

COUNCIL POLICY



SUBJECT: Procurement Policy

PURPOSE:

To record Council's policy relating to the procurement of goods, services and works.

RESPONSIBILITIES:

Group A Officers (as per the Delegation Manual, Miscellaneous Sub-delegations by the Chief Executive Officer to Council staff) for the supervision and proper application of this Policy across all Council Staff.

Manager Strategic Procurement for the co-ordination, interpretation and strategic management of this Policy.

Council Staff for observance of their responsibilities under this Policy.

RELATED LEGISLATION: *Local Government Act 1989 (The Act)*

REVIEWED: Annually by Council

APPROVED BY: TBA

Issue No: 7

Acknowledgement

The base document forming this Policy was prepared by the Municipal Association of Victoria with the assistance of Landell Consulting Pty Ltd to ensure compliance with s186A of *The Act*. Changes have been made to reflect Council's processes and procedures.

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Procurement Policy Statement

Monash City Council (hereby called Council) is committed to providing best value procurement outcomes for the community. An important element in achieving this is the responsible procurement of goods, services and works. Best value procurement by Council maximises the benefit delivered to the community through its services and infrastructure. The community should have confidence and trust that Council maintains the highest level of integrity in its procurement processes.

When evaluating goods, services and works, Council will take a balanced approach and consider factors including but not limited to:

- value for money;
- capability and experience; and
- environmental, local & social sustainability.

Value for money is not necessarily the cheapest price. Goods, services and works procured by Council will be considered in the context of price and quality. Consideration will also be given to the life cycle cost including ongoing operating and disposal costs.

When considering the **environmental, local & social sustainability**, Council will consider opportunities to improve local employment, increase participation from disadvantaged community's and will give preference to goods, services and works that meet the required specification levels and use recycled or reusable resources and are responsibly sourced. Consideration will also be given to the environmental impact over the life cycle of the products.

Other considerations include compliance with legislation and the purchasing and tendering guidelines and procedures.

Non-compliance with this Policy may expose Council to poor procurement practice, unsatisfactory procurement outcomes, legal and legislative breaches and/or reputational damage.

1 Principles

1.1 Background

Council recognises that:

- developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and works required by Council, will enhance achievement of Council objectives such as:
 - sustainable and socially responsible procurement;

- cost savings;
- supporting the local economy;
- achieving innovation; and
- better services for our communities.
- the elements of best practice applicable to Local Government procurement incorporate:
 - broad principles covering ethics, honesty, responsibility and accountability;
 - guidelines giving effect to those principles;
 - a system of delegations (i.e. the authorisation of officers to approve and undertake a range of functions in the procurement process);
 - Procurement processes, with appropriate procedures covering minor, simple procurement to high value, more complex procurement; and
 - a professional approach.

Council's procurement activities:

- support Council's Corporate Strategies, aims and objectives including but not limited to those related to Sustainability, protection of the environment, and corporate social responsibility including Fair Trade products;
- span the whole life cycle where appropriate, from initial concept to the end of the useful life, including disposal, or the end of a service contract;
- achieve value for money and quality in the acquisition of goods, services and works by Council;
- will demonstrate that public money has been well spent;
- will be conducted, and are seen to be conducted, in an impartial, fair and ethical manner;
- seek continual improvement including innovative and technological initiatives such as electronic Tendering processes to reduce activity cost;
- will minimise or preferably have a positive environmental impact;
- will generate and support business in the local community; and

- ensure Council Staff are adequately trained in Contract Management, procurement processes and procedures as it relates to Tendering, contracts and the Australian Competition and Consumer Laws.

1.2 Scope

This Procurement Policy is made under Section 186A of *Local Government Act 1989 (The Act)*.

This section of *The Act* requires Council to prepare, approve and comply with its Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by Council.

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council officers and temporary employees, contractors and consultants while engaged by Council.

1.3 Purpose

The purpose of this Policy is to provide consistency and control over procurement activities, including:

- compliance with Council's Fraud and Corruption Framework and Code of Conduct Policy;
- accountability to rate payers;
- guidance on ethical behaviour in public sector purchasing;
- the application of elements of best practice in purchasing; and
- obtaining the best outcome when purchasing goods, services and works.

1.4 Treatment of GST

All monetary values stated in this policy include GST unless stated otherwise.

1.5 Definitions and Abbreviations

Term	Definition
The Act	<i>Local Government Act 1989</i>
Best Value Outcome	<p>Best value outcomes in procurement involves the selection of goods, services and works while considering some or all of the following:</p> <ul style="list-style-type: none"> • contribution to the advancement of Council’s priorities; • environmental, local and social sustainability benefits; • 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 and works.
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, etc.
Consultancy	<p>A service that facilitates decision making through:</p> <ul style="list-style-type: none"> • provision of expert analysis and advice; or • development of a written report or other intellectual outputs. <p>Consultancy does NOT include:</p> <ul style="list-style-type: none"> • building and works design, construction and related services including fit out; • research or project management where recommendations are not provided; • routine accounting, audit and taxation services that provide advice on day to day issues; and • routine legal services (conveyancing, document drafting and litigation services). <p>Note: the Consultancy definition is that provided by the Department of Treasury and Finance, Guidance note to Financial Reporting Direction (FRD) 22H</p>
Consultancy Register	A register that records all procurement arrangements for Consultancy engagements exceeding \$20,000.
Construction Supplier Register (CSR)	Construction Supplier Register (CSR) is a pre-qualification scheme for building and construction industry Contractors and Consultants. The CSR is administered by the Department of Transport (DOT) for and on behalf of State Government.
Contract	A written agreement via an offer and acceptance between Council and a supplier that gives rise to legal rights and obligations.
Contractor	A supplier engaged to provide goods, services or works.

Term	Definition
Contract Management	The process that ensures both parties to a Contract 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 to provide best value outcomes.
Contract Value	The amount Council is, or could be liable to pay for the full term of the Contract including applicable GST, any extension options, and approved variations. Any approved contingency sums will be used to determine the total project value for budget purposes, and to fund any approved variations.
Council Staff	Includes full-time, part-time officers, and temporary employees.
Exceptional Circumstances	Where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in works, unless immediate action is taken.
eTender Portal	Online service where Tenders can be issued and lodged electronically.
Expression of Interest (EOI)	The first stage of a two part Tender Process by public advertisement, which aims to assess market capability to provide goods, services or works.
Group A and Group B	As per the Schedule of Miscellaneous Sub-Delegations by the Chief Executive Officer to Council Staff.
Probity	Uprightness, honesty, proper and ethical conduct and propriety in dealings. A procurement process that conforms to expected standards of Probity, where clear procedures, consistent with Council's policies and legislation, are established, understood and followed from the outset. These procedures need to consider the legitimate interests of tenderers and ensure all tenderers are treated equitably.
Probity Auditor	A party appointed to ensure that the procurement process is conducted in accordance with legislation and Council policy.
Procurement	Procurement is the whole process of acquiring goods, services and works. This process spans the whole life cycle from initial concept (design) to the end of the useful life of an asset (including disposal) or the end of a service Contract.
Quotation	A written proposal for goods, services and works submitted in response to an invitation to quote. A Quotation process cannot be used for contracts where the Contract value equals or exceeds \$150,000 for goods or services (GST inclusive); or \$200,000 for works (GST inclusive).

Term	Definition
Registered Contract	A Contract registered in Council’s electronic Contract Management System. All procurement arrangements with a contract value above \$50,000 (including GST) must be registered in Council’s Contract Management System.
Sustainability	Sustainability is planning and providing for the needs of individuals and communities now and for future generations, creating resilient and prosperous communities and protecting the environment and ecosystem.
Tender	A written proposal submitted, via the eTender portal, in response to a public or selective invitation for the supply of goods, services and works.
Tender Process	The process of inviting parties to submit either a Quotation, EOI or a Tender, followed by evaluation of submissions and selection of a successful supplier.

2 Effective Legislative and Policy Compliance and Control

2.1 Ethics and Probity

2.1.1 Requirement

Council’s procurement activities shall be performed with integrity and in a manner able to withstand close scrutiny.

2.1.2 Conduct of Councillors and Council Staff

2.1.2.1 General

Councillors and Council Staff shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information;
- present the highest standards of professionalism and Probity;
- deal with suppliers in an honest and impartial manner through the management of any known conflicts of interest;

- provide all Tenderers with the same information and equal opportunity; and
- be able to account for all decisions and provide feedback on them.

2.1.2.2 Members of Professional Bodies

Councillors and Council Staff belonging to professional organisations shall, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body.

2.1.3 Tender Processes

All tender processes shall be conducted in accordance with the requirements of this Policy and any associated procedures, relevant legislation, relevant Australian Standard Specifications and *The Act*.

Council will work within established principles and will conduct tender processes that are fair to all parties, and use its best endeavours to demonstrate fairness to Tenderers and potential Tenderers. Council will:

- produce Tender documents that clearly specify the required outcomes so that Tenderers can bid for, and price work accurately;
- package work put out to Tender in a manner which encourages competition and the best outcome for Council, residents and ratepayers;
- not participate in, and actively discourage other parties from improper Tendering practices such as collusion, misrepresentation and disclosure of confidential information;
- include in the Tender documents, the evaluation criteria and weightings to be used to assess Tenders;
- require any conflict of interest to be disclosed immediately; and
- have regard to the cost of Tendering to Tenderers, Council, residents and ratepayers and to seek to constrain those costs.

Council shall maintain robust procedures to ensure that processes associated with all aspects of procurement relating to Expressions of Interest, Quotations, Tenders and Contract Management are met.

2.1.4 Conflict of Interest

Councillors and Council Staff shall at all times avoid situations in which private interest's conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council Staff must not participate in any procurement activity, including invitation to Quotation or Tender, evaluation, negotiation, recommendation, or approval, where that person, any member of their family or close association has a significant or potential interest, or holds a position of influence or power in a business Tendering for the work.

A potential interest may include but is not limited to the following:

- Shares
- Current or pre-existing relationships with employees
- Positions held
- Previous employment
- Hospitality or gifts
- Obligation, allegiance

The onus is on Councillor and Council Staff to remain vigilant and promptly declare an actual or potential conflict of interest to Council.

For quotes and tenders exceeding \$50,000 (GST inclusive), the evaluation panel members must complete and sign a 'Conflict of Interest and Confidentiality Statement' prior to evaluation.

2.1.5 Fair and Honest Dealing

All prospective Contractors must be afforded an equal opportunity to Tender or quote.

Impartiality must be maintained throughout the procurement process so it can withstand public scrutiny.

The commercial interests of existing and potential suppliers must be protected. Unless otherwise agreed, confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material including but not limited to prices, discounts, rebates, profit, manufacturing and product information.

2.1.6 Accountability and Transparency

Accountability in procurement is the ability to provide explanation and evidence of the process undertaken. The test of accountability is evident to an independent third party that a fair and reasonable process has been undertaken

All procurement activities will be in accordance with Council's Procurement Policy and procedures.

Additionally:

- Council Staff must account for all procurement decisions during the lifecycle of all goods, services and works purchased by Council and
- all procurement activities have an audit trail for monitoring and reporting purposes.

2.1.7 Gifts and Hospitality

In compliance with Council's Code of Conduct Policy, no Councillor or Council Staff shall, either directly or indirectly solicit or accept any gifts, presents or hospitality from any member of the public involved with any matter that is connected with the duties of the officer, or in which Council has an interest.

Councillors and Council Staff should also avoid the ambiguous situation created by visiting the premises of a contractor, supplier, firm or individual uninvited and/or not on official business.

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

2.1.8 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 are to protect confidentiality, by refusing to release or discuss the following:

- information provided by suppliers in Tenders, Quotation or during Tender negotiations;
- all information that is Commercial in Confidence; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations, with

the exception, at Council's discretion, of publishing award information including the party name and contract value.

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

Information of a commercially sensitive or confidential nature must also be stored and handled in an appropriate manner in accordance with the relevant Council guidelines.

2.2 Governance

2.2.1 Structure

Council shall:

- establish a procurement delegations structure ensuring accountability, traceability and auditability of all procurement decisions made by Council;
- ensure that Council's procurement structure:
 - is flexible enough to purchase the diverse range of goods, services and works required by Council in a timely manner;
 - affords prospective suppliers an equal opportunity to tender/quote; and
 - encourages competition.

2.2.2 Standards

Council's procurement activities shall be carried out to a professional standard consistent with best practice and in compliance with:

- *The Act*;
- Council's Policies; and
- Other relevant legislative requirements including but not limited to the Consumer and Competition Act, Victorian Local Government Best Practice Procurement Guidelines and the Environmental Protection Act.

2.2.3 Methods

Council's standard methods for purchasing goods, services and works shall be by issuing a Purchase Order following a compliant procurement process.

In the case of Emergency Circumstances, other arrangements may be authorised by Council or the CEO.

Council officers may, at its discretion and based on the complexity and cost of the project, conduct either one stage or multi-stage Tenders.

Typically a multi-stage Tender process will commence with a public Expression of Interest (EOI) stage followed by a Tender process involving some or all of the suppliers that participated in the EOI stage.

The EOI stage 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 consider ahead of formal Tender processes whether tenderers possess the necessary experience and financial resources to successfully complete the project;
- Tendering costs are likely to be high and Council seeks to ensure that suppliers incapable of supplying the requirement do not incur unnecessary expense;
- it is necessary to pre-qualify suppliers or goods to meet defined standards; or
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required.

Additionally, for highly complex projects Council may run sequential Tenders, the first to solicit solutions, the second to compete to provide the solution selected by Council.

2.2.4 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities.

Accordingly, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement activity.

Council Staff must not authorise the expenditure of funds in excess of their financial delegations.

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.

2.3 Procurement Thresholds

2.3.1 Requirement

Council will promote competitive outcomes using the following minimum spend thresholds.

2.3.2 Minimum Spend Thresholds

2.3.2.1 Tenders

Purchases where the estimated expenditure equals or exceeds:

- (i) \$150,000 (GST inclusive) for Goods and Services; or
- (ii) \$200,000 (GST inclusive) for Works

must be undertaken through a compliant public Expression of Interest, Tender Process or with other processes compliant with *The Act*.

Section 186(5) of *The Act* covers exemptions to public Tender requirements. Procurement undertaken under these exemptions must be approved beforehand by Strategic Procurement.

Where a Council Staff member considers the nature of the requirement and the characteristics of the market are such that the public Tender Process would lead to a better outcome for Council, a public Tender may be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

All Tenders and Expressions of Interest issued via Council's eTender Portal must be received via Council's eTender portal by the nominated time and date.

All procurement related documents including but not limited to conflict of interest declarations, submissions, evaluation summary and scoring, post tender correspondence, recommendation reports and notification letters must be recorded in Council's Contract Management System.

Access to the Construction Supplier Register for Tenders

The Construction Supplier Register (CSR) is a pre-qualification scheme for building and construction industry Contractors and Consultants administered by the Department of Transport (DOT) for and on behalf of State Government.

The CSR covers a wide range of building and construction categories including:

Consultant categories	Contractor categories
Architects	Commercial builders
Engineers*	Residential builders
Project managers	Demolition Contractors
Quantity surveyors	Concrete corrosion Contractors
Rail signalling consultants	Lift Contractors (vertical transport)
Other categories#	Rail Signalling Contractors
	Fire Services

*The Engineers category includes professional disciplines such as civil/structural, mechanical, electrical, fire safety and communications.

#Other categories include Geotechnical, Contract Management, Building Surveyors and Landscape architects.

Local Government was granted approval to access the CSR on an ongoing basis under section 186(5)(c) of *The Act* on 1 July 2012.

Approval under *The Act* to access the CSR is conditional on Council adhering to rules set out in a Ministerial Directions and Council must be formally registered with DOT to access the CSR.

The minimum requirements necessary to comply with the Ministerial Directions to access the CSR is to raise a Contract Number and publish a selective Tender to at least THREE pre-qualified CSR Contractors. This must be done through Council's eTender Portal.

2.3.2.2 Quotations

Procurement by Quotation is available for the purchase of Goods and Services less than \$150,000 (GST inclusive) and for Works less than \$200,000 (GST inclusive). The methods described below must be used to ensure that Quotations do not exceed the legislated thresholds for a Tender process.

Estimated Expenditure over the total contract life (Including GST)	Minimum Procurement Process*
\$2,000 to \$9,999	<p>Request for Quotation. A minimum of <u>ONE Written Quotation</u> must be obtained and a copy attached to the Purchase Requisition.</p>
\$10,000 to \$49,999	<p>Request for Quotation. A minimum of <u>TWO Written Quotations</u> must be obtained.</p> <p>Public advertising is <u>not</u> required and a suitable closing date and time must be nominated.</p> <p>Quotations returned by the nominated closing date and time must be evaluated and a recommendation made in favour of the supplier offering the best value outcome. Copies of the Quotations must also be attached to the Purchase Requisition.</p> <p>If less than two written quotations are obtained, an Exemption Memo must be completed and signed or the quotation process terminated and re-commenced. Where appropriate, details may also be treated as a Registered Contract and recorded in Council’s Contract Management System.</p>
<p>\$50,000 to \$149,999 for Goods and Services or \$50,000 to \$199,999 for Works</p>	<p>Request for Quotation. A minimum of <u>TWO Written Quotations</u> must be obtained by issuing a written Request for Quotation to selected suppliers via Council’s eTendering Portal.</p> <p>Public advertising is <u>not</u> required and a suitable closing date and time must be nominated.</p> <p>Quotations returned by the nominated closing date and time must be evaluated and a recommendation made in favour of the supplier offering the best value outcome.</p> <p>If less than two written quotations are obtained, an Exemption Memo must be completed and signed or the quotation process terminated and recommenced.</p> <p>The original supplier’s Quotations and approval report signed by the appropriate delegated officer must be recorded in Council’s Contract Management System and the approved report must also be attached to the requisition.</p>

	<p>The appropriate Contract number must also be selected on the Purchase Requisition.</p> <p>If Quotations are sought without public advertising and the value equals or exceeds \$150,000 or \$200,000 (GST inclusive) for Goods and Services or Works respectively, then an alternative process compliant with <i>The Act</i> must be used.</p>
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*Procurement of legal services is exempt from the above procurement process where the commitment has been approved in writing by the Chief Operating Officer or Coordinator Legal Services under procedures endorsed by the Chief Executive Officer.

- Public Advertising.

Quotations may be advertised at Council Staff member’s discretion where a field of potential Tenderers hasn’t been established, an innovative approach is required, or the project has broad appeal that may attract greater competition.

- Panel Contracts

Council uses a number of Panel Contracts where suppliers have provided a schedule of rates with indicative and/or firm prices.

Where submitted prices include all costs associated with the requirements, it is not necessary to seek Quotations from the panel.

Where submitted prices do not include all costs associated with the requirements or the rates are indicative only, then Quotations from two or more of the panel suppliers must be sought.

- Confirm Works Orders

Where Council approved systems such as Confirm are used to issue works after undertaking the procurement process, Purchase Requisitions can be raised after receipt of an invoice. The Confirm Job number must be recorded or attached to the Purchase Requisition.

2.3.2.3 Consultancy Engagement

The engagement of Consultancy service involves additional approvals and procurement reporting.

Council staff will follow standard procurement practices identified in this Policy for the engagement of Consultancy services.

In addition, prior to making a decision on whether to engage a supplier to perform a Consultancy service, Council will consider and document:

- the reasons why the service is required to be performed by a Consultant;
- whether the skills required for the Consultancy project exist internally; and
- if the skills required do exist internally, whether Council Staff have the capacity to undertake the Consultancy service and, if not, whether the Consultancy service can be delayed until such time that internal capacity is available.

Group A Officers must pre-approve Consultancy engagements greater than \$5,000 up to delegation levels prescribed in the Manual of Delegation.

Despite any other delegation to the contrary, where it is considered that the skills required for a Consultancy service do exist internally, the decision to engage a Consultant must be approved by the CEO in advance.

All Consultancy engagements greater than \$20,000 must be listed in a Consultancy Register. As a minimum the Register will record the following information;

- description of the Consultancy service;
- name of the firm and principal consultant;
- contract value and end cost;
- start and completion dates.

A list of completed and current consultancy engagements for the periods ending 30 June and 31 December every year is circulated to Council biannually.

2.4 Delegation of Authority

2.4.1 Requirement

Delegations define the financial limits within which Council Staff are permitted to authorise commitments. Delegation of procurement authority allows specified Staff to approve certain purchases, Quotation, Tender and contractual processes without prior referral to Council. This enables Council Staff to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

As such, Council has delegated responsibilities as detailed below relating to the expenditure of funds for the procurement of goods, services and works, the acceptance of Quotes and Tenders and for Contract Management activities.

2.4.2 Delegations

2.4.2.1 Council Staff

Council shall maintain a documented scheme of procurement delegations, identifying Council Staff authorised to make procurement commitments in respect of goods, services and works on behalf of Council and their respective delegations contained in appropriate sections of the Manual of Delegation, including but not limited to the following:

- Acceptance of tenders and quotations;
- Contract term extensions (within authorised budget);
- Contract variations;
- Appointment of pre-qualified suppliers;
- Credit Card purchases; and
- Procedural exceptions.

2.4.2.2 Delegations Reserved for Council

Commitments and processes which exceed the CEO's delegation and which must be approved by Council are:

- Any variation to the weighting of price less than 50% for all Tenders and Quotations unless the Tender process is managed by a party acting as Council's Agent, Council is accessing an established third party contract or Council is acting as Agent as part of a collaborative tender process;
- Tender recommendations and Contract approval for all expenditure over the CEO's delegation;
- Authorising the signing of contract documents for Contracts approved by Council;
- Variations to Council Approved Contracts that exceed \$100,000 cumulatively, or the revised Contract Value exceeds 10% of the original Awarded Contract Value (including any Council approved contingency amounts)*;
- Contract term extensions (requiring additional budget) for contracts approved by Council (unless otherwise authorised); and

*Where Exceptional Circumstances apply, the CEO may approve variations exceeding \$100,000 cumulative or 10% of the original awarded Contract Value (including approved contingency), but must report these approvals at the next Council meeting.

2.5 Internal Controls

Council must maintain internal controls over procurement processes ensuring:

- Purchase Orders are mandatory for all purchases relating to a registered contract, consultancy engagements and for all other purchases over \$2,000 other than those exempted by the Chief Financial Officer ([Purchase Order Exemptions](#));
- Purchase Orders are raised before invoices are received (with the exception of Confirm work orders);
- Consultant Engagement forms are completed and attached to Purchase Requisitions for all Consultancy services. If greater than \$20,000 a copy of the form must also be forwarded to Strategic Procurement;
- Revised estimates for Schedule of Rates contracts with an estimated annual expenditure must be approved by a Group A Officer. Note: Contracts with

estimated annual expenditure do not constitute approval to commit expenditure to this level, as each engagement requires delegated approval;

- Dual approval is required for a commitment or payment approval;
- Transparency in the procurement process;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Systems are in place for appropriate monitoring and performance measurement;
- Conflict of Interest and Confidentiality declarations are obtained by staff involved in tenders; and
- Amendments to the Procurement Policy can only be made following resolution of Council.

2.7 Risk Management

2.7.1 General

Council is committed to ensuring that its employees and the community are protected against loss by management principles and practices designed to minimise or eliminate exposure to risk and adverse impact on Council activities and outcomes. Council recognises that risk management is an essential tool for strategic, operational and financial planning, and continuing service delivery.

Risk is 'any unplanned event that will have an adverse impact on the ability to deliver consistent and required quality outcomes'.

Risk management involves identifying opportunities to mitigate against not achieving Council's objectives. Procurement, as a key element in achieving Council's objectives, requires management of risk events that may reduce the likelihood of achieving those objectives.

Risk Management is applied to all procurement activities and is carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and/or works.

2.7.2 Supply by Contract

The provision of goods, services and works by Contract potentially exposes Council to risk. Council will minimise its risk exposure by:

- standardising contracts to include relevant clauses;
- requiring security deposits or withholding retention money where appropriate;
- referring specifications to relevant experts;
- requiring contractual agreement before allowing commencement of work;
- reference to relevant Australian Standards (or equivalent); and
- effectively managing the Contract including monitoring and enforcing performance.

2.7.3 Tender Documentation

Council will ensure that Tender documentation is clear and concise, and clearly defines the scope of works, performance requirements, insurance/indemnity obligations and evaluation criteria.

In addition, the following must be included:

- Conditions of Tender;
- Formal Instrument of Agreement;
- General Conditions of Contract; and
- Specifications or Brief.

2.7.4 Evaluation Requirements for Tenders and Quotations

The aim of the Tender and Quotation evaluation process is to select a supplier that provides best value whilst ensuring that all suppliers are treated in a fair, equitable and impartial manner.

Selection criteria will be nominated in advance in the Tender or quotation documents and may include a subset of the following criteria:

- Price* (Mandatory);
- Supplier Environmental Sustainability** (Mandatory);
- Contribution to Local and Social Sustainability** (Mandatory);
- Financial viability;
- Capability & Experience;
- Technical skills and resources;
- Management competence;
- Occupational Health and Safety competence;
- Methodology;
- Quality systems;
- Time performance;

- Customer focus; and
- Current work load.

*Price shall be weighted no less than 50% unless approved by Council.

**Environmental, Local and Social Sustainability shall be jointly weighted no less than 20% unless approved in writing by Strategic Procurement and a Group A delegate. However, on a case by case basis, if the Sustainability weighting is agreed to be less than 20%, then the minimum Price weighting shall remain 60%.

Wherever possible, particularly for larger value contracts, Council will consider issuing firm obligations to achieve clear and measurable social and environmental sustainability outcomes that may include new jobs for disadvantaged communities.

Council officers will also ensure that:

- Tender and Quotation evaluations are undertaken on a systematic basis using clear selection criteria published in the Tender documentation;
- Financial viability, Occupational Health and Safety, Insurance and Indemnity requirements are satisfied prior to the recommendation of a supplier; and
- The weighting percentages of all other evaluation selection criteria will also be agreed by the Tender Evaluation Panel prior to the publication of a Tender or Quotation.

2.7.5 Social Sustainability

Consideration of social procurement, as part of the procurement selection criteria may provide opportunities to generate positive social outcomes in addition to the delivery of goods, services and works. Social Sustainability helps build stronger communities and aligns with Council’s social objectives. When evaluating Social Sustainability, evaluation panels may consider the following;

Benefit	Impact
Local sustainability	Strengthening the local economy and ensuring its financial and environmental sustainability.
Social inclusion	Promoting openness and equal opportunity for disadvantaged and vulnerable community groups. Building social capital in the community.
Employment and training	Creating local employment opportunities through clauses and specifications in Council contracts.

Benefit	Impact
	Developing practical training to build long-term employment opportunities.
Diversity and equality	<p>Ensuring all businesses have the same opportunity to tender for Council contracts.</p> <p>Ensuring that the supply markets around essential and key services for Council remains diverse and vibrant.</p> <p>Ensuring that local suppliers such as small to medium-sized enterprises, social enterprises and Indigenous businesses are well-positioned to prosper in the local economy.</p>
Service innovation	Fostering a new social economy, addressing service gaps by piloting joint ventures between councils and external partners.
Fair trade	<p>Purchasing ethical and fair trade goods to support equitable local, national and international trade compliant with Australian Government Fair Trade laws.</p> <p>Ensuring Council supply chains adhere to local, national and international labour standards.</p>

2.7.6 Financial Viability

Where the total Contract Value exceeds \$1,000,000 or where the suppliers has been in business for less than two years, Council will obtain audited financial statements and/or an independent financial assessment for the recommended supplier for approval by the Manager Corporate Performance or their nominee.

Should the financial viability risk be considered unacceptable, risk management plans may be considered to manage the risk, including but not limited to requesting financial security from the supplier.

An independent financial assessment is not required for suppliers registered on the Victorian Government Construction Supplier Register or where financial checks have already been undertaken under contracts Council accesses via third party aggregators.

2.7.7 Insurance and Indemnity Requirements

Where the contract value exceeds \$50,000 (GST inclusive), a minimum of \$20,000,000 Public Liability and \$5,000,000 Professional Indemnity cover is generally required, dependent on the type of Contract. Evidence of cover in the form of a Certificate of Currency will be required. Council will also ensure any other appropriate insurance, i.e.

Product Liability, Motor Vehicle or Fiduciary or Work Cover details are obtained prior to the commencement of the Contract.

2.7.8 Tender Evaluation Panel

The Evaluation Panel will comprise of at least two staff, and where the Contract value equals or exceeds \$150,000 (GST inclusive), the panel must also include a member of Strategic Procurement.

For Tenders greater than \$1,000,000 (GST Inclusive) a member from Group A or B must participate on the Tender Evaluation Panel.

2.7.9 Probity and Legal

Where the contract value exceeds \$10,000,000:

- An independent Probity Auditor will be appointed to assist with the procurement process. The Probity Auditor will participate in the tender process from development of the specification (if possible), the evaluation process, through to award of the Contract;
- The legal review of the Tender documents, specification and contract must also be done prior to publishing a tender.

2.7.10 Award of Contract

Contracts are awarded by a formal resolution of Council or by a delegated officer, in accordance with Council's approved delegations.

Council can negotiate with a preferred Tenderer to achieve an acceptable outcome reflective of the scope of works advertised.

Council will not trade the price of one Tenderer against that of another Tenderer.

Council will award the Contract on the basis of achieving the best value outcome for the community.

2.8 Contract Terms

Contract Terms must be documented in writing and should be based on Council's standard terms and conditions.

Where the use of Council's standard terms and conditions is not possible, approval must be obtained from Strategic Procurement with appropriate legal advice as required.

Contracts provided by suppliers must be reviewed by Strategic Procurement with appropriate legal advice as required prior to signing.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier.

2.9 *Endorsement*

Council Staff must not endorse any products or services. Individual requests received for endorsement must be referred to a Group A staff member.

2.10 *Dispute Resolution*

All Council contracts must incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating and leading to legal action.

2.11 *Contract Management*

The purpose of Contract Management is to ensure that Council, and where applicable its clients, receive the goods, services and works at the required standards of quality and quantity as intended by the Contract by:

- establishing a system to monitor and achieve 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; and
- adhering to Council's Risk Management Framework and to relevant Occupational Health and Safety Contractor Compliance Procedures.

All Council contracts are to include Contract Management requirements. Contracts are to be proactively managed by the member of Council Staff responsible for the delivery of the contracted goods, services and works to ensure Council receives a best value outcome and that supplier performance is maintained.

Councils Contract review and extension process shall be used to facilitate Contract approved extensions.

Signed Contract documentation will also be placed on Council's Contract Management System.

3 Demonstrate Sustained Value

3.1 *Integration with Council Strategy*

Council procurement strategy will support its corporate strategy, aims and objectives, including but not limited to those related to the following Council Plan Strategic Objectives:

- A Livable Sustainable City;
- Inviting Open and Urban Spaces;
- An Inclusive Community; and
- Responsive and Efficient Services.

3.2 *Achieving Best Value Outcomes*

3.2.1 Requirement

Council's procurement activities will be carried out on the basis of obtaining best value outcomes, including minimising the total cost of ownership over the lifetime of all requirements consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinate of best value.

3.2.2 Approach

The approach to achieving best value outcomes will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the whole life cycle;
- effective use of competition;
- using aggregated or collaborative contracts 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 and accurate advice; 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.

3.2.3 Cumulative Spend

Council will monitor cumulative spend with suppliers at least annually. If expenditure with a supplier or a number of suppliers providing similar goods, services and works is ongoing in nature and the cumulative spend is likely to exceed the legislated threshold over a two year period, then Council will review the opportunity to pursue a contract for such goods, services and works through a competitive process.

3.2.4 Role of Specifications

Specifications used in Quotations, Tenders and Contracts are to support and contribute to Council's best value outcome objectives by:

- being clear and concise;
- ensuring impartiality and objectivity;
- encouraging the use of standard products;
- encouraging sustainability; and
- eliminating unnecessarily stringent requirements.

3.3 *Performance Measurement and Continuous Improvement*

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with the Procurement Policy and procedures.

The performance measurements developed will be used to:

- highlight trend and exceptions where necessary to enhance performance;
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers; and
- facilitate programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

3.4 Sustainability

3.4.1 General

Council is committed to achieving Sustainability and ensuring it monitors and reports on Council activities and programs that have an impact on or contribute to the environment including but not limited to the following:

- Waste minimisation;
- Recycling and use of recycled content materials;
- Energy efficiency and sourcing;
- Water conservation and water sensitive urban design;
- Social and economic Sustainability;
- Environmentally sustainable development;
- Vegetation protection
- Ethical procurement
- Sustainable procurement;
- Sustainable supply chain.

3.4.2 Sustainable Procurement

Sustainable procurement aims to have the most positive environmental, social and economic impacts possible over the entire life cycle of the goods, service and works.

Sustainable procurement involves the purchasing of goods, services and works that are less damaging to the environment than comparable products that provide the same level of quality and functionality. This may include design of infrastructure which may also reduce environmental impact.

Council is committed to adopting a sustainable procurement approach within the context of purchasing best value outcomes.

Council is committed to sustainable purchases of goods, services and works with recycled or reusable content, are locally or ethically produced, are water or energy efficient, or low impact materials.

Council prefers to purchase goods, services and works with independent Sustainability certification whenever they achieve the same function and best value outcome.

Council will commit to actively reduce the use of plastic bags, packaging and other single use items across Council business including events.

Council will consider some or all of the following Environmental Sustainability considerations during the Evaluation process:

- resource efficiency: Council is committed to reduce resource consumption and minimise use of products from unsustainable sources;
- products from renewable sources and Recycled content such as products made from recycled/part-recycled products to optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill;
- products which are more energy, fuel and water efficient;
- sustainable supply chain that adopt environmentally conscious practices;
- innovative products and services that promote best value outcomes;
- sustainable supply chain that reuse or recycle material for the manufacture of products locally/in Australia;
- plan and design projects which are fit for purpose and minimise environmental impact; and
- lower climate change impact.

Council will also ensure that material standards used in specifications are updated to reflect innovation and increased use of imbedded recycled content, reduced carbon footprint and/or reduced environmental impact from disposal.

3.5 *Diversity*

Promoting equality and diversity through procurement can improve competition, the quality of public services, satisfaction among users and community relations, and must be considered in all procurement activities.

3.6 *Support of Local Business*

Council is committed to buying from local business where such purchases may be justified on the basis of delivering best value outcomes. As such, local sustainability is a mandatory weighted evaluation criteria for all quotes and tenders exceeding \$50,000.

4 *Apply a Consistent and Standard Approach*

Council will provide effective and efficient commercial arrangements for the acquisition of goods, services and works.

4.1 *Standard Processes*

Council will provide effective commercial arrangements covering standard products and provision of standard services across Council to enable employees to source requirements in an efficient manner.

This will be achieved via establishing the following:

- pricing where relevant;
- processes, procedures and techniques;
- tools and business systems;
- reporting requirements; and
- application of standard Contract terms and conditions.

4.2 *Management Information*

Strategic Procurement will seek to improve procurement performance by capturing and analysing procurement management information in a variety of areas, including:

- volume of spend;
- number of transactions per supplier;
- category management;
- spend on environmental sustainable design, goods and services;
- social procurement.

5 Build and Maintain Supply Relationships

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector aggregated projects or panels, access established State Government, MAVP or Procurement agreements, Construction Supplier Register or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and sustainability.

5.1 *Developing and Managing Suppliers*

Council recognises the importance of effective and open working relationships with its suppliers and is committed to the following:

- managing existing suppliers via the appropriate development programs and performance measurements to ensure the benefits are delivered;
- maintaining approved supplier lists; and
- developing new suppliers and improving the capability of existing suppliers where appropriate.

5.2 *Supply Market Development*

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

- local businesses;
- green suppliers;
- small to medium sized enterprises;
- social enterprises;
- Ethnic and minority business;
- voluntary and community suppliers; and
- indigenous/aboriginal suppliers.

5.3 Relationship Management

Council is committed to developing constructive long term relationships with suppliers. It is important that Council identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:

- size of spend across Council;
- criticality of goods / services, to the delivery of Council's services;
- availability of substitutes; and
- market share and strategic share of suppliers.

5.4 Communication

External communication is very important in ensuring a healthy interest from potential suppliers and partners to Council. The external website will be updated and provide:

- information about how to participate in quotes and public tenders;
- guidelines for doing business with Council; and
- a copy of this Procurement Policy.

6 Continuous Improvement

Council is committed to continuous improvement and will review the Procurement Policy at least annually to ensure that it continues to meet its wider strategic objectives.

7 Appointment of an Agent for Procurement

In consideration of the appropriate procurement process to follow, Council may collaborate with other Councils, based on similar requirements for products, goods or services. In doing so, Council may appoint another council to act as Council's Agent or for Council to act as Agent for other councils.

Council is also able to access contracts from State Government, Municipal Association of Victoria Procurement (MAVP) and Procurement Australia (PA) via an Approval of Arrangements (section 186(5)(c) of *The Act*). This means that Council can utilise most established contracts through State Government, MAVP or PA without the requirement to complete a formal agency appointment process. This does not negate the requirement for financial approval dependent on delegation limits.

Where Council requires an Agent to act on Council's behalf for the Tendering process, governance arrangements will require:

- formal appointment of the Agent; and
- review of the Specification to meet Council's requirements.

Prior to the appointment of an Agent to act on Council's behalf, the Chief Executive Officer must provide 48 hours' notice to Councillors of the intention to appoint an Agent before the appointment is made. This will include any alternative options available and the reasons why this particular arrangement is being recommended.

Prior to accessing a State Government, MAVP or PA contract, a recommendation report must be approved by Council or an officer with the appropriate delegation.

8 Policy Owner and Contact Details

The Manager Strategic Procurement, Monash City Council is the designated owner of this policy.

For further information on the policy, please contact the Manager via: mail@monash.vic.gov.au.