



Procurement Policy

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1. Background

Section 108 of the *Local Government Act 2020* (Act) requires councils to adopt a Procurement Policy applicable to the purchase of goods and services and specify:

- Thresholds for competitive Tender.
- Criteria used to evaluate whether a contract provides value for money.
- Description on how a council will seek to collaborate with councils and public bodies.
- Conditions under which a council may purchase goods and services without a public tender or Expression of Interest (EOI).
- Description of the process to be undertaken in inviting a public tender or EOI.

2. Purpose

The purpose of this Procurement Policy (Policy) is to:

- Provide a procurement framework for City of Melbourne (Council) to achieve value for money in the procurement of goods and services.
- Assist in advancing the Council's sustainability and social objectives.
- Ensure continuous improvement in the provision of services for the community.
- Ensure that Council resources are used efficiently, effectively and for the benefit of the municipal community.

3. Why is the Policy important?

The policy enables Council and Council employees to:

- **Meet legislative requirements**
enables compliance with the Act.
- **Deliver best value outcomes**
effectively procuring items while delivering best value to the Council and benefits to the municipal community.
- **Ensure ethical conduct, accountability and transparency**
procurement must be conducted ethically and to the highest standard of integrity.
- **Manage risk management factors and ensure continuity of supply**
appropriate risk management must be considered to ensure continuity of supply of goods and services to Council.

4. What if we don't comply?

In all cases, Council staff are responsible for complying with the Policy. Non-compliance with the Policy may result in a breach of our legislative requirements and disciplinary actions, including dismissal. In addition, criminal and civil penalties may be imposed in cases of fraud, corruption, bribery or breach of Australian Consumer Laws.

5. Key Principles for all Staff

Staff must not engage in the selection of external suppliers for contracts over \$250,000 without seeking timely input from the procurement team.

Staff engaged in any procurement activities must be able to demonstrate that they have complied with this Policy.

6. Scope

The Policy and procurement function sets the direction of procurement governance, processes and procedures.

The Policy will apply to Council, Council staff and all persons undertaking procurement on behalf of Council and the principles of the Policy must be complied with when undertaking procurement for goods and services.

The scope of the Policy commences from when Council has identified a need for procurement, and continues through to the delivery or completion of the awarded contract, the management of the contract and contract closing.

7. Forward Procurement Plan

At the start of each financial year every branch is required to create a Forward Procurement Plan for all known contract purchases and renewals.

Plans are to be approved by the relevant Director and endorsed by the Director Procurement and Contract Management. A consolidated view of all Forward Procurement Plans is to be presented in writing to Council Forum for information, at least annually.

8. Procurement Plan

Prior to commencing the sourcing process for all purchase amounts above \$250,000 (excl. GST), a Procurement Plan is to be completed.

A Procurement Plan should also be completed when undertaking a prototype or proof of concept which creates a service with a sole supplier (e.g. software). The plan should include the initial procurement approach for the prototype plus an agreed term should the service be scaled plus an upper limit on value for the term. This approach is exempt from the procurement thresholds across the agreed term as approved in the plan. Delegation approval is required for the upper limit value.

The Procurement Plan is to be approved by the Director Procurement and Contract Management and the relevant Branch Director.

All Procurement for purchase amounts of \$2 million or more will form the basis of a briefing paper to councillors, except where the relevant procurement activity has already been commissioned by a resolution of Council. Each briefing paper will set out the proposed title, purpose and scope of the procurement contract, the strategy behind any new approach compared to past similar contracts, proposed evaluation criteria and any other relevant supporting information. Briefings should be issued to allow Council time, should a matter be called in by a councillor, to formally consider the strategy prior to the commencement of the Tender or EOI. Any Council decision will be incorporated in the development of the Procurement Plan or update to the Procurement Plan as required.

9. Procurement Methodology and Thresholds

The procurement methodology is dependent on the value threshold and/or risk of the purchase as shown below. The value threshold to determine the methodology is the total accumulated spend for the procurement including any anticipated variations for the procurement activity.

\$0 < \$2000 (ex GST)

- One informal quote and raise a purchase order
- Purchasing card if available or pay on invoice.

\$2,000 < \$50,000 (ex GST)

- Seek a minimum of two quotes.
- Undertake a request for quote following the process within the COMBUY System.
- Director exemption is to be sought from requesting two quotes.

\$50,000 < \$250,000 (ex GST)

- Seek a minimum of three quotes.
- Undertake a request for quote following the process within the COMBUY System.
- Address any risk issues including OH&S. The Risk Identification Guide (optional) can be used to identify risks.
- General Manager exemption is to be sought from requesting three quotations.

\$250,000+ (ex GST)

- Undertake an open Tender or EOI process.
- A select Tender or EOI process can be followed when using an approved pre-qualified register.
- Contact your Category Manager to initiate a Request for Tender or EOI process.
- Address any risk issues including OH&S. The Risk Identification Guide (optional) can be used to identify risks.
- Director Procurement and Contract Management, General Manager and CEO approval is to be sought from not undertaking an open Tender process.

10. Procurement Principles

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

- value for money;
- sustainability (social and environmental);
- open and fair competition;
- accountability;
- risk management;
- probity and transparency;
- local economic benefits;
- market testing.

11. Market Testing

Market research and testing should be completed at least 12 months prior to contract end and/or prior to extension for contracts, where appropriate. The market research and testing is to identify potential benefits and value that can be achieved for the goods and services such as cost savings, risk reduction, innovation or improved ESG outcomes.

12. Local Economic Benefits

Council will leverage procurement to support local businesses and employers who decide to develop their operation and services within the City of Melbourne municipality. Whilst value for money is a key

objective, consideration will also be given for investment in local business and genuine employment opportunities within the City of Melbourne. This includes:

- Increasing purchasing from businesses located in the Melbourne municipality;
- Increasing the use of local suppliers and sub-contractors;
- Increase generation of local employment;
- Increase support for local production and manufacturing.

Where City of Melbourne can show value for money, capability and competency and sufficient competition it may mandate only suppliers within the City of Melbourne Municipality to participate in a particular procurement.

The Council may apply an evaluation weighting of up to 10 per cent for all contracts (RFQ's and tenders) to support the development of employment and business within the council municipality.

When applying this weighting the Council will:

- Where appropriate:
 - Identify if the procurement can be targeted to or adapted to encourage local business;
 - Identify any barriers and limitations of the local supply market and consider opportunities to reduce;
 - Include a statement that this weighting is to encourage responses to identify the development of local business within the council municipality and will be evaluated as such;
 - Develop key performance indicators to measure responses.
- Include within RFQ and tender documentation a supplier question to identify potential local benefits. Responses will be evaluated and scored as part of this weighting.

If the application for local business benefits will result in an outcome that is unreasonable or will not deliver value for money or is deemed not to be to the advantage of Council, then Council may elect to remove weighting from the tender or quote documents.

13. Procurement and Contract Management System

Council has an online Procurement and Contract Management System (COMBUY) which prescribes the processes and procedures for all stages of the end-to-end procurement lifecycle. It is a requirement that all procurements including variations are conducted in COMBUY.

COMBUY must also be used for contract management including key activities such as performance management, records management, alerts on key activities, risk and issues, Payment Card Industry Data Security Standard compliance management plus financial management.

14. Exemptions to the Procurement Methodology

The following authority must be used for exemptions to the procurement methodology where the exemption is justified:

- Director exemption is to be sought from requesting two quotations.
- General Manager exemption is to be sought from requesting three quotations.
- General Manager, Director Procurement and Contract Management and CEO approval is to be sought from not undertaking an open Tender or EOI process.
- Situations where there is an emergency or impact on safety, the procurement methodology does not apply and a direct approach can be undertaken to quickly address the situation.

This exemption process should be followed to approve a single sourced procurement approach.

Exemptions also exist to the Procurement Methodology in the following circumstances:

- Software licence and related maintenance renewals at the end of the contract or licence term where the ongoing use of the software is required to support the organisation, provided by a chosen supplier and is integrated into systems or processes;
- Urgent legal matters, engagement of barristers or urgent litigation matters (to be endorsed by the Chief Legal Counsel);
- Engagement of independent expert witnesses in Council legal matters, that are in expert disciplines to be undertaken in confidence (to be endorsed by the Chief Legal Counsel) Government or legislative mandated use of a supplier.
- Subscriptions where there is a sole provider;
- Registered Aboriginal Parties (Traditional Owners).

Approval for these exemptions are to be endorsed by the Director Procurement and Contract Management. Software licence renewal must also be endorsed by the Chief Information Officer.

15. Continuous Sole Supplier exemption

Any procurement where a supplier is a monopoly or has sole ownership or rights over a service, assets or goods and its use, or is mandatory for use by Council, is exempt from the procurement thresholds and direct negotiations can be undertaken. This specifically applies to:

- Utilities such as Powercor that are mandated to work on their own assets.
- Transport such as Yarra Trams.
- Proprietary software and related proprietary maintenance of that software.
- Maintenance that is propriety to an asset and can only be performed by a sole supplier.

The continuous sole supplier exemption is where the supplier must be used on multiple occasions across different projects for services over multiple years, and not for a one off occurrence.

Approval of such suppliers for exemptions (ongoing) must be obtained from the Director Procurement and Contract Management, including a duration for the exemption.

16. Delegations, Authority and Levels of Procurement

The relevant instrument of delegation and Council's general delegation policy determine the levels of delegated authority required for expenditure on each instance of procurement.

At the completion of a procurement process including delegation approval and award to the successful supplier, a Purchase Order must be raised in the finance system for each individual procurement and all subsequent contract variations. Delegation to award a contract should include the sum of the initial contract term value and all contract options.

Measures which intentionally seek to avoid the requirement of the procurement thresholds, for example, contract splitting, purchase order splitting or placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to be a breach of this Policy.

All procurements above \$250,000, except for major construction projects, must be approved by the Director Procurement and Contract Management prior to delegation approval.

17. Probity Requirements

Members of staff (and all persons engaged in procurement on Council's behalf) must exercise the highest standards of integrity in a manner able to withstand the highest level possible of scrutiny. All

members of staff have an overriding responsibility to act impartially and with integrity, declaring and managing conflicts of interest.

In all procurement matters, all Council staff:

- Must complete and lodge a Disclosable Interests and Confidentiality Declaration if engaged in the evaluation of quotations or tenders.
- Must disclose a general or material conflict of interest (sections 127 and 128 of the Act) and the type of interest before providing advice or reports where it could be perceived that an interest might unduly influence them.
- Those 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.
- Council staff must declare to their Director 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. Such items must also be referenced on supplier invoices.

In procurement matters, all Councilors:

- Must avoid conflicts between their public duties as a Councilor and their personal interests and obligations.
- 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.

18. Internal Controls

All persons engaged in procurement processes must follow the established framework of internal controls over the procurement processes in order to ensure:

- more than one person is involved in, and responsible for each transaction;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement functions;
- the required authorizations are obtained and documented.

19. Accessing Existing Council Contracts and External Panel Contracts

Under an existing externally approved Tendering Agent or Victorian Government Contract, such as Procurement Australasia, Municipal Association of Victoria or Victorian State contracts, all of which have been market tested, staff are required to:

- Prepare a project brief and obtain a minimum of two quotes from suitable Panel members or arrangement. (i.e. exempt from procurement thresholds).
- Evaluate quotes.
- Follow the process required by the Tendering Agent.

For internal Council Panel Contracts, a minimum of two quotes are required unless there is only one capable supplier on the panel. Multiple quotes are encouraged where a competitive situation can be created with capable suppliers that will achieve an improved value for money outcome.

When accessing Victorian Government supplier registers, the procurement thresholds must be followed however suppliers can be selected from the register or a single quote obtained if a sole provider.

For amounts above \$50,000 two evaluation members are required. For amounts above \$250,000, three evaluation members are required.

20. Evaluation

Council Staff must ensure that:

- Late tenders are not accepted.
- Quotation evaluations are conducted in accordance with the methodology set out in COMBUY.
- An evaluation panel is established to evaluate each tender and quotation submission against the selection criteria.
- The evaluation criteria must not change once the Tender or quotation is closed.
- The number of evaluation members for quotations and Tenders are as follows:
 - 2 quotations (\$2,000 to <\$50,000) is a minimum of 2 evaluators
 - 3 quotations (\$50,000 to <\$250,00) is a minimum of 3 evaluators
 - Tender is a minimum of 3 evaluators or as approved in the Procurement Plan
- The tender evaluation panel's composition is determined by the respective Director and the Category Manager as defined in the Procurement Plan.
- All staff involved in the evaluation process, including advisors and approvers, must complete conflict of interest declarations.

An evaluation plan must be completed for all tenders.

An evaluation report must be completed for all Tenders, EOIs and request for quotation above \$50,000.

Council Staff must consider the following:

- A probity advisor may be appointed to any tender evaluation panel.
- A probity auditor may be appointed to oversee the evaluation process.
- The evaluation process must be robust, systematic and unbiased.

21. Environment, Social and Governance (ESG) Procurement Considerations

City of Melbourne aims to use procurement processes to drive sustainability, using our buying power to make a difference beyond the financial value of the goods and services we purchase. We want to contribute to a fair, inclusive plus an environmentally and socially sustainable community for all, via our suppliers and supply chains, supporting the targets and measures established by council.

The framework contains the following ESG areas and priorities:

Environmental Sustainability - aiming to promote sustainable business practices by:

- Reducing carbon emissions in City of Melbourne's supply chain;
- Stimulating a circular economy by collaborating with existing and new suppliers to improve environmental management to deliver long-term circular economy practices;
- Ensuring suppliers carry out practices that support biodiversity and climate resilience.

Social Sustainability - aiming to elevate the inherent social value of doing business, by:

- Increasing opportunities for Aboriginal businesses and peoples to address inequality and strengthen their role in the Melbourne economy.
- Increasing the inclusion of people experiencing social or economic exclusion or disadvantage.

Governance - aiming to work with suppliers whose business practices meet legislative requirements and whose principles align with our own, by:

- Ensuring suppliers support safe workplaces including Occupational Health and Safety, compliance with Modern Slavery and Child Wellbeing and Safety legislation where required;

- Ensuring suppliers support a Fair workplace including gender equality and diversity, equal opportunities and National Employment Standards.

To create a scalable approach and maximise value and outcomes, each procurement activity will align to the most achievable and realistic priorities for that situation. Governance priorities, supporting safe and fair workplaces are overarching principles considered in all procurements. An Evaluation weighting at a minimum of 10 per cent will apply for all procurements.

The City of Melbourne has committed to the United Nations Sustainable Development Goals (SDGs), our ESG priorities align these goals and 88 localised targets to encourage collaborative action towards a more sustainable future for our city.

The City of Melbourne recognises its obligations under the Victorian Charter of Human Rights and Responsibilities Act 2006 and Australia's International Human Rights treaty commitments and respects, protects and promotes human rights when making procurement decisions.

The ESG priorities, processes and risk management are detailed in City of Melbourne's ESG Procurement Framework.

22. Ethical screening

All procurement activity will be subject to a positive and negative ethical screening test, with the exception of proposals to engage a barrister, other legal representation, expert witnesses and, with the express permission of the Director Procurement and Contract Management, any other procurement activity of the type that is exempt from the procurement methodology under Clause 14 of this policy.

The positive and negative screening tests must be embedded into procurement processes in order to allow all persons involved in procurement evaluation, to the satisfaction of the Director Procurement and Contract Management, to be able to identify and discourage engaging suppliers from harmful industries.

Harmful Industries are defined as; commercial organisations who profit from or engage in practices that are harmful to the environment or to human health and wellbeing. Harmful industries include but are not limited to; tobacco and related products, gambling, armaments and fossil fuels.

23. Evaluation Criteria and Value for Money

When evaluating a procurement proposal, value for money is the primary evaluation objective taking into account both cost and non-cost factors (not necessarily the lowest cost). This should include:

- A cost weighting for evaluation between 60 to 100 per cent. Should a requirement for the weighting be lowered below 60 per cent, Procurement must approve this change.
- Ensure the product and service is fit for purpose.
- Quality.
- Service and support.
- Whole of life cost.

Evaluation criteria for Tenders are confirmed in the approved Procurement Plan.

24. EOI

Council may determine to seek an EOI 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 vendors to offer the required procurement.
- Council requires advice from the market regarding how best to address a particular need.

The EOI must be publicly advertised.

Once the evaluation to the EOI is completed a select tender can then be conducted from preferred respondents.

25. Contract Variations

Contract variations are to be approved by the Financial Delegate or Superintendent for the value of the individual variation. The Delegate must also ensure that budget is approved for the variation.

For contracts below \$250,000, where the sum of the initial contract value plus variations places the contract spend into a new threshold band then:

- Director can approve where the sum of the initial contract variation and the variations are below \$250,000
- General Manager can approve where the sum of the initial contract value and the variations are above \$250,000

For contracts starting at over \$250,000, when the accumulated variation value for a contract will exceed 20% of the initial awarded contract value, the Contract Manager or Director must advise the relevant General Manager. Approval must be sought from the General Manager to proceed with the variation, and that any future variations can still be approved by the Financial Delegate or the Superintendent for each variation amount. The General Manager must also ensure budget is approved for all variations.

26. Contract Extensions

For contracts over \$250,000 that have approved extension options, delegation approval is required to exercise the extension for the value of the option. These extension options are to be processed through COMBUY.

27. Evaluating Contract Performance

In order to continually improve its outcomes, Council will evaluate and seek to improve on all aspects of procurement and contract management, in accord with procurement processes and the Supplier Relationship Management Program.

28. Collaborative Procurement

Where practicable, Council will collaborate with other councils in order to take advantage of economies of scale, explore service design best practice, shared service opportunities and services plus drive innovation with suppliers. Opportunities to collaborate must be identified within the Procurement Plan.

29. Contract Management Plan

A segmentation of all supplier contracts is to be undertaken to determine strategic importance and risk to Council.

A Contract Management plan must be created by the Branch prior to contract execution, in consultation with procurement for all contracts segmented as strategic, important and/or high risk as

determined in the Procurement Plan. This plan should include risk assessment and mitigation plans and a process for enabling innovation throughout the life of the contract.

30. Accumulated Spend

The threshold to determine the procurement approach must allow for the potential accumulated spend with the supplier across the same project or initiative across a period of three years. The value of the accumulated spend determines the procurement approach.

31. Strategic Supplier and Contract Review

A Strategic assessment must be completed for strategic contracts during the course and end of the contract that:

- Provides strategic enhancements during the current contract lifecycle including:
 - Innovation to the existing service.
 - Alternative or improvements to the existing service.
 - Added services to the contract.
- Requires strategic assessment prior to contract end (generally 12 months prior to the end date) including:
 - Market assessment of suppliers and service delivery models.
 - Contract synergies across City of Melbourne services.
 - Strategic assessment of the service model and specification.
 - Review of contract structure and pricing approach.
 - Defines the future strategic direction.
 - Identifies service risk review including transition.
- These reviews are completed by the branch and procurement and approved by the Branch Director and the Director Procurement and Contract Management.

32. Registers

Pre-qualified supplier registers can be created for agreed categories of services or works. These registers will contain:

- An agreed procurement methodology when using the register;
- Qualification criteria to assess supplier on registration and selection;
- Supplier registration process and framework.

All registers and the agreed methodology and framework are to be approved by the Director Procurement and Contract Management.