

Procurement Policy 2019

Department/Unit: <i>Finance Department</i>	First Implemented: <i>December 2016</i> Reviewed: <i>Annually December</i> Effective From: <i>18 December 2018</i> Review Date: <i>31 December Annually</i> Version: <i>8</i> Trim Reference: <i>E698/2 / E1533</i>	Origin: Responsible Officer <i>Finance Manager</i> Authorising Officer: <i>Endorsed by Council – 17 December 2019</i>
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PURPOSE

The purpose of this policy is to:

- provide policy and guidance to the Council to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

POLICY STATEMENT

Mansfield Shire Council:

- Recognise that:
 - Developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and works by Council, will enhance achievement of Council objectives such as sustainable and social procurement; bottom-line cost savings, supporting local economies; achieving innovation; and better services for communities.
 - The elements of best practice applicable to local government procurement incorporate:
 - broad principles covering ethics, value for money, responsibilities and accountabilities;
 - 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



- Purchasing and contracting activities endeavour to:
 - take a long term strategic view of its procurement needs while continually assessing, reviewing and auditing its procedures, strategy and objectives;
 - provide a robust and transparent audit trail which ensures that procurement projects are delivered on time, within cost constraints and that the needs of end users are fully met;
 - be conducted, and be seen to be conducted, in an impartial, fair and ethical manner;
 - achieve value for money and quality in the acquisition of goods, services and works by the Council;
 - ensure that risk is identified, assessed and managed at all stages of the procurement process;
 - use strategic procurement practices and innovative procurement solutions to promote sustainability and best value, in particular making use of collaboration and partnership opportunities;
 - comply with legislation, corporate policies or other requirements, ensuring that all staff responsible for procurement are aware of and adhere to the legislative requirements, Council standards and best practice.

DEFINITIONS AND ABBREVIATIONS

Term	Definition
Act	<i>Local Government Act 1989.</i>
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, and temporary employees, contractors and consultants while engaged by the Council.
Probity	Within Local 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 the 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.



Term	Definition
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.
e-Procurement	e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system/s to acquire and pay for supplies, services` and works.
Corporate Social Responsibility (CSR)	Corporate Social Responsibility (CSR) is about taking positive action to demonstrate the Council's commitment to the local community and environment on which it impacts.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Social Procurement	Social Procurement uses Procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.
Tender Process	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.
Best Value	Best value in Procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none"> • contribution to the advancement of the 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.

SCOPE

This Procurement Policy is made under Section 186a of the *Local Government Act 1989*. The Act is the key legislative framework that regulates the process of all local government procurement in Victoria. Section 186a of the Act requires the Council to prepare, approve and comply with a procurement policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Council.

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

The Act and Council's procurement policy and procedures are the primary reference point for how all procurement should be performed.



1 EFFECTIVE LEGISLATIVE AND POLICY COMPLIANCE AND CONTROL

1.1 Ethics and Probity

1.1.1 Requirement

Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible audit scrutiny.

1.1.2 Conduct of Councillors and Council Staff

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 such as contract prices and other sensitive information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity; and
- be able to account for all decisions and provide feedback on them.

1.1.3 Tender Process

All tender processes shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

1.1.4 Conflict of Interest

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

Councillors and Council staff involved in the procurement process, in particular preparing tender documentation, including writing tender specifications, tender opening, and tender evaluation panels, must:

- **Avoid** conflicts, whether actual, potential or perceived, arising between their official duties and their private interests. Private interests include the financial and other interests of Councillors and Council Staff, plus their relatives and close associates
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise Council Staff must make their manager, or the chairperson of the relevant tender assessment panel or board aware and allow them to decide whether the officer should continue to be involved in the specific procurement exercise



- **Observe** prevailing Council, Victorian Government Purchasing Board and e-hub 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.

1.1.5 Fair and Honest Dealing

All prospective contractors and suppliers 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. Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

1.1.6 Gifts and Hospitality

No Councillor or member of Council staff shall, either directly or indirectly solicit or accept gifts or presents from any member of the public involved with any matter that is connected with the duties of the officer, or in which the Council is interested.

Councillors and Council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives, or from organisations, firms or individuals with whom they have official dealings. Councillors and Council staff should also avoid the ambiguous situation created by visiting the premises of a contractor, organisation, firm or individual uninvited and/or not on official business.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the CEO.

1.1.7 Disclosure of Information

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

Councillors and Council staff are to protect, by refusing to release or discuss the following:

- Allocated Council budgets for proposed tenders;
- information disclosed by organisations in tenders, quotation or during tender negotiations;
- all information that is commercial in confidence information; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier.



2 GOVERNANCE

2.1 Structure

Council shall:

- establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- ensure that the Councils' procurement structure:
 - is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
 - ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
 - encourages competition.

2.2 Standards

The Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act
- Council's policies
- Council's Code of Conduct
- Local Government Procurement Best Practice Guidelines
- Other relevant legislative requirements such as but not limited to the *Trade Practices Act 1974*, *Goods Act 1958* and the *Environmental Protection Act 1970*.

2.3 Methods

Council's standard methods for purchasing goods, services and works shall be by some or all of the following methods:

- purchasing card;
- purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;
- under contract following a tender process;
- using aggregated purchasing arrangements with other Councils, MAV Procurement, Victorian Government, or other bodies;
- other arrangements authorised by the Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies

2.3.1 Responsible Financial Management

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

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.



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.

All monetary values stated in this policy and relevant procedures include GST except, where specifically stated otherwise.

2.4 Procurement Processes and Thresholds

2.4.1 Process

Council procurement processes are based on a number of principles:

- **Best Value**

The benefits of the purchase are weighted against the costs necessary for the optimum result for the Council and local community. Council is not required to accept the lowest tender. Instead, the Council is required to take into account issues of quality, cost, the accessibility of the service and other factors relevant to both the overall objectives of the Local Government Act.

Best value is often mistaken for meaning the lowest price, however, in terms of the contracting process, best value requires Council to balance quality and price with as much transparency as is reasonably achievable. In this context price should take into account the whole life cost of the provision so far as is practicable. It follows that the delivery of best value is dependent upon Council priorities.

Achieving best value also requires *challenging* the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, *comparing* service provision options against all those available, *consulting* with key stakeholders and ensuring *competition* in the open market.

Achieving best value for money must be the basis of all procurement decisions within Council.

- **Open and Fair Competition**

All suppliers are treated fairly in an open and transparent manner and have access to the same information.

- **Accountability**

Council maintains consistency in the approach to procurement across the whole organisation through coherent frameworks, policies and procedures. Accountability in procurement means being able to explain and provide evidence on the process followed. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable.

Therefore the processes by which all procurement activities are conducted will be in accordance with this policy and other related, relevant Council policies and procedures.



Additionally:

- all Council staff must be able to account for all procurement decisions made over the lifecycle of all goods, services and works purchased by the Council and provide feedback on them; and
 - all procurement activities are to provide for an audit trail for monitoring and reporting purposes.
- **Risk Management**
Strategies for managing risks associated with all procurement processes are in place and are consistent.
 - **Probity and Transparency**
All Council procurement processes must be conducted in a fair, honest and open manner, with the highest levels of integrity and in the public interest

2.4.2 Minimum Spend Competition Thresholds

Any Council procurement under the threshold must comply with the Council's own policy and procedures.

Council will decide on and publish clear guidelines for minimum spend competition thresholds. These will be decided by the Council by analysing the historical size and complexity of the procurement activity and of proposed procurement activities.

It is unacceptable to split projects or work into smaller lots to avoid the proper tendering process. The value of the work is determined by the total value of all components of the works, which includes any possible extension options.

2.4.3 Tenders

Purchase of all goods and services for which the estimated expenditure exceeds \$150,000, and building and construction works for which the estimated expenditure exceeds \$200,000, must be undertaken by public tender as per the thresholds contained in the Act.

2.4.4 Quotations

Purchase of goods and services having a total \$150,000 and building and construction works having a total valuation of \$200,000 or less may be undertaken using the procurement by quotation method as described below:

- Items valued under \$2,000 - Council purchase card is preferred method of purchase.
- Items with a value from \$2,001 to \$10,000 – Request for Quotation.
A minimum of one written quotation must be obtained and the details recorded in a relevant TRIM file
- Items with a value \$10,001 to \$150,000 goods and services or \$10,001 to \$200,000 building and construction works – Request for Quotation.



Council will seek a minimum of three written quotations. The details are to be recorded in a specific procurement TRIM file.

- **Public Advertising.**
Quotations may be advertised at the Council staff member's discretion in addition to the methods above. This may occur when a field of potential tenderers hasn't been established, or an innovative approach is required, or the project has broad appeal that may attract keen prices, etc.

2.5 Delegation of Authority

2.5.1 Requirement

Delegations define the limitations within which Council staff are permitted to work. Delegation of procurement authority allows specified Council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to the Council. This enables the Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

2.5.2 Delegations

2.5.2.1 Council Staff

Council maintains a documented register of procurement delegations, identifying the Council staff authorised to make such procurement commitments in respect of goods, services and works on behalf of the Council with the following details:

- Position
- Payment Authorisation Limit
- Acceptance of tenders
- Acceptance of quotes
- Contract term extensions
- Contract amendment (non-financial)
- Contract amendment (financial)
- Credit Card Limit
- Procedural exceptions

2.5.2.2 Delegations Reserved for the Council

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

- Tender recommendations and contract approval for all expenditure over \$150,000 for goods and services and over \$200,000 for building and construction works in value and any variation or contract term extensions if over 10% of original contract.

2.6 Internal Controls

Council will install and 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;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;



- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring of procurement activities.

2.7 Risk Management

2.7.1 General

Risk Management is to be appropriately applied at all stages of procurement activities which will be properly planned and 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 works.

2.7.2 Supply by Contract

The provision of goods, services and works by contract potentially exposes the Council to risk.

Council will minimise its risk exposure by measures such as:

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

2.7.3 Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be obtained from the appropriate member of Council staff listed in the Council Delegations.

To protect the best interests of Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose Council to risk and thus must be authorised by the appropriate member of Council staff listed in the Council Delegations.

2.7.4 Dispute Resolution

All Contracts shall incorporate dispute management and resolution provisions.



3 DEMONSTRATED SUSTAINED VALUE

3.1 Achieving Best Value

3.1.1 Requirement

Council's procurement activities will be carried out on the basis of obtaining best value.

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 determinate of best value.

3.1.2 Approach

This will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle;
- effective use of competition;
- using aggregated contracts where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient tender processes including appropriate use of e-solutions;
- Council staff responsible for providing procurement services or assistance within Council providing competent advice in terms of available products and 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.

3.1.3 Role of Specifications

Specifications used in quotations, tenders and contracts are to support and contribute to Council's Value for Money objectives through being written in a manner that:

- ensures impartiality and objectivity;
- clearly defines Council's requirements;
- encourages the use of standard products;
- encourages sustainability;
- eliminates unnecessarily stringent requirements

3.1.4 Process Improvement

Council will seek continual operational and process improvement including innovative and technological initiatives with the objective to reduce overall activity costs and achieve best practice.



3.2 Social Procurement

Social Procurement generates positive outcomes by building on initiatives already undertaken by Council in enhancing sustainable and strategic procurement practice, further enabling procurement to effectively contribute towards building stronger communities and meeting the social objectives of Council.

Council is committed to Social Procurement by:

- Achieving greater value for money across the community through the use of effective procurement
- Ensuring all businesses have the same opportunity to tender for Council contracts
- Enhancing partnerships with other Councils, suppliers and community stakeholders
- Building and maintaining a strong community by exploring ways to generate local employment (particularly among disadvantaged residents) and further strengthening the local economy
- Purchasing ethical and fair trade goods to support equitable, local, national and international trade.

4 APPLY A CONSISTENT AND STANDARD APPROACH

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

4.1 Standard Process

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

This will be achieved via establishing the following:

- Processes, procedures and techniques
- Tools and business systems (e.g. implementing appropriate e-tendering and evaluation arrangements).
- Reporting requirements
- Application of standard contract terms and conditions.

5 BUILD AND MAINTAIN SUPPLY RELATIONSHIPS

Council recognise 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 State Government panel agreements or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.



RESPONSIBILITIES

This Procurement Policy is made in accordance with Section 186A of the *Local Government Act 1989* (the Act).

Overall responsibility for the application of this policy is held by the Chief Executive Officer.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Finance Department is the owner of this policy. Any reviews of this policy must be made in consultation with the Finance Manager and Procurement Officer.

Internal audits of compliance with this policy and procedures will be undertaken from time to time by the Internal Audit Contractor, including monitoring cumulative procurement values.

REFERENCES / RELATED POLICIES

- *Local Government Act 1989*
- Local Government Act Regulations 2015
- *Competition and Consumer Act 2010*
- Australian Standards
- Municipal Association of Victoria Model Procurement Policy June 2009
- Victorian Local Government Best Practice Procurement Guidelines 2013
- *Public Records Act 1973*
- Councillor Code of Conduct
- Employee Code of Conduct
- Gifts, Benefits and Hospitality Policy
- Equal Opportunity and Human Rights Policy
- Occupational Health and Safety Policy
- Risk Management Policy
- Fraud Policy
- Purchasing Card Policy
- Contract Management Policy

IMPLEMENTATION

This policy is effective from 17 December 2019.

