



Procurement Policy



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Procurement Policy

Responsible officer

Chief Financial Officer

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Contents

1. PURPOSE	4
2. GUIDING PRINCIPLES	4
3. DEFINITIONS	5
4. SCOPE	5
5. COUNCIL POLICY	5
Procurement Structure, Processes, Procedures and Systems	5
Ethics and Probity	6
Procurement Methods	7
Procurement Delegation of Authority and Thresholds	7
Tender Evaluation and Negotiation	8
Corporate Social Responsibility (Sustainable and Ethical Procurement)	8
Occupational Health and Safety and Consideration of Risks	9
Policy exemptions and breaches	9
Monitoring, Review and Audit	10
6. RELEVANT LEGISLATION, POLICY and OTHER DOCUMENTS	10
7. Table 1: Delegation Limits – Financial Authority, Power to Award, Enter into and Sign Contracts	11
Schedule of Additional Authorisations to the Chief Executive Officer	11
Variation to Contract	11
8. Table 2: Spend Thresholds	12
Deviations	12

1. PURPOSE

The Council purchases approximately \$150 million in goods, services and works each year to support service delivery and the maintenance and development of infrastructure. The Council is required under section 186 of the Local Government Act (the Act) to prepare, approve and comply with a procurement policy. In accordance with the Act, this policy sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council.

2. GUIDING PRINCIPLES

- 2.1 The procurement policy seeks to ensure Council and the community receives best value from its significant expenditure of public funds on the purchase of goods, services and construction.
- 2.2 Best value means the best mix of cost, quality (i.e. ability to meet user requirements) and sustainability (environmental, social and economic). In doing so, Council follows the following guiding principles:
 - a) Efficiency and effectiveness – the cost of procurement to Council and participants should be minimised while delivering procurement objectives.
 - b) Social benefit – Council will use procurement to further the social, economic and environmental wellbeing of our community.
 - c) Probity and compliance – procurement should demonstrate fairness and impartiality, transparency and accountability, confidentiality, and effective management of conflict of interest. It should also comply with legal requirements.
 - d) Advanced practice – the Council is committed to achieving advanced practice in procurement, including accreditation by relevant bodies and collaboration with other councils and bodies to achieve best value and share better practices.
 - e) Health & Safety – Council will describe the processes and management in the procurement of goods and services to ensure that identified hazards, are controlled so far as reasonably practicable.

3. DEFINITIONS

Best value	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.
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; any other situation which is liable to constitute a risk to life or property.
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 acquisition of external goods, services and works. It can include planning, design, standards determination, specification writing, preparation of quotation 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.
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.
Corporate Social Responsibility	Is when organisations use their buying power to generate social value above and beyond the value of the goods, services or construction being procured.
Material breach	Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, and occupational health and safety.

4. SCOPE

4.1 This policy applies to all procurement activities at the City of Port Phillip and all Councillors, Council staff and other persons undertaking procurement on Council’s behalf.

5. COUNCIL POLICY

Procurement Structure, Processes, Procedures and Systems

5.1 The Council maintains a centre led procurement function. The Contracts and Procurement Unit is responsible for:

- a) Developing and reporting against a rolling four-year Enterprise Procurement Plan updated annually outlining all major procurement activity
- b) Maintaining the Procurement Policy, Contracts and Procurement Guidelines and associated processes and 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
 - g) Collaborating with other councils and organisations to identify best practice in and achieve better value from procurement.
- 5.2 Councillors, staff and persons undertaking procurement on Council's behalf are responsible for complying with this policy.
- 5.3 The Council will maintain a Contracts and Procurement Guidelines document detailing the processes, procedures and systems related to procurement.
- 5.4 The Council will maintain a contract management system which includes details of tendered contracts.

Ethics and Probity

- 5.5 At all times, Councillors, Council staff and other persons undertaking procurement on Council's behalf must:
- a) conduct themselves ethically and with integrity
 - b) comply with the Gifts and Hospitality Policy and not seek or receive personal gain
 - c) declare and effectively manage all conflicts of interest
 - d) maintain confidentiality and security of information
 - e) comply with the Code of Conduct.
- 5.6 Councillors must not improperly direct or improperly influence council staff in the exercise of any duties or powers related to procurement.
- 5.7 Council officers with delegated Council powers or duties related to procurement are prohibited from exercising those powers, duties or functions if they have conflicts of interest.
- 5.8 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.
- 5.9 A Tender Evaluation and Probity Plan must be developed for all high value and/or high risk procurements. A probity Auditor or Advisor may be considered.
- 5.10 Any purchase in excess of \$50,000 must include a Quotation (Probity) Declaration.
- 5.11 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.
- 5.12 Beneficiaries of goods or services cannot approve the expenditure. Council staff may not for example approve their own training, coaching or professional development.
- a) Ensure all general Procurement takes into consideration all relevant ethical supply chain provisions identified within the Modern Slavery Act 2018.
- 5.13 The Contract Manager must not be a scoring member of the tender evaluation panel where they have a long-term relationship .

Procurement Methods

- 5.14 The standard methods for procurement will be:
- a) Procurement card
 - b) Purchase order following a quotation process
 - c) Purchase order under contract following a tender process
 - d) Under approved purchasing schemes (Panel contracts)
 - e) Under an arrangement approved by the Minister.
- 5.15 The source of funds must be identified and the procurement authorised in accordance with the delegations register, before any commitment to purchase is made.
- 5.16 More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented.
- 5.17 Council may seek Expressions of Interest 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 vendors to offer the required procurement
 - d) Council requires advice from the market regarding how best to address a particular need.
- 5.18 Expressions of Interest must be publicly advertised.
- 5.19 The Panel Contracts include CoPP Panel contracts, eligible State Government Panel contracts¹, including the Construction Supplier Register, and approved schemes including MAV Procurement and Procurement Australia. For procurements where there is an existing Panel Contract, staff are required to:
- Obtain the relevant number of quotes from suitable Panel members (see Table 2)
 - Raise a purchase order including the relevant information.
 - ** eg must use vendor panel process and register rules
 - ** internal panels / pre-approved supplier database (do we need quotes for pre-approved panels?)
- 5.20 Council will identify and actively investigate relevant collaborative procurement opportunities.

Procurement Delegation of Authority and Thresholds

- 5.21 This Policy includes delegations made by the Council to the CEO and from the CEO to staff related to procurement (see Table 1).
- 5.22 Competitive procurement processes are demonstrated by compliance with the quotation and tender requirements incorporated in Table 2 (Spend Threshold table).
- 5.23 Public advertising is required for all tenders. Council officers may choose to publically advertise for quotations where they believe this is warranted.

¹ Not all Whole of Victorian Government Panel Contracts are exempt from the provisions of the *Local Government Act*.

Tender Evaluation and Negotiation

- 5.24 Late tenders will not be accepted.
- 5.25 The tender selection criteria and weighting for each criterion will be documented prior to the requesting of tenders.
- 5.26 An appropriately qualified Evaluation Panel will be established to evaluate each tender submission against the tender selection criteria.
- 5.27 The Contracts and Procurement Unit may be considered to provide a member to a Tender Evaluation Panel based on complexity of Tender and/or after considering capability of panel membership.
- 5.28 External representatives may be part of, or an advisor to, the panel to ensure appropriate skills, experience and/or probity.
- 5.29 The evaluation process must be robust, transparent and unbiased and documented in a Tender Evaluation and Probity Plan. A Tender Evaluation and Probity Plan must be developed for all high value (more than \$500,000 over life of contract) and/or high risk procurements.
- 5.30 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.
- 5.31 Council may conduct a shortlisting process. Shortlisted Tenderers may be invited by the Council to submit a Best and Final Offer.
- 5.32 The results of the Tender Evaluation and demonstration of the robustness of the process must be documented in a Tender Evaluation Report approved by the relevant delegate.
- 5.33 The Tender Evaluation process should take into consideration whole of life cost.

Corporate Social Responsibility (Sustainable and Ethical Procurement)

- 5.34 Council is committed to environmental, social and economic sustainability and will consider how to further this in its procurement activities through for example:
 - 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 quote for Council procurement (NEW)
 - e) consideration of developing local employment opportunities (NEW)
- 5.35 All other things being equal, a price preference of up to 10 per cent can be collectively applied to:
 - a) the purchase of recycled and environmentally preferable products
 - b) goods with relevant ecolabels and certification
 - c) purchase of goods, machinery or material manufactured in Australia and New Zealand
 - d) purchases from social enterprises.
- 5.36 Council must include Access and Inclusion principles in all relevant procurement.
- 5.37 Council must include Working with Children Legislation and Regulations are incorporated in all relevant procurement.

- 5.38 Wherever practical, for all procurement processes with a total contract value of \$1 million or greater, a representative from the Sustainability team will be engaged in the development of tender specifications, and tenderers must complete the Corporate Social Responsibility Schedule including mandatory disclosure of whether a company has dealings with, support or provide ancillary services or funds activities in the following industries:
- Offshore detention
 - Tobacco
 - Fossil fuels energy generation distribution, exploration or extraction
 - Gambling, including poker machines
 - Entertainment involving animals, including racing
 - Arms.

Occupational Health and Safety and Consideration of Risks

- 5.39 The procurement of goods and services comply with Council's OHS Procurement Procedure to ensure hazards are identified and controlled so far as reasonably practicable.
- 5.40 Suppliers must have appropriate OHS practices, insurances, and quality assurance processes relevant to the nature of good, services or works being supplied.
- 5.41 Capital Works projects must include OHS compliance as a pre-requisite requirement (Tender Filter Evaluation Criteria)
- 5.42 All purchasing should consider OHS risks – for procurements above \$50k this risk assessment must be recorded and retained in the Request for Quotation documentation.

Policy exemptions and breaches

- 5.43 The relevant ELT (CEO, General Managers and Director of the CEO's Office) may provide an exemption to this policy and related procedures provided best value and legislative compliance can be demonstrated.
- 5.44 A situation may arise for instance where insufficient quotations are received to satisfy the procurement thresholds.
- 5.45 Provisions in the Act including public tender thresholds of \$150k for goods and services and \$200k for works can only be exempted in accordance with the Act.
- 5.46 To enable prompt action the CEO has delegation to declare if that a contract must be entered into because of an emergency and hence be exempt from the public tender thresholds.
- 5.47 The scope and timeframe for such contracts entered into in an emergency must be limited to deal with the emergency while a compliant procurement process is conducted.
- 5.48 A breach of the policy and procedures without an appropriate exemption may result in disciplinary action.
- 5.49 Any material breach will be reported to the ELT, Council, Audit and Risk Committee and public (via the CEO as soon as practical).

Monitoring, Review and Audit

- 5.50 The Contracts and Procurement Unit will monitor procurement activity on an ongoing basis and provide as a minimum the following reports:
- a) An annual report to the Audit and Risk Committee and the Council on annual procurement activity, compliance with key internal controls, financial savings and economic, environmental and social benefits achieved through procurement.
- 5.51 Procurement will be included in the Internal Audit Plan with implementation of this policy and related internal controls audited on at least a four yearly basis unless deemed prudent not to by the Audit and Risk Committee.

6. RELEVANT LEGISLATION, POLICY and OTHER DOCUMENTS

- 6.1 The key legislative requirements for this Policy include:
- a) section 186 of the Act (Power to enter into Contracts)
 - b) section 186A of the Act (Procurement Policy)
 - c) section 3C of the Act (Objectives of a Council)
 - d) section 208B of the Act (Best Value Principles)
 - e) sections 77A, 77B, 78, 78A to 78E, 79, 79B to D, 80, 80 A to C, 81, 95 and 95AA of the Act (Conflict of Interest)
 - f) section 98 of the Act (Delegations)
 - g) section 140 of the Act (Accounts and Records)
 - h) The relevant provisions of the Competition and Consumer Act 2010 (Cth).
 - i) Modern Slavery Act 2018
 - j) Working with Children Act 2005 and Working with Children Regulations 2016
 - k) Occupational Health and Safety Act 2004.
- 6.2 Key policies and other documents relating to this policy include:
- a) Councillor Code of Conduct
 - b) Staff Code of Conduct (including conflict of interest clause)
 - c) Gifts and Hospitality Policy
 - d) City of Port Phillip Procurement and Contract Management Guidelines
 - e) Victorian Local Government Best Practice Procurement Guidelines
 - f) City of Port Phillip Grants Policy Framework.
 - g) Occupational Health and Safety Policy
 - h) Occupational Health and Safety Procurement of Goods Procedure.

7. Table 1: Delegation Limits – Financial Authority, Power to Award, Enter into and Sign Contracts

Council approves delegations to the CEO. Delegations to staff are authorised by the CEO and recorded in the delegations register. The delegations below are as at 18 January 2019. These may be amended from time to time by the CEO.

Limit of delegation (including GST)	Delegate
\$1,000,000	Chief Executive Officer
\$300,000	General Manager Director CEO's Office
\$200,000	Chief Financial Officer Manager Maintenance and Operations Manager Open Space and Recreation Manager Project Services Manager Divisional Portfolio Manager South Melbourne Market Manager Safety and Amenity Manager Asset Management and Property Manager Customer Experience and Transformation. Manager Digital and Technology Services.
\$100,000	All other Managers
\$30,000	Coordinators
\$10,000	Team Leaders

Schedule of Additional Authorisations to the Chief Executive Officer

\$5M	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 \$5M
Insurance Exemption	The CEO has delegation to authorise payment of annual insurance premiums procured in accordance with the requirements of Table 2.

Variation to Contract

The delegate has the power to vary any contract however the contract variation/s in aggregate must not exceed the financial limit delegated to the position provided there has been a prior budget allocation and the contract variation is in accordance with this Policy.

8. Table 2: Spend Thresholds

* All values are including GST.

**Only exemptions are Rates Refunds, Fleet Refunds, Staff Reimbursements and certain utilities.

Range of total value of goods or services*	Procurement action	Management requirement	Record keeping requirement (Appendix J)
Up to \$1000**	A minimum of one quotation (can be verbal, email or screen shot)	A Procurement Card to be used or a Purchase Order to be raised at the time of ordering	Records to be kept locally if required or in accordance with Purchasing Card requirements
\$1001 to \$15,000	A minimum of one written quotation (can be an email or screen shot)	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 Finance System or locally 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	Records of quotations must be stored in the Financial System
\$50,001 to \$150,000	Three written quotations are to be sought in response to a brief or specification. No advertising is necessary. Quotation/Probity declaration must be completed	RFQ Specification/Brief OHS risk assessment completed and recorded 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 contract considered	Records of quotations, evaluation reports and materials must be stored in the Financial System and/ or Councils record management system.
\$150,000 plus	Public tender process or eligible Panel contracts	In accordance with Contracts and Procurement Procedures Guidelines	In accordance with Contracts and Procurement Procedures Guidelines

Deviations

Deviations will be reported to ELT on a quarterly basis as part of the Procurement Update and the Coordinator Contracts, Procurement and Fleet is to sign off on the deviations to say they meet best value principles.