

<b>POLICY TITLE</b>	<b>Procurement Policy</b>
<b>POLICY TYPE</b>	<b>Council</b>
<b>DIRECTORATE</b>	<b>Organisational Performance</b>

## 1. Background

The *Local Government Act 1989 (the Act)* requires the City of Moonee Valley (**Council**) to publicly tender procurements over \$150,000 for goods and services and \$200,000 for works. The Act also requires Council to prepare, approve and comply with a Procurement Policy (**Policy**) which contains principles, processes and procedures applying to all purchases made by Council staff.

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

## 2. Objectives

The objectives of this Policy are to:

- establish a procurement framework for Council to achieve value for money
- provide a mechanism for continuous improvement in the provision of services for the community
- ensure that Council resources are used efficiently and effectively
- collaborate with other Councils to take advantage of economies of scale
- achieve compliance with relevant legislative requirements
- achieve high standards of probity, transparency and accountability
- manage risk associated with procurement
- facilitate preferential treatment to procurements which provide environmentally sustainable benefits and social benefits
- facilitate preferential treatment to local suppliers

All values referred to in this Policy are inclusive of GST.

### **3. Relevant legislation**

The key legislative requirements which apply to this Policy, and which will be adhered to by all Council staff are:

- s. 186 of the Act (Power to enter into Contracts)
- s. 186A of the Act (Procurement Policy)
- s. 3C of the Act (Objectives of a Council)
- s. 208B of the Act (Best Value Principles)
- ss. 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)
- s. 98 of the Act (Delegations)
- section 140 of the Act (Accounts and Records)
- The relevant provisions of the *Competition and Consumer Act 2010* (Cth).

### **4. Scope**

The scope of this Policy commences from when Council has identified a need for procurement and continues through to the delivery/completion of that procurement.

This Policy does not apply to the procurement of labour hire and temporary staff which are governed by Council's HR policies and procedures.

### **5. Review of Policy**

This Policy is to be reviewed on an annual basis by Council's Contracts and Procurement Team and reported to the Executive Team, prior to referring it to Councillors for approval. The Contracts and Procurement Team will report yearly on the performance across the Council.

### **6. Procurement principles**

The following procurement principles apply to all Council procurement activities:

- value for money
- sustainability (social, environmental and economic)
- open and fair competition
- accountability
- risk management
- probity and transparency.

## **7. Organisational structure for procurement**

Council operates a structure whereby all strategy, policy, technology and networking in procurement matters are conducted by the Council's Contracts and Procurement Team which are responsible for overseeing all Contract and Procurement business requests above \$50,000 (this may be \$50k per order or total contract value). This approach ensures that all Council procurement activities are overseen by a centralised unit.

The Contracts and Procurement Team utilises a Category Management approach to undertaking procurement which streamlines the required level of effort and reduces turnaround times for internal and external stakeholders. By adopting this approach, the Contracts and Procurement Team are able to support all key aspects of procurement, resulting in reduced timeframes, reduced risk, improved cost savings and simplified procurement processes.

## **8. Sustainability**

Council's Contracts and Procurement Team will standardise procurement activities directly impacting Council's supply chain, optimising Council's ability to identify and deliver positive sustainability outcomes through procurement.

Council's supply chain has a material impact on the organisation's sustainability performance therefore Council has a strong focus on sustainable procurement.

To deliver on Council's commitment to the local community and the environment, Council uses procurement as an opportunity to generate social, environmental and economic benefits. This demonstrates corporate social responsibility by taking positive action to demonstrate Council's commitment to the local community and environment on which its procurement activities impact.

When engaging in procurement Council will consider the following:

### **a) Social Sustainability**

Social sustainability focuses on the social aspects of sustainability and in particular social equity. Social equity addresses disadvantage and is underpinned by principles of diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities. A focus is also placed on people who are under-represented and people with less opportunity. Socially sustainable procurement generates positive outcomes for, and contributes to building stronger communities by:

-

elevating the inherent 'social value' of doing business

- creating new jobs and opportunities for people who may be struggling to find work
- targeting cohorts that may be experiencing economic exclusion
- reinvigorating depressed or marginalised communities
- improving equity of access to opportunities

Depending on the nature of the procurement, Council shall explore opportunities in engaging Social Enterprise arrangements for the procurement of goods or services.

The Contracts and Procurement Team will provide Council staff with access to the Social Enterprise database from 'Social Traders' to enable staff to seek quotations.

#### **b) Environmental sustainability**

Council will reduce its impact on the environment by making decisions which avoid air, water and soil pollution and minimise natural resource and biodiversity depletion. Procurement priorities will include:

- maximising energy efficiency and reducing greenhouse gas emissions
- avoiding unnecessary consumption, reducing waste to landfill and increasing amount of waste recycled
- reducing water consumption and improving water management
- encouraging improved environmental management in Council's supply chain
- selecting products/services that have minimal effect on the depletion of natural resources and biodiversity
- improving our ability to adapt to climate change
- enhancing urban ecology and minimise impacts on biodiversity, air, waterways and land
- making procurement decisions based on minimising the environmental impacts and total cost of ownership over the lifecycle of a product or service
- preferencing the procurement of services to meet Council's needs rather than acquiring new assets, as appropriate,

**c) Economic sustainability**

Council is committed to procurement that supports local businesses and economic diversity and viability by:

- generating local employment
- taking into account the total cost of ownership over the lifecycle of the products and services purchased (purchase, operation and disposal)
- building relationships and encouraging purchasing from local suppliers, including social enterprises
- exploring, where appropriate and possible, the opportunity to maximise the social benefits of a contract by offering 'social tender'
- fostering innovation and emerging sectors
- requesting value in kind service offerings through tender processes where appropriately identified
- building supplier capability by conducting local supplier forums on our future opportunities and how to write a tender response to council
- weightings supporting local business, may be applied where deemed appropriate by the Procurement Business Partner
- networking and build a presence at a number of trading groups within the local government area.

**9. Expressions of interest**

Council may seek Expressions of Interest (s. 186 (1) of the Act) in circumstances where:

- there are likely to be many tenderers
- 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
- there is uncertainty as to the willingness and / or interest of tenderers to offer the required procurement
- Council requires advice from the market regarding how best to address a particular need.

Expressions of Interest must be publicly advertised.

## 10. Delegations, authority and levels of procurement

Council’s instrument of financial delegation determines the seniority levels of staff authority, required for procurement expenditure, including the life of the procurement contract (inclusive of all extension options).

The following table outlines the delegation limits relating to various Council staff:

Approval Position	Financial Value (including GST)
Council	In accordance with instrument of delegation
Chief Executive	In accordance with instrument of delegation
Director	\$500,000
Manager	\$100,000
Coordinator	\$20,000

## 11. Quotations

For procurement less than \$150,000 for goods and services and \$200,000 for works, Council staff are required to obtain quotations in accordance with the table below:

<b>Thresholds for procurement activities <u>up to</u> the total value of \$150,000 (including GST) for goods and services <u>and</u> \$200,000 (including GST) for works/ construction</b>			
\$0 - \$999	\$1,000 \$10,000	- \$10,001 - \$50,000	\$50,001 - \$150,000 \$50,001 - \$200,000
No quotes required	Minimum one written quote required	Minimum two written quotes required	Minimum three written quotes required

*Note:* Amounts shown in the table above apply over the life of the contract including all extension options.

Staff are requested to refer to Council’s credit card policy regarding expenditure below \$10,000 for purchases of goods and services as exemptions to the purchase order system may apply.

For procurements under \$50,000, staff are required to follow processes in accordance with this Policy and the guidance materials on the Procurement Intranet Page. These procedures apply unless the procurement is being made

under an existing Council Contract, approved State Government Contract, Procurement Australia or MAV contract. For such procurements, a Purchase Order is required to be raised in Council's Technology One finance system.

The recommended contract for all purchases up to \$100,000 is Council's standard terms and conditions on the purchase order. For any purchases that exceed \$100,000 or are highly specialised, a separate contract is required. Staff are required to consult with their Category Manager if the Procurement is thought to exceed \$50,000 in value.

## 12. Procurements Over Tendering Thresholds

Staff must consult with the Contracts and Procurement Team if the life of the contract is thought to exceed the public tendering threshold amounts of \$150,000 for the procurement of goods and services and \$200,000 for works.

The following are procurement options that may be available for consideration where the procurement exceeds the public tendering threshold amounts:

- a) For procurements where there is an existing Panel Contract, staff are required to:
  - prepare a project brief and obtain quotes from suitable Panel members
  - raise a Purchase Order in Technology One. Details of the successful Panel member's quote are to be included in the Purchase Order.
- b) For Building and Construction Works where there are suitable building industry contractors or consultants on the Construction Supplier Register maintained by the Department of Treasury and Finance for and on behalf of the State Government, staff are required to:
  - receive a minimum of three tenders (or demonstrated evidence that three suppliers were invited) from suppliers on the Register
  - raise a Purchase Order in Technology One. Details of the successful tender are to be included in the Purchase Order.
- c) Where there is a contract in place and Council has appointed a Tendering Agent, for example MAV or Procurement Australia, staff are required to:
  - prepare a project brief and obtain a quote from the contracted supplier
  - raise a Purchase Order in Technology One. Details of the quote are to be included in the Purchase Order.
- d) Where there is a suitable State Government Contract in place approved for Council use by the Minister for Local Government, staff are required to follow the process required by the State Government.

- e) Where there are no current contracts in place, staff are required to:
- consult with their Category Manager
  - use the appropriate Request for Tender template
  - conduct a publicly advertised, open and competitive Tender for the procurement, in accordance with Council's Guidance Materials found on the Procurement Intranet Page.

*Note:* Exemptions from advertising are set out in s. 186 (5 and 5A) of the Act.

### 13 Certificate of Exemption

In some circumstances it may be appropriate to dispense with the requirement to seek quotations and / or public tenders and confine enquiries to selected suppliers. A Certificate of Exemption may be appropriate for procurement above \$10,000 in circumstances where the request for quotation or public tender process is impractical or inappropriate for any of the following reasons:

- urgency
- standardisation of suppliers
- single-source suppliers
- genuine emergency
- spare parts.

No action to commence procurement of the goods or services should be commenced prior to obtaining an approved Certificate of Exemption from the Procurement Business Partner.

The following table outlines the exemption process:



*Note:* exemptions exceeding the limits specified above will be subject to a competitive procurement process in accordance with the Act.



## 14. Risk Management

Council will manage all aspects of its procurement in such a way that identified risks (and issues), including Occupational Health and Safety, are assessed, treated, monitored and communicated in accordance with Council's Risk Management Framework.

All procurements over \$50,000 will be triaged based on risk decision making and will be allocated a risk rating of low, medium or high risk. This will allow the Contracts and Procurement Team to forecast resourcing requirements, capture procurement risks in the planning stages, and ensure that an appropriate level of documentation is maintained that is commensurate to the level of risk identified, and minimise the overall risk to Council.

## 15. Probity requirements

Council staff and all other persons engaged in procurement on Council's behalf, must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny. All members of staff have an overriding responsibility to act impartially and with integrity and to avoid conflicts of interest (s.95 of the Act).

In procurement matters:

- Council staff must disclose a direct or indirect interest (and the type of interest) before providing advice or reports (or any other matter) (section 80C of the Act).
- Council staff who have been delegated Council powers, duties or functions are prohibited from exercising those powers, duties or functions if they have a Conflict of Interest (section 80B of the Act).
- Councillors must not improperly direct or improperly influence a member of Council staff in the exercise of any power or in the performance of any duty or function (section 76E of the Act).
- Council staff must also comply with Council's Employee Code of Conduct (section 95AA of the Act).
- Council staff engaged in the evaluation of quotations or tenders must complete and lodge a Conflict of Interest and Confidentiality Agreement.
- Council staff must make their interests known in any situation where it could be perceived that an interest might unduly influence them.
- Council staff must declare to their Manager any items delivered to Council which were not part of the requirements of the contract and which could be construed as gifts or new assets to Council. Any gifts must be declared to

Governance for the purposes of maintaining the “Gifts and Hospitality” register.

- Council’s Probity Charter must be followed at all times when undertaking procurement activities.

## **16. Tender evaluation**

Council Staff must ensure that:

- late tenders will not be accepted under any circumstances
- tender evaluations will be conducted in accordance with the pre-defined tender Evaluation Criteria and Plan
- a tender evaluation panel will be established to evaluate each tender submission against the selection criteria. The tender evaluation panel’s composition will be determined by the respective Project Manager, Director and/or the Procurement Business Partner
- tender evaluation panels can include external personnel in order to ensure best value, however they will be required to adhere to this Policy. Any external contractor who is a technical expert on an evaluation panel will be excluded from tendering.

The Contracts and Procurement Team must consider whether it is appropriate to appoint of a probity advisor to any high risk tender evaluation panel. The evaluation process must be robust, systematic and unbiased.

## **17. Negotiations**

Once a preferred tenderer is selected, negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, providing negotiations remain within the intent and scope of the tender.

If there are multiple suitable tenderers, Council may invite a best and final offer to the suitable tenderers in relation to all or some aspects of the tender to decide on the preferred tenderer/s.

All negotiations will be managed by the Contracts and Procurement Team unless otherwise agreed to by the Directorate who will manage the contract.

## **18. Internal controls**

Council will establish, document and maintain a framework of internal controls over procurement processes in order to ensure:

- more than one person is involved in and responsible for each transaction

- transparency in the procurement process
- a clear documented audit trail exists for all procurement decisions
- the required authorisations are obtained and documented

All persons engaged in procurement processes must diligently apply all internal controls.

## **19. Evaluating performance**

In order to continually improve its processes and outcomes, Council will evaluate and report on the following aspects of procurement:

- contractor performance;
- opportunities to improve processes; and
- incorporating process improvements.