



Procurement Policy

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1 Introduction

This Procurement Policy is made under Section 108 of the Local Government Act 2020 (the Act). The Act requires Council to:

- Prepare and adopt a procurement policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services and carrying out of works by the Council; and
- Review its Procurement Policy at least once during each 4-year term of the Council.

2 Purpose

This Policy is consistent with the requirements of s108 (2) of the Act and will:

- promote open and fair competition and provide Value for Money;
- Provide policy and direction to Council to allow consistency and control over procurement activities;
- Promote the highest levels of procurement probity and ethical behaviours;
- Demonstrate accountability to ratepayers;
- Provide guidance on ethical behaviour in public sector procurement;
- Demonstrate the application of best practice in procurement activities;
- Demonstrate the consideration of sustainability in procurement with respect to social, economic and environmental factors;
- Increase the probability of obtaining the best outcome when purchasing goods and services; and
- Promote collaborative procurement.

These objectives will be achieved by requiring that the Council's contracting, purchasing and contract management activities:

- support the Council's corporate strategies, aims and objectives
- Span the whole life cycle of an acquisition and take sustainability considerations into account;
- take a long term strategic review of procurement needs while continually assessing, reviewing and auditing its procedures, strategy and objectives;
- achieve demonstrable value for money
- are conducted and are seen to be conducted, in an impartial, fair and ethical manner;
- seek continual improvement including the consideration of innovative and technological advances; and
- generate and support local business through inclusion wherever practicable.

3 Scope

This policy applies to all contracting and procurement activities at Council and is applicable to Councillors, Council Staff and contractors/consultants acting on behalf of Council.

It is recognised this will enhance achievement of the Council's objectives such as sustainable and socially responsible procurement, supporting local economies and obtaining Value for Money, leading to a better result in the provision of services for the community.

This Procurement Policy provides direction on the conduct of procurement activities throughout the sourcing, management and disposal phases. It also covers the general procurement framework but does not extend to the related accounts payable processes.

The Council must comply with this Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.

3.1 Treatment of Goods and Services Tax (GST)

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

3.2 Definitions and Abbreviations

Term	Definition
the Act	Local Government Act 2020.
Collaborative Procurement Arrangement	A contract established by the Council, government or a nominated agent, such as Procurement Australasia, Municipal Association of Victoria (MAV) or local government entity, for the benefit of numerous state, federal and/or local government entities that achieves best value by leveraging combined economies of scale
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information.
Contract Management	The process that ensures both parties to a contract that fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff	Includes full-time and part-time Council Staff, temporary Staff, contractors and consultants while engaged by the Council.
Delegation	A power handed down by Council or Chief Executive Officer (CEO) in an instrument to enable a delegate to act on Council's behalf.
Preferred Supplier Contract (PSC)	An agreement to deal with a single, or Panel, of suppliers after a competitive process has occurred.
Probity	Probity refers to uprightness, honesty, proper and ethical conduct and proprietary in dealings. Within government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.

Local Business	A commercial business that is physically located within Maribyrnong's municipality or within the broader western region of Melbourne.
Request for quotation (RFQ)	<p>A RFQ is an invitation to a specific or closed supplier market, designed to capture commercial information and pricing for goods, services or works against a set of predefined requirements. A RFQ requires:</p> <ul style="list-style-type: none"> • a completed Procurement Initiation Form; • all quotations to be received through the electronic tender system by the nominated closing date and time; • all quotations to be evaluated against pre-approved Evaluation Criteria; and • the awarding of the contract approved by the Council officer with the delegated authority
Request for tender (RFT)	<p>RFT is the process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer. A RFT requires:</p> <ul style="list-style-type: none"> • a completed Procurement Initiation Form; • all tenders to be submitted via the electronic tender system by the nominated closing date and time; • all tenders to be evaluated by a tender evaluation panel against pre-approved Evaluation Criteria; and • the awarding of the contract approved by the Council officer with the delegated authority
Schedule of Rates (SoR)	A Schedule of Rates contract sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tender Process	The process of inviting parties to submit an offer or quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Total Contract Sum	<p>The potential total value of the contract including:</p> <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.

Value for Money / Best Value

Value for Money and or Best Value in Procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:

- contribution to the advancement of Council's priorities;
- non-cost factors such as fitness for purpose, quality, service and support; and
- cost related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

4 Effective Legislative and Policy Compliance and Control

4.1 Ethics and Probity

4.1.1 Requirement

Council's procurement activities shall be performed in an open and transparent manner with demonstrated integrity, fairness and accountability that meets relevant legal requirements. All tender processes shall be conducted in accordance with the requirements of this Procurement Policy and any associated procedures, relevant legislation, relevant Australian Standards, Commercial Law and the Act.

4.1.2 Conduct of Councillors and Council Staff

Councillors and Council Staff shall at all times conduct themselves in accordance with the Councillor Code of Conduct or the Staff Code of Conduct respectively, perform their duties ethically and with integrity and will:

- Treat potential and existing suppliers with equality and fairness;
- Not use their position to seek or receive personal gain in procurement matters;
- Maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information;
- Present the highest standards of professionalism and probity;
- Afford suppliers and tenderers with the same information and an equal opportunity to tender or quote for goods, services and works contracts;
- Be able to account for all decisions and demonstrate and provide evidence of the processes followed
- Not perform any work under any Council contracts they are supervising i.e. Council Staff cannot also work for the relevant supplier;
- Query incidents, decisions or directions that appear to contradict or deviate from Council's standards of ethics or probity or established policies and procedures; and
- Ensure that this Procurement Policy and Council's Procurement guidelines are adhered to in relation to any expenditure of Council funds.

4.1.3 Conflict of Interest

Councillors and Council Staff shall at all times avoid situations which may give rise to an actual or perceived conflict of interest. A conflict of interest may be a 'general' or a 'material' conflict of interest.

A member of Council Staff has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A member of Council Staff has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. The benefit or loss may be direct or indirect and pecuniary or non-pecuniary. Affected persons include, among others, the member of Council Staff and their family members.

Councillors cannot participate in any aspect of the procurement process unless acting in the capacity of Council at a formally constituted Council meeting to consider the awarding of a contract.

Council Staff involved in the procurement process, in particular preparing tender documentation, writing tender specifications, opening tenders, participating in tender evaluation panels, preparing a recommendation report; and Councillors and Council Staff awarding tenders must:

- Avoid conflicts of interest, whether material or general or actual, potential or perceived;
- Declare that they do not have a conflict of interest in respect of the procurement. Council Staff participating in tender evaluation panels must complete a Conflict of Interest declaration. Council Staff must declare any actual or perceived conflicts in line with Council's internal processes for reporting conflicts of interest; and
- Observe prevailing Council and Government guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain

4.1.4 Fair and Honest Dealing

All prospective contractors and suppliers must be treated impartially and afforded an equal opportunity to tender or submit a quotation.

Any suspected improper conduct, including suspected fraud, corruption, substantial mismanagement of public resources, risk to public health and safety, risk to the environment, or detrimental action should be managed in accordance with Council's internal policies and processes.

4.1.5 Probity, Accountability and Transparency

Accountability in procurement means being able to explain and provide evidence on the process followed. An independent third party must be able to see clearly that a process has been followed and that the process was fair and reasonable.

Council staff must be able to account for all procurement decisions and ensure all procurement activities leave a transparent audit trail for monitoring and reporting purposes.

4.1.6 Gifts and Benefits

No Councillor or member of Council Staff shall seek or accept any immediate or future reward or benefit in return for the performance of any duty or work for the City of Maribyrnong or where it could be reasonably perceived as influencing them or their position or undermining their integrity or the integrity of the process in some way.

Any gift or benefit offered to a Councillor or Council Staff will be dealt with in accordance with the requirements of the relevant Code of Conduct and any applicable Council policies.

Offers of bribes, commissions or other irregular approaches from organisations or individuals must be promptly brought to the attention of the CEO.

4.1.7 Reward and Loyalty program participation

Council Staff cannot accumulate reward or loyalty program credits in purchases made on behalf of Council or accept any discounts through the use of Council credit or fuel cards.

4.1.8 Disclosure of Information

Commercial in Confidence information received by Council must not be disclosed and is to be stored in a secure location. .

Councillors and Council Staff must take all reasonable measures to maintain confidentiality of:

- Information disclosed by organisations in tenders, quotation or during tender negotiations; and
- Commercial in Confidence information.

Councillors and Council Staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

Discussion with tenderers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by any tenderer.

At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised other than authorised post tender negotiations as allowed for in this policy and associated processes and procedures. The awarding of contracts will be disclosed to the public on Council's website.

4.1.9 Complaints and Reporting Suspicious activities

4.1.9.1 Complaints Handling

Council takes allegations of fraudulent activity and complaints about procurement seriously and is committed to handling such disclosures sensitively and confidentially. Members of the public, suppliers and Council Staff are strongly encouraged to report fraudulent allegations or complaints about procurement processes and/or taking part in procurement activities to the Council's Finance Manager or Council's Manager Governance and Commercial Services.

4.1.9.2 Reporting Suspicious Activities

All Council Staff, Councillors and Council suppliers are required at all times to act honestly and with integrity and to safeguard the public resources for which they are responsible. Council is committed to protecting all revenue, expenditure and assets from any attempt to gain illegal benefits (financial or otherwise).

Council will take all reasonable steps to protect those who assist Council by providing information about suspected fraud. This will include confidentiality of identity and protection from harassment.

Suspected improper conduct, offers of bribes, commissions and any other irregular approaches from suppliers, prospective suppliers or individuals will be investigated and reported in accordance with Council's internal policy and processes.

The CEO must notify IBAC of any matter they suspect on reasonable grounds to involve corrupt conduct occurring or having occurred in accordance with mandatory reporting requirements under the Independent Broad-based Anti-Corruption Commission Act 2011.

4.2 Governance

4.2.1 Structure

Council has delegated a range of powers, duties and functions to the CEO in relation to procurement.

The CEO shall:

- Maintain a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of goods, services and building and construction purchased by the Council; and
- Ensure that the council's procurement structure operates according to processes that:
 - Are flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
 - Guarantee that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
 - Encourage competition; and
 - Ensures that policies that impinge on the purchasing policies and practices are communicated and implemented.

The City of Maribyrnong operates a centre-led procurement structure wherein all strategy, policy, systems, best practice and networking in procurement matters will be coordinated by the Risk Management and Strategic Procurement Team within the Governance and Commercial Services Department in the Corporate Services Directorate.

4.2.2 Procurement Methods

Council's standard methods for purchasing goods, services and works are:

- Purchase order following a quotation or tender process from suppliers for goods, services or works that represent value for money under the thresholds adopted by Council;
- Under contract following a quotation or tender process;
- Using Collaborative Procurement Arrangements
- Using Ministerial approved arrangements.
- Under sole sourcing arrangements in line with the conditions contained in section 5.3
- Corporate Charge card; and
- Petty Cash

Council may, at the CEO's discretion and based on the complexity and cost of the project, conduct single stage or multi-stage tenders. Typically a multi stage tender process will commence with an expression of interest stage followed by a tender process involving the organisations selected as a consequence of the expression of interest stage.

Expressions of Interest (EOI) may be appropriate where:

- The requirement is complex, difficult to define, unknown or unclear;
- The requirement is capable of several technical solutions;

- Council wishes to assess the capacity of the respondents prior to a formal tender process and whether those tendering possess the necessary technical, managerial and financial resources and experience to successfully complete the project;
- Tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirements don't incur unnecessary expense;
- It is necessary to pre-qualify suppliers and goods to meet defined standards; and
- The requirement is generally known but there is still considerable analysis evaluation and clarification required (both of the objective and the solution).

4.3 Procurement Thresholds and Competition

4.3.1 Requirement for tenders and quotations

Section 108 of the Act requires Council to set the public tender threshold above which tenders or expressions of interest for contracts must be publicly invited.

A public tender process must be used for all procurements valued at \$300,000 and above (incl. GST) for goods, services or works.

Council will invite tenders, proposals, quotes and expressions of interest from the supply market for goods, services and works in accordance with the methodology and thresholds listed below:

Minimum Spend Competition Thresholds	
Procurement Threshold (inclusive of GST)	Procurement Methodology
<\$20,000	<ul style="list-style-type: none"> • One written quotation. • Purchase Order • Corporate Business Card • Quotation received must be retained and recorded in the Authority purchasing system.
\$20,001 - \$50,000	<ul style="list-style-type: none"> • Two written quotations. • Purchase Order • Quotations received must be retained and recorded in the Authority purchasing system • When seeking and or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability of local suppliers
\$50,001 - \$300,000	<ul style="list-style-type: none"> • Three written quotations <p>Request for Quote process required:</p> <ul style="list-style-type: none"> • A RFQ Procurement Initiation Form must be completed. Quotations must be received through the electronic tender system by the nominated closing date and time. The quotations must be evaluated

Minimum Spend Competition Thresholds	
Procurement Threshold (inclusive of GST)	Procurement Methodology
	<p>against pre-approved Evaluation Criteria and the awarding of the contract approved by the Council officer with the delegated authority.</p> <ul style="list-style-type: none"> • When seeking and or evaluating quotes, preference will be applied to local suppliers and a minimum of one local supplier must be invited, depending on availability of local suppliers. • A member of the Governance and Commercial Services Department will participate in the evaluation of procurements of \$150,000 and above.
>\$300,000	<ul style="list-style-type: none"> • A public tender process is required for goods, services or works for a single procurement or if the on-going cumulative spend over the life of the contract is expected to exceed \$300,000. • Expenditures of \$300,000 and above for goods, services and works above over a two year period, must be undertaken by a public tender process. The two year period is defined as commencing from the date an obligation to purchase goods, services or works is first entered into by Council.

In circumstances where it is considered that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the Council, public tenders maybe called for purchase of goods, services and works for which the estimated expenditure is below this threshold.

4.3.2 Exemptions to Procurement Levels and Procedures

An exemption from the Procurement Levels and procedures could be applied in the following circumstances:

Exemption Name	Explanation, limitations, responsibilities and approvals
A contract made because of genuine emergency or hardship	<ul style="list-style-type: none"> • Where the Council has resolved that the contract must be entered into because of an emergency (e.g. to provide immediate response to a natural disaster, declared emergency, etc.)

Exemption Name	Explanation, limitations, responsibilities and approvals
A contract made with, or a purchase from a contract made by, another government entity, government-owned entity or other approved third party	<ul style="list-style-type: none"> • This general exemption allows engagements: <ul style="list-style-type: none"> ○ With another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; and/or ○ In reliance on contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA).
Extension of contracts while Council is at market	<ul style="list-style-type: none"> • Allows Council to extend an existing contract where the procurement process to replace the contract has commenced, and where the tender process or negotiations will take or are taking longer than expected. • This exemption may be used when the establishment of an interim short-term arrangement with an alternative supplier is considered not to be in the public interest, as it may be cost prohibitive and/or present a risk in the delivery of critical public services to the municipality.
Professional services unsuitable for tendering	<ul style="list-style-type: none"> • Legal Services. • Insurance.
Novated Contracts	<ul style="list-style-type: none"> • Where the initial contract was entered into in compliance with <i>the Act</i> and due diligence has been undertaken in respect to the new party.
Information technology resellers and software developers	<ul style="list-style-type: none"> • Allows Council to renew software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
Regional Waste and Resource Recovery Groups	<ul style="list-style-type: none"> • Situations where a Regional Waste and Resource Recovery Group constituted under the <i>Environment Protection Act 1970</i> had already conducted a public tender for and on behalf of its member councils.
Statutory Compulsory Monopoly Insurance Schemes	<ul style="list-style-type: none"> • Motor vehicle compulsory third party • WorkCover
Operating Leases	<ul style="list-style-type: none"> • Where a lessor leases an asset (generally a vehicle or plant and equipment) to the Council and assumes the residual value risk of the vehicle.

Exemption Name	Explanation, limitations, responsibilities and approvals
Artists and entertainers	<ul style="list-style-type: none"> for the delivery of Arts or Entertainment where the Artist/s are represented by management companies
Legislated providers	<ul style="list-style-type: none"> where the delivery of goods, services or for the undertaking of works is legislated, for example, the conduct of a general election of Council

All Exemptions must be authorised by the Chief Executive Officer.

When an exemption has been approved, a written contract based on standard terms and conditions appropriate to the goods, services or works being provided must still be established in advance of any commitment being made with a supplier. Appropriate insurance and indemnity is also required.

4.3.3 Contract Variations

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract. This will depend on factors like:

- The monetary value of the proposed variation, i.e. the value of the variation in the context of the thresholds fixed by the Procurement Policy; and
- The subject matter of the proposed variation, and whether it is consistent with the scope of the original contract.

4.3.4 Public Tender Requirements

All public tenders invited by the Council will be published via Council's e-Tendering Portal and advertised in the media. Information regarding Current Tenders and Awarded Tenders will be published on Council's website.

To ensure the market is able to respond to requests for tenders in a meaningful and timely manner all public tenders shall remain open to the public for no less than 15 business days; however this period may be increased due to the complexity of the task or response.

4.3.4.1 Probity Advisor

A formal probity plan should be developed, and a probity advisor appointed in the following circumstances:

- Where the proposed Total Contract Sum exceeds \$10 million over the life of the contract or for a lesser value set by Council from time to time; or
- Where a proposed contract is considered by Council or the CEO to be particularly complex, of a high risk or controversial nature, and requiring a high level of public confidence.

A probity advisor may be appointed to any tender evaluation panel and may be appointed to oversee the evaluation process.

4.3.4.2 Procurement Planning

A Procurement Initiation Form, inclusive of anticipated timeframes, key personnel, evaluation criteria and weighting shall be developed and approved by the delegate officer prior to the release of the tender. Council objectives should also be identified and documented during the planning phase and Council Staff are responsible for appropriately considering Council's objectives and ensuring the procurement is developed to achieve these objectives.

4.3.4.3 Tender Evaluation

A tender evaluation panel will be established to evaluate each tender submission against the tender's selection criteria.

Tender evaluation panels can include external personnel in order to ensure the best outcome for a procurement activity and must comprise at least three officers, one being the Chairperson and one being a member of the Commercial Services Department.

Panels will be chaired as follows:

- Manager or Director up to a total value of \$1 million
- Director – for procurements exceeding a total value of \$1 million

Tender Evaluation Panels shall strictly adhere to the selection criteria and must conduct themselves with the highest standards of probity and integrity including maintaining confidentiality and declaring and managing conflict of interests.

At the conclusion of the evaluation process, the Tender Evaluation Panel Chair shall be responsible for preparing a Tender Evaluation Report for consideration by the Delegated Authority, inclusive of a recommendation for appointment of a preferred tenderer.

4.3.4.4 Evaluation Criteria

Evaluation criteria shall be approved by the relevant Director as part of the Procurement Initiation Form, prior to the release of the tender.

The Council may include the following evaluation criteria categories to determine whether a proposed contract provides Value for Money:

- Mandatory Compliance criteria (e.g. ABN registration, OH&S, Fair Work Act);
- Tendered price;
- Capacity of the Tenderer to provide the goods and/or services and/or works;
- Capability of the Tenderer to provide the goods and/or services and/or works; and
- Demonstration of sustainability.

The evaluation of tenders must also include the application of a pre-approved and robust weighted scoring system.

Cost related factors including tender price, whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works will account for at least 45% of the weighted criteria.

4.3.4.5 Shortlisting and Negotiations

Where it is intended to reserve the right to conduct post tender negotiations, tender documentation must specify that Council reserves the right to negotiate with one or more of the preferred tenderers.

In circumstances where the Tender Evaluation Panel intends to undertake post tender negotiations, the Panel may select a preferred tenderer or a shortlist of tenderers who most closely meet the requirements of the contract and who have the capability of delivering the most advantageous outcome to Council. A shortlist of preferred tenderers must be defensible within the considerations of both weighted score and price.

Shortlisted Tenderers may be invited by the Council to submit a best and final offer (BAFO) in relation to all or certain aspects of their respective tenders.

In undertaking these negotiations, care must be taken so that the scope or intent of the contract is not reduced to such an extent that it creates a material difference from the advertised tender and in doing so, risks breaching the Procurement Policy. Where the proposed reduction in the scope of the work would lead to a price adjustment in excess of 20% of the submitted price, the specification is to be revised and the tender re-advertised.

The Tender Evaluation Panel Chairperson will maintain detailed records of all commercial-in-confidence negotiations.

4.3.5 Collaborative Procurement

In accordance with Section 108 (c) of the Act, the Council will first give consideration to collaboration with other Councils and public bodies or utilise Collaborative Procurement Arrangements, when procuring goods, services and works in order to take advantage of economies of scale.

Council must consider any opportunities for collaborative procurement in relation to a procurement process undertaken by Council. Any Council report that recommends entering into a procurement arrangement must set out information relating to opportunities for collaborative procurement, only if available, including:

- the nature of those opportunities, if any, and the councils or public bodies with which they are available; and
- why Council did, or did not, pursue the identified opportunities for collaboration in relation to that procurement process.

Council-specific construction / works projects, where the specifications of the works required are unique to an individual Council site and are not applicable to the other Councils will for instance not be considered for collaboration.

Where Collaborative Procurement is to be pursued:

- A pre-market approval submission will be submitted to each Council prior to commitment to collaboration, seeking delegation of contract approval to CEOs;
- A Heads of Agreement to be established that gives authority for a lead council to act as each Council's agent in the Collaborative Procurement;
- Each of the Councils who participate will be able to enter into a contract with the preferred supplier identified through the Collaborative Procurement process, or may choose as a group to enter into a contract using "jump in/opt-in" contract provisions during the contract term, or with the Council which conducted the public tender; and
- Each participating council must be involved in:
 - The initial decision to undertake the Collaborative Procurement;
 - Preparation of, and agreement to, the specifications;
 - Ensuring probity for the Collaborative Procurement; and
 - The acceptance of tender(s) and awarding of contract(s).

Furthermore, Council may collaborate with other Councils or other bodies such as MAV Procurement or Procurement Australasia to procure goods, services or works, or utilise existing Collaborative Procurement Arrangements for the procurement of goods, services or works established through a public tender process where it provides an advantageous Value for Money outcome for the Council.

Any Federal or State Government grant funded projects may be excluded from collaborative procurement.

The public tender threshold and related exemptions also apply to collaborative procurements.

4.4 Delegation of Authority

Delegations define the limitations within which Council Staff are permitted to commit to the procurement of goods, services and works and the associated costs. The Instrument of Delegation allows Council Staff to undertake certain purchases, quotations, tender and contractual processes without prior referral to Council. This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Council has delegated responsibilities relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotations and tenders and for contract management activities to the CEO. The CEO has further delegated some of those responsibilities to other members of Council, subject to specified conditions and limitations.

4.5 Internal Controls

The CEO will maintain a framework of internal controls over procurement processes that will ensure:

- More than one person is involved in and responsible for a transaction end to end;
- New suppliers to the Purchasing System are authorised by more than one Staff;
- Procurements are not separated into parts from a single supplier for a single purchase in order to retain approval within a lower delegation;
- Transparency in the procurement process;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Delegations are not exercised beyond the authority given in the Instruments of Delegation;
- Cross checking of suppliers bank details against the bank details of Council Staff;
- Systems are in place for appropriate monitoring and performance measurement; and
- A process is in place for escalation, where appropriate, of procurement matters (including procedural non-compliance) to the Executive Management Team and the Audit and Risk Committee and Council.

4.6 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities. Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this policy.

Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

5 Risk Management

5.1 General

Risk assessments are a vital part of the procurement planning process, particularly for significant contracts. Risks will be identified for each part of the sourcing, transition, delivery and finalisation stages of procurement. Appropriate risk avoidance and mitigation strategies will be employed whenever practicable and appropriate.

5.2 Supply by Contract

Maribyrnong City Council will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- requiring unconditional bank guarantees where appropriate;
- referring specifications to relevant experts for review where considered appropriate;
- requiring contractual agreements before allowing the commencement of work;
- systemically reviewing all relevant policies and procedures;
- use of or reference to relevant Australia Standards (or equivalent) where appropriate;
- and
- effectively managing the contract including monitoring and enforcing performance.

5.3 Occupational Health & Safety Management Systems (OHSMS)

It is mandatory for all relevant contractors engaged by Council to provide services or works, to have a documented OHSMS that conforms to the requirements of the OHS Act 2004 and that the system is implemented during the conduct of those services or works.

Contract Managers will be required to ensure that an OHSMS is sighted and assessed for conformance prior to the commencement of any relevant services or works.

5.4 Insurance and Indemnity Requirements

Successful tenderers must take out and maintain insurance cover for the term of the contract and any additional period specified within the contract. Evidence of cover must be provided prior to receipt of goods or services and prior to commencing works under the contract.

The type and minimum amount of insurance cover required is as follows:

- WorkCover Insurance as required by legislation
- Public Liability Insurance for a minimum of \$20M
- Professional Indemnity Insurance for a minimum of \$5M for consultancy services associated with building works
- Professional Indemnity Insurance for a minimum of \$2M for other types of consultancy services
- Insurance of the Works for building projects as required by legislation
- Product Liability for goods

Variations to the above require a completed risk assessment of the project/scope and written approval of the responsible Director based on the risk assessment results prior to the tender being released.

5.5 Endorsement

Council Staff must not publicly endorse any products or services.

5.6 Dispute Resolution

Where relevant, Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action.

5.7 Contract Management

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 Contract Management Guidelines.

Good contract management ensures goods, services or works are delivered to the required standards of quality and quantity as intended by the contract through:

- establishing a system of monitoring and achieving the responsibilities and obligations of both parties under the contract;
- providing a means for the early recognition of issues and performance problems and the identification of solutions;
- adhering to Council's Risk Management Framework and adhering to relevant Occupational Health and Safety Contractor Compliance Procedures;
- Developing and maintaining a sound business relationship with relevant suppliers for the duration of any contractual agreement; and
- Maintaining accurate records of contract communications, progress, status and activities for auditing and compliance. Records are to be stored in Council's Content Management system for retrieval.

Council contracts are to include contract management requirements commensurate with the complexity of the procurement. Furthermore, contracts are to be proactively managed by the member of Council responsible for the delivery of the contracted goods, services and works to ensure Council, and therefore the community, receives Value for Money.

Council awards some contracts that are strategically critical and of relatively high value. Council will provide additional senior oversight of the management of a significant contract.

6 Demonstrate Sustained Value

6.1 Achieving Value for Money

6.1.1 Requirement

Council's procurement activities will be carried out on the basis of obtaining Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinant of Value for Money.

6.1.2 Approach

This approach will be facilitated by:

- Achieving continuous improvement in procurement activity in accordance with the direction set out in the Council's Strategic Procurement Plan;
- Developing, implementing and managing procurement strategies that support the coordination and streamlining of activities throughout the procurement lifecycle;
- Effective use of competition;
- Using existing Council contractual panel arrangements (Schedule of Rates) or Collaborative Procurement Arrangements where appropriate;
- Identifying and rectifying inefficiencies in procurement processes;
- Developing cost efficient tender processes;

- Council Staff responsible for providing procurement services or assistance within Council providing competent advice in terms of available agreements; and
- Working with suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being acquired.

6.2 Sustainable Procurement

6.2.1 Sustainable procurement definition

Sustainable procurement involves decision making that has the most positive environmental, social and economic impacts possible across the entire lifecycle of goods, services and works. The United Nations Environment Programme defines sustainable procurement as a “process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves Value for Money on a whole of life basis in terms of generating benefits not only for the organisation, but also to society and the economy whilst minimising damage to the environment”.

6.2.2 Applying sustainable procurement in Council

Council commits to applying the principles of sustainability to its procurement decision-making and activities. Council will demonstrate sustainable procurement by:

- Being accountable for its impacts on society, the economy and the environment including the impacts of the organisation’s supply chain;
- Examining anticipated organisational, project and/or community needs;
- Continually improving sustainability specifications, practices and outcomes, and
- Planning and undertaking sustainability evaluations as part of contracting activities.

6.2.3 Principles and objectives

Council commits to

- Applying specific principles of sustainability to its decision-making and activities, and
- Focusing on specific Environmental, Social and Economic objectives.

The following environmental, social and economic objectives have been determined in line with these principles:

6.2.3.1 Environmental

Where applicable Council will purchase goods, services and works that reduce air, water and soil pollution, greenhouse gas emissions, waste production, natural resource depletion and biodiversity depletion whenever they present an acceptable Value for Money outcome, and in some cases where they might not.

Council’s approach will be underpinned by the following principles:

- Considering a product’s or asset’s lifecycle;
- Promoting circular economy participation;
- Managing demand to reduce procurement requirements;
- Encouraging innovation through specifications; and
- Engaging suppliers who are also committed to reducing their environmental impact.

This approach aims to:

- Improve energy efficiency;
- Reduce greenhouse gas emissions and contribution towards Council's carbon footprint;
- Minimise waste production;
- Improve water efficiency;
- Reduce air, water and soil pollution;
- Reduce biodiversity impacts; and
- Increase the use of recycled materials to:
 - Reduce demand for raw materials and non-renewable resources; and
 - Close the loop on kerbside recycling.

6.2.3.2 Social

Council is committed to building stronger communities and meeting social objectives which benefit the municipality and commits to integration of measures in its procurement processes and documentation which promote improved social outcomes.

Council's approach will be underpinned by the following principles:

- A thorough understanding of the socio-economic issues affecting the community;
- Promotion of equity, diversity and equal opportunity; and
- Respect for human rights, the rule of law and international norms of behaviour.

This approach aims to:

- Ensure vendors do not exploit workers and provide fair wages, including inclusive business practices;
- Maintain a social procurement program to increase social procurement spend across the region;
- Ensure sourced products are accessible by all segments of the community;
- Increase employment opportunities for indigenous people, people with a disability, disadvantaged people and long term unemployed;
- Improve gender equity; and
- Prevent, detect and remove modern slavery from Council's supply chain.

6.2.3.3 Economic

Council is committed to procurement that supports local business and economic diversity in the region. Where practicable and applicable Council will give preference to goods manufactured or produced in Australia and will actively seek quotations and tenders from local businesses.

Council's approach will be underpinned by the following principles:

- Ensuring accountability and transparency;
- Ensuring Value for Money outcomes;
- Ensuring open and effective competition, and development of competitive Local Business and industry;
- Fostering innovation and emerging sectors; and
- Considering life cycle costs.

This approach aims to:

- Achieve Value for Money on a whole of life (including disposal) basis, rather than just initial cost;
- Consider broader life cycle impacts of products procured;
- Ensure probity and accountability in the procurement process;

- Commit to sourcing local and where appropriate include evaluation criteria that favours suppliers that support the local economy
- Build relationships with Local Business and encourage procurement from them to help build their capacity; and
- Increase local employment.

7 Build and Maintain Supply Relationships

7.1 Managing Suppliers

Council recognises the importance of effective and open working relationships with its suppliers and is committed to managing existing suppliers, via performance measurements to ensure benefits negotiated through contracts are delivered.

7.2 Supply Market Development

A wide range of suppliers shall be encouraged to compete for Council work. The focus for new works need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:

- Local businesses
- Green suppliers
- Small to medium sized enterprises
- Social enterprises
- Indigenous business suppliers
- Ethnic and minority businesses; and
- Voluntary and community organisations

8 Related Legislation

In addition to the Local Government Act 2020, other relevant legislative requirements include compliance with the:

Occupational Health and Safety Regulations 2007
 Competition and Consumer Act 2010,
 Goods Act 1958,
 Fair Work Act 2009,
 Working with Children Act 2005 and Working with Children Regulations 2016
 Environment Protection Act 1970 and Environment Protection Act 2017

All Council policies comply with the *Victorian Charter of Human Rights and Responsibilities Act 2006*

9 Related Documents

9.1 Standards and Linkages

Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with the Act and applicable policies and procedures including Codes of Conduct for Councillors, Council Staff and suppliers.

Compliance will be monitored by Council's Governance and Commercial Services Department and minor issues identified will be addressed by Council Staff in leadership

positions. Where required, serious compliance issues will be reported by the CEO to the Audit and Risk Committee and Council.

The policy has clear linkages to a range of codes, charters, and Council documents, including:

- Procurement procedures and guidelines
- Purchasing and accounts payable guidelines
- Codes of Conduct and associated policies
- Contract management guidelines

9.2 Review of Policy

In accordance with the Act, Council will review its Procurement Policy at least once during each 4-year term of the Council or whenever Council determines that a need for review has arisen.