

## **Implementation of Ombudsman Recommendations, 12 August 2009**

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The Ombudsman's recommendations are reproduced in italics below, with officer comment on implementation underneath each recommendation.

*Recommendation 1: that City of Port Phillip establish processes and guidelines to ensure that the value of services provided by contractors are anticipated by the contract and approved prior to the service being provided.*

- Tendering processes have been centralised, in the Governance Department, with a new Contracts Unit created and increased staffing resources. A new tendering policy was adopted in April 2009 setting out a strong accountability framework and identifying the responsibilities of each officer carrying out tenders and executing a contract. One of the requirements of the new Tender Initiation Process set out in the policy is that an estimate be made of the value of the contract.
- The revised policy sets out clear reporting and approval procedures. This policy was subject to internal audit immediately after its development and was assessed as "strong" in policy, procedures and control environment.

*Recommendation 2: Local Government Victoria review the support and guidance it provides to council on the interpretation of section 186 and best practice in procurement*

- This is a recommendation for Local Government Victoria. Council will offer to liaise with Local Government Victoria in developing appropriate solutions.

*Recommendation 3: City of Port Phillip provide training to employees involved in procurement processes to ensure that good governance requirements are understood and strategies are developed so that this translates into improved governance practices.*

- Council has implemented a comprehensive staff training approach to introduce the new tendering and contracting processes as well as modified purchasing procedures, with the following training sessions having already taken place:
  - Information sessions x 2, March 2009 (attendance 80 and 25 respectively)
  - Policy workshop, May 2009 (attendance 80)
  - Policy and procedures workshop, CDP division, May 2009 (attendance 50)
  - Policy and procedures workshop, OSS division, May 2009 (attendance 25)
  - Policy and procedures workshop, CAS division, June 2009 (attendance 80)
  - Purchasing refresher training Feb – June 2009 (total attendance 170)
- This will be part of a rolling series of training delivered to staff.
- There is also a separate annual compliance training program for staff. The compliance handbook now provided annually to all managers and coordinators lists various legislative requirements including Local Government Act requirements related to tendering.

*Recommendation 4: City of Port Phillip review its procurement policies, practices and guidelines in light of the outcomes of Department of Planning and Community Development's project and Local Government Victoria's Procurement Best Practice Guidelines. City of Port Phillip should include more stringent reporting and monitoring mechanisms and report to its Council on any proposed changes prior to carrying out the necessary amendments.*

- Overall procurement policies and procedures are already being re-designed so as to appropriately implement relevant control mechanisms. The newly appointed Manager Internal Audit will provide ongoing assurance over the new procedure designs so that the relevant controls built into the new procedures are complete and adequate.

*Recommendation 5: Local Government Victoria be actively involved in supporting City of Port Phillip towards compliance with the Local Government Act.*

- The Council will work with Local Government Victoria to ensure this recommendation is implemented.

*Recommendation 6: City of Port Phillip commission an external independent audit of the Building Maintenance Unit as a follow-up to the audit conducted in June 2003. I also recommend that the City of Port Phillip action the outcome of the audit within three months.*

- The Manager Internal Audit will lead this audit.

*Recommendation 7: City of Port Phillip review Building Maintenance Unit's compliance with purchasing requirements, including the obtaining and maintaining of quotes and other related documentation and develop a strategy to monitor and ensure future compliance.*

- Restrictions in the purchasing system have been strengthened, including a requirement that each purchase order raised must now be authorised by the initiating officer's supervisor. The record keeping requirements for quotations are now clarified in the Purchasing Guidelines.
- The Manager Internal Audit will incorporate this review as part of the audit referred to in Recommendation 6 and will be handled as a priority.

*Recommendation 8: City of Port Phillip review and, where necessary, amend its Tender and Contract Management Guidelines. The revised guidelines should address:*

- a. Documentation of the roles and responsibilities of all panel members, including any additional external members assisting in the process*
- b. Provision of an opportunity during the tender process for tenderers to respond to any concerns the panel may have*
- c. Clarification and strengthening of reporting and endorsement procedures*
- d. Documentation and record-keeping requirements*
- e. Consideration of how to measure past performance during the evaluation phase and how to conduct the assessment, including whether additional 'current' references will be checked*
- f. Tender feedback procedures.*

- As per the comments under Recommendation 1, a new Tendering Policy was adopted in April 2009. This new policy sets out clear processes which clearly address (a), (c) and (d) above and partially address (e). Items (b), (e) and (f) above will be the subject of review by the Manager Internal Audit.

*Recommendation 9: City of Port Phillip ensure that performance plans of senior executives reflect knowledge of and compliance with procurement procedures as a performance measure*

- This is already included with General Managers' positions descriptions. Other managers' performance plans will have this included.

*Recommendation 10: The CEO provide the Audit Committee with regular reports that reflect compliance / non-compliance with laws, legislation and policies.*

- This is a regular agenda item on the Audit Committee agenda.

*Recommendation 11: The Audit Committee conduct a review of procedures to ensure that instances of non-compliance with legislation policies are identified and brought to its attention.*

- At its meeting on 23 March 2009, Council resolved to strengthen its Audit Committee with much stronger process and accountability requirements. The Committee will have direct access to the external auditor, the CEO and to Council's internal audit processes and will report its activities to the Council after every meeting. The Audit Committee will discuss how to conduct the review recommended.

*Recommendation 12: Compliance of procurement processes with procurement legislation and procedural obligations becomes a standard item on the agenda of the Executive Team meetings at City of Port Phillip.*

- This has been implemented immediately.

*Recommendation 13: City of Port Phillip's Finance Unit regularly report to the Executive Management Team and the Audit Committee*

- This occurs already and will continue.

*Recommendation 14: City of Port Phillip maintain a register of tender and procurement non-compliance issues, which is reported quarterly to the Audit Committee and the Council.*

- This will be established immediately and reported quarterly to the Audit Committee and to the Council.

*Recommendation 15: City of Port Phillip amend the delegations of employees to ensure that it is clear that expenditure cannot be approved by the beneficiary of the goods and services. Staff instructions should also be amended accordingly*

- Information on this recommendation will be provided to staff and will be enforced. This will be addressed in the forthcoming council review of delegations, and in a review of CEO delegations to staff.

*Recommendation 16: City of Port Phillip develop a conflict of interest policy and institute regular conflict of interest training for all staff. A draft of the policy should be provided to my office within three months.*

- A policy on staff conflict of interest was first adopted in August 2008 and was included as an attachment to the Employee Standards Policy. This policy was revised following the changes to the Local Government Act conflict of interest provisions in December 2008 and has been relaunched as part of a new staff code of conduct.
- Training in conflict of interest was conducted with staff as follows:
  - Conflict of interest information session, February 2009 (64 attended)
  - Compliance obligations training, including information and exercises around conflict of interest - managers and executive team, April 2009 (19 attended)
  - Compliance obligations training, including information and exercises around conflict of interest - other staff, May 2009 (50 attended)

*Recommendation 17: City of Port Phillip review the engagement of Company Z to ensure that a current contract is in place.*

- City of Port Phillip no longer engages the services of Company Z.

*Recommendation 18: City of Port Phillip review the five contracts won by the TBS Building Services and take appropriate action. The review should take into account the administrative issues discussed in my report.*

- The Manager Internal Audit will incorporate the TBS (Tidey Building Services) contracts into the audit of the Business Management Unit. TBS services have not been used since 2008. The contracts with TBS expire in September 2009 and the CEO has decided that the contracts will not be extended.

*Recommendation 19: City of Port Phillip review its Tender and Contract Management Guidelines to strengthen the practice regarding reference checking.*

- As per comments under Recommendation 8, this will be the subject of review by the Manager Internal Audit.

*Recommendation 20: City of Port Phillip conduct staff training about the process for identifying, recording and addressing allegations of staff misconduct and breaches of council policy.*

- This recommendation will be implemented by December 2009.

*Recommendation 21: City of Port Phillip review its engagement of Mr Nott as a contractor.*

- Mr Nott is no longer engaged by the City of Port Phillip. The last payment to him was in August 2008.