlining all major procurement activity;
 - b) maintaining this Policy and the Procurement and Contract Management Standard Procedures;
 - c) maintaining appropriate purchasing, procurement and contract management systems and tools;
 - d) providing procurement related advice and support to the organisation as required;
 - e) building organisational procurement and contract management capability (including delivery of training and provision of guidance materials);
 - f) promoting awareness of and monitoring compliance with this Policy and all relevant legislation and reporting breaches and corrective actions in a timely manner; and
 - g) collaborating with other councils and organisations to identify best practice in and achieve better value from procurement.

2. Ethics and Probity

- 2.1. At all times, Councillors, Council Officers and other persons undertaking procurement on Council's behalf must:
- a) conduct themselves ethically and with integrity;
 - b) declare and effectively manage all conflicts of interest;
 - c) maintain confidentiality and security of information;
 - d) as a Councillor, comply with the Councillor Gifts and Hospitality Policy and not seek or receive personal gain;



- e) as a Councillor, comply with the Councillor Code of Conduct;
- f) as a Council Officer, comply with the Employee Code of Conduct;
- g) as a Council Officer, comply with the Staff Conflicts of Interest (including gifts and hospitality) Policy; and
- h) ensure all general procurement takes into consideration all relevant ethical supply chain provisions identified in the *Modern Slavery Act 2018*.

- 2.2. Councillors must not improperly direct or improperly influence Council Officers in the exercise of any powers, duties or functions related to procurement.
- 2.3. Council Officers with delegated Council powers, duties or functions related to procurement are prohibited from exercising those powers, duties or functions if they have a conflict of interest.
- 2.4. All persons engaged in the evaluation of quotations or tenders must adhere to this Policy and complete and lodge a conflict of interest declaration and a deed of confidentiality.
- 2.5. A Tender Evaluation and Probity Plan (TEPP) must be developed for all procurements valued over \$500,000 and/or high-risk procurements. A probity auditor or advisor may also be appointed.
- 2.6. Any purchase in excess of \$50,000 must include a probity declaration.
- 2.7. An audit trail must be kept for all procurement activities that shows clearly that a process has been undertaken and that the process is fair, transparent and reasonable.
- 2.8. The contract manager of an ongoing service contract must not be a scoring member of the Tender Evaluation Panel (TEP).

3. Procurement Mechanisms and Methods

- 3.1. The standard mechanisms for procurement will be:
 - a) procurement card; or
 - b) purchase order.
- 3.2. More than one person will be involved in, and responsible for, each transaction. Appropriate authorisations must be obtained and documented.
- 3.3. The standard methods for procurement will be:
 - a) request for quote; or
 - b) request for tender.



3.4. Council may also seek EoI's where:

- a) there are likely to be many tenderers;
- b) tendering will be costly or the procurement is complex and Council does not wish to impose the costs of preparing full tenders on all tenderers;
- c) there is uncertainty as to the willingness and/or interest of suppliers to offer the required procurement; or
- d) Council requires advice from the market regarding how best to address a particular need.

3.5. Council may also:

- a) establish panel contracts for a set period of time under agreed terms and conditions. For procurements where there is an existing panel contract, Council Officers are required to obtain the relevant number of quotes from suitable panel members (refer to Table 5);
- b) choose to enter into eligible Government contracts including State Purchase Contracts, VicFleet and the Construction Supplier register and other contracts that may be prescribed by the regulations;
- c) choose to enter into contracts with Procurement Australia and the Municipal Association of Victoria; and
- d) procure goods, services or works where it enters into an agreement with a public body or a council to act as the agent for the Council or for a group of councils provided that the public body or agent council and the participating councils have similar procurement policies and practices and that the proposed specification, conditions of tender and proposed conditions of contract to be used by the public body or agent council are satisfactory.

3.6. In accordance with the Act, Council will identify and actively investigate relevant collaborative procurement opportunities.

3.7. In the event that Council undertakes a public tender process and receives no submissions, Council can elect to undertake a request for quote process providing the documentation it uses remains materially the same as what Council used for the public tender process.

4. Procurement Delegation of Authority and Thresholds

4.1. This Policy includes delegations made by the Council to the CEO and from the CEO to Council Officers related to procurement (refer to Tables 3 and 4). The CEO's financial delegation to award contracts will be included in the CEO Instrument of Delegation from the Council.



- 4.2. Public advertising is required for all tenders and EoI's. Council Officers may choose to publicly advertise for quotations where they believe this is warranted.
- 4.3. For all procurements greater than \$300,000 for the whole of the contract term, the procurement process will be undertaken by a public tender process in compliance with the Act and this Policy, except where:
- a) the CEO has resolved that the contract must be entered into because of an Emergency pursuant to the provision of the CEO delegation from Council (refer to Table 4);
 - b) the CEO has declared a situation of extraordinary circumstance. In this event, a report will be provided to Council at the next available opportunity detailing the contract and grounds for providing the exception.
 - c) the contract results from an agency or government panel arrangement;
 - d) the expenditure relates to purchases from information technology resellers and software developers (eg: for renewal of software licences etc) where there is a sole supplier who holds the intellectual property rights to the software;
 - e) the expenditure is in relation to statutory insurance schemes (eg: motor vehicle compulsory third party, WorkCover etc);
 - f) other purchases including:
 - i. infrastructure related services (electricity, gas, water and telephone);
 - ii. superannuation;
 - iii. taxes and levies;
 - iv. external (financial) auditors;¹
 - v. elections;²
 - vi. valuations;³
 - vii. Australia Post services; and
 - viii. allowances and reimbursements.

5. Procurement of Consultants and Independent Contractors

¹ Appointed by the Auditor General.

² The Victorian Electoral Commission is the statutory provider.

³ Valuers are appointed by the Valuer-General.



- 5.1. Council may from time to time engage consultants and independent contractors through procurement arrangements.
- 5.2. All procurement of professional services and labour (as defined in this Policy), greater than \$15,000 in value, must have a contract in place at the time of ordering.

6. Tender Evaluation and Negotiation

- 6.1. Late tenders and EoI's will not be accepted.
- 6.2. The tender evaluation criteria and weighting for each criterion will be determined prior to the requesting of tenders. The evaluation criteria will be listed in order of importance in the tender and EoI documentation. Each tender will include weighted criteria and mandatory criteria (where applicable), which will be prepared by reference to the particular tender, but may include criteria such as:
 - a) mandatory criteria:
 - i. third party accreditation (eg: ISO 9001);
 - ii. occupational health and safety;
 - iii. evidence of the required insurances; and
 - iv. attendance at a pre-tender briefing.
 - b) weighted criteria:
 - i. price;
 - ii. capacity/methodology;
 - iii. relevant experience;
 - iv. corporate social responsibility;
- 6.3. An appropriately qualified TEP will be established to evaluate each tender against the tender evaluation criteria.
- 6.4. External representatives may be part of, or an advisor to, the TEP to ensure appropriate skills, experience and/or probity.
- 6.5. The evaluation process must be robust, transparent and unbiased and documented in a TEPP.
- 6.6. Contract negotiations can be conducted in order to obtain the best outcome for Council, providing negotiations remain within the intent and scope of the tender.



- 6.7. Council may conduct a shortlisting process. Shortlisted tenderers may be invited to submit a Best and Final Offer (BAFO).
- 6.8. The results of the tender evaluation and demonstration of the robustness of the process must be documented in a tender evaluation report for approval by the relevant delegate or Council as appropriate.
- 6.9. The Procurement, Contracts and Fleet Unit may provide a member to a TEP based on the complexity of the tender and/or after considering the required capability of the TEP.
- 6.10. The procurement process should take into consideration whole of life cost where applicable.

7. Sustainable Procurement

- 7.1. Council is committed to maximising positive social, environmental and economic outcomes through procurement. This commitment supports Council's:
 - a) Declaration of a Climate Emergency (18 September 2019);
 - b) Treaty on Prohibition of Nuclear Weapons (16 October 2019);
 - c) signatory to the Small Business Friendly Council Charter; and
 - d) Organisational Strategy (2107-21).

Corporate and Social Responsibility (CSR) is embedded in procurement activities through:

- a) the specification of goods, services and works to be procured e.g. banning single use plastics, requiring use of recycled materials or setting minimum employment ratios;
- b) setting quotation and tender evaluation criteria and weightings e.g. social, environmental and local economic impact criterion;
- c) inviting targeted organisations to participate in selective quotation processes e.g. ensuring local, social, or green enterprises are invited where appropriate;
- d) ensuring local businesses are encouraged to submit quotations or tenders.
- e) promoting local employment opportunities.
- f) supporting Victoria's transition to a circular economy and use of recycled materials and materials that can be reused or recycled at their end of use;
- g) reducing energy use and carbon emissions across the lifecycle of the product or delivery of the service;
- h) integrated water management, including reduced potable water use across the lifecycle of the product or delivery of the service, and improved water quality;
- i) enhancement and protection of biodiversity, trees and vegetation;



- j) increased resilience of Council's assets and services to the impacts of climate change, including flooding, heat, extreme weather and drought; and
- k) protection of environmental assets and reduced pollution.

7.2. All other things being equal, a price preference of up to ten per cent can be applied to:

- a) products that support a circular economy;
- b) products that have certified sustainability benefits;
- c) environmentally preferable products and services;
- d) goods, machinery or material manufactured in Australia and New Zealand;
- e) purchases made from local suppliers;
- f) purchases from social enterprises, defined by the Victorian Government as organisations that:
 - i. are driven by a public or community cause, be it social, environmental, cultural or economic;
 - ii. derive most of their income from trade, not donations or grants; and
 - iii. use the majority (at least 50%) of their profits to work towards their social mission.

7.3. Annual CSR targets will be set that increase over time and are specific to the purchase of recyclable and other sustainable products.

7.4. Unless approval from the delegate has been withheld based on justifiable reasons, emissions reporting in specifications for all contracts valued over \$1 million per annum will be applied and reporting will be strongly encouraged for smaller contracts.

7.5. For all public tenders and procurements valued over \$300,000 sustainability clauses and compliance provisions will be incorporated in all contract management plans and suppliers will be required to set minimum sustainability requirements that are reviewed annually.

7.6. Council will include reference to working with children legislation in all relevant procurement activities.

7.7. Wherever practical, for all procurement processes with a total contract value of \$500,000 or greater, a representative from the Strategy, Design and Sustainability Department will be engaged in the development of tender specifications, and all advertised tenders will include CSR provisions including mandatory disclosure of whether a company has dealings with, supports or provides ancillary services or funds activities in the following industries:

- a) offshore detention;
- b) tobacco;



- c) fossil fuels, energy generation distribution, exploration or extraction;
- d) gambling, including electronic gaming machines;
- e) entertainment involving animals, including horse and greyhound racing; and
- f) armaments.

8. Occupational Health and Safety and Consideration of Risks

- 8.1. The procurement of goods, services and works will comply with Council's OHS processes and safety management system to ensure hazards are identified and controlled so far as Reasonably Practicable.
- 8.2. Where relevant, suppliers must have appropriate OHS practices, insurances, and quality assurance processes relevant to the nature of goods, services or works being supplied.
- 8.3. Works projects must include OHS compliance and will be expressed as a mandatory evaluation criterion (ie: pass/fail). A risk assessment must be applied prior to all general procurement to ensure satisfactory OHS compliance.

9. Gender Equality

- 9.1. Council acknowledges that it must comply with the *Gender Equality Act 2020*, (GEA Act) the main purpose of which are to require the public sector, councils and universities to:
 - a) take positive action towards achieving workplace gender equality; and
 - b) promote gender equality in their policies, programs and services.
- 9.2. Council also notes that the GEA Act requires councils to:
 - a) undertake a gender impact assessment when developing or reviewing any policy of, or program or service provided by, the entity that has a direct and significant impact on the public;
 - b) prepare a Gender Equality Action Plan; and
 - c) undertake a workplace gender audit before developing a Gender Equality Action Plan.
- 9.3. Given the legislative requirements, when advertising relevant tenders, Council will consider the impact of options available to advance gender equality through procurement activity. This may include practices to support supplier diversity (e.g: supporting women-led businesses) but also filter categories such as requiring suppliers to be compliant with the *Workplace Gender Equality Act* (Cth) or have gender equitable practices in place. As an initial step in



the process, Council's conditions of tender have been amended to include a questionnaire relating to gender equality.

10. Policy Exemptions and Breaches

- 10.1. Below the \$300,000 threshold, the relevant Executive Leadership Team (ELT) member (CEO or General Managers) may provide an exemption to the Procurement Policy and related procedures provided value for money and legislative compliance can be demonstrated and is documented.
- 10.2. The scope and timeframe for procurements entered into in an Emergency must be limited to dealing with the emergency.
- 10.3. A breach of the Policy and procedures by a Council Officer without an appropriate exemption may result in disciplinary action.
- 10.4. Any Material Breach will be reported to the ELT and the Audit and Risk Committee (ARCO) as soon as practical.

11. Assurance, Monitoring, Review and Audit

- 11.1. The Procurement, Contracts and Fleet Unit will monitor procurement activities including, compliance with key internal controls, financial savings and economic, environmental and social benefits achieved through procurement on a periodical basis. Reporting will be provided:
 - a) annually to ARCO as a minimum; and
 - b) quarterly to the ELT as part of the strategic procurement plan.
- 11.2. Procurement activities will be included regularly in the Internal Audit Plan and related internal controls will be audited by the internal auditors and reported to the ARCO at least annually.
- 11.3. Cumulative spend with a supplier will be monitored by the Procurement, Contracts and Fleet Unit. Where the cumulative spend exceeds \$300,000 in a financial year all successive procurements will need to be undertaken by a public tender process or eligible panel contracts. Council Officers should consider cumulative spend limits in the planning phase of their procurement.

12. Variations to Contracts

- 12.1. The delegate has the power to vary any contract providing:
 - a) the total cumulative value of the contract variations does not exceed their level of financial delegation;



- b) there is no material change to the contract based on foreseeable events, for example the total cumulative value of contract variations not exceeding 15% of the total original contract sum;
- c) there being a budget allocation;
- d) the variation request is raised and approved within One Council; and
- e) the contract variation is in accordance with this Policy.

12.2. Where any of these criterion are not met, the delegate must escalate the issue to their supervisor.

13. Contract Novation

13.1. Where a Council contractor wishes to have the contract novated to another contractor, the Council will:

- a) undertake due diligence in relation to the proposed contractor by obtaining a credit report and/or requesting the proposed contractor's most recent audited financial statements;
- b) ensure the proposed contractor can meet all the requirements of the contract, including, but not limited to, insurances and bank guarantees; and
- c) if satisfied that the proposed novation is satisfactory, arrange for the relevant parties to execute a deed of novation.

Relevant policy, regulations or legislation

The key legislation relating to this Policy includes the:

- *Local Government Act 2020*:
 - section 3 of the Act (Objectives of a Council);
 - sections 11 and 47 of the Act (Delegations);
 - section 105 of the Act (Accounts and Records);
 - sections 108 and 109 of the Act (Procurement Policy); and
 - sections 126 to 131 of the Act (Conflict of Interest).
- relevant provisions of the *Competition and Consumer Act 2010* (Cth);
- *Gender Equality Act 2020*;
- *Modern Slavery Act 2018* (Cth);
- *Occupational Health and Safety Act 2004*;



- *Working with Children Act 2005;*
- *Freedom of Information Act 1982;*
- *Privacy and Data Protection Act 2014;*
- *Public Records Act 1973;*
- *Security of Payments Act 2002;*
- Local Government (General) Regulations 2015;
- Local Government (Governance and Integrity) Regulations 2020; and
- Local Government (Planning and Reporting) Regulations 2020.

Council's key policies relating to this Policy include the:

- Act and Adapt Sustainable Environment Strategy (2018-28);
- Councillor Code of Conduct;
- Declaration of a Climate Emergency (2018);
- Don't Waste It! Waste Management Strategy (2018-28);
- Employee Code of Conduct;
- Election Period Policy;
- Gifts and Hospitality Policy;
- Code of Conduct – A Guide for Contractors, Consultants and Suppliers;
- Contracts & Procurement Guidelines and Procedures;
- Occupational Health and Safety Policy; and
- Occupational Health and Safety Procurement of Goods Procedures.

Other documents relating to this Policy include the:

- Social Procurement: A Guide for Victorian Local Government; and
- Victorian Local Government Best Practice Procurement Guidelines.