

COUNCIL POLICY



SUBJECT: Procurement Policy

PURPOSE:

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

RESPONSIBILITIES:

Group A Officers 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: Resolution of Council DATE 2018

Issue No: 6

Acknowledgement

The base document forming this Policy was prepared by the Municipal Association of Victoria with the assistance of Landell Consulting Pty Ltd for use by Council to assist them meet the requirement of s186A of The Act. Changes have been made and additions inserted to the document to reflect Monash City Council 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 through the responsible Procurement of goods, services and works. Best Value Procurement by Council maximises the benefit Council can deliver to the community through its service delivery and infrastructure provision. The Monash community should have confidence and trust that Council maintains the highest level of integrity in its Procurement processes.

When evaluating goods, services and works a balanced approach will be adopted by Council to give due consideration to multiple factors including but not limited to:

- value for money;
- benefit to the community; and
- environmental sustainability.

Value for money does not necessarily mean 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 **benefit to the community** Council will consider opportunities to sustain local employment. When different products are of comparable price and quality, products having more local content will be given precedence.

When considering **environmental sustainability**, Council will give preference to goods, services and works that will advance the use of resources having higher recycled or reused content and which are responsibly sourced. A whole life cycle cost consideration will also be given to these products in terms of the impact on the environment throughout its entire life cycle.

Other considerations include compliance with legislative requirements, and the following purchasing and Tendering guidelines and procedures.

It is recognised that some of these factors may be difficult to measure objectively and may compete with each other in importance. At times our best endeavours to evaluate our Procurement decisions will contain subjective elements and Council will rely on value judgments based on the best information available at the time. Council will advise suppliers and contractors of the need to comply with the Trade Practices Act. Council is committed to being ethical and transparent in Procurement decisions and will continually strive to identify and implement objective approaches.

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 by Council, will enhance achievement of Council objectives such as sustainable and socially responsible 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, Best Value Procurement, 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
 - 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 its disposal, or the end of a service contract;
- achieve Value for Money and quality in the acquisition of goods, services and works by Council;
- demonstrate that public money has been well spent;

- 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;
- minimise environmental impact;
- 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 and contracts, Trade Practices Act and National Competition Policy.

1.2 *Scope*

This Procurement Policy is made under Section 186A of The Act.

This section of The Act requires 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 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
- increasing the probability of obtaining the right 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 Procurement	The selection of goods, services and works taking into account cost and non-cost factors including: <ul style="list-style-type: none">• advancement of Council's priorities;• fitness for purpose, quality, service and support; and• whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services and works.
Blanket Order	A purchase order with multiple delivery dates over a period of time (usually the financial year).
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	A service that facilitates decision making through: <ul style="list-style-type: none">• provision of expert analysis and advice; or• development of a written report or other intellectual outputs. <p>For clarity, exclusions from Consultancy 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; and• routine accounting, audit, taxation services; and• routine legal services.
Confirm Works Order	A formal instruction to Contractors to carry out works for Council.
Consultancy Register	A register that records all Procurement arrangements for Consultancy engagements exceeding \$20,000.
Contract	A written agreement (Letter of Acceptance or Purchase Order, as per Delegated Authority) between Council and the successful party that gives rise to legal rights and obligations. A binding Contract between Council and the successful party will be created through Council's unconditional acceptance of the Tender or Quotation.

Term	Definition
Contractor	An individual or organisation engaged to: <ul style="list-style-type: none"> • provide goods, services and works which implement a decision; • perform all or part of a new or existing ongoing function to assist Council carry out its defined activities and operational functions; or • perform a function involving skills which would normally be expected to reside within the relevant Council department but which are not currently available.
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 Value for Money.
Contract Sum	The amount awarded to the successful Tenderer, excluding contingencies. The contingency sum will be used to determine the total project cost, for budget purposes, and to fund any approved variations.
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, nominated contingency allowances or variations and all other known, anticipated and reasonably foreseeable costs.
Council Staff	Includes full-time and part-time Council officers, and temporary employees, Contractors and Consultants while engaged by Council.
Emergency Circumstances	Situations where the health and safety of people or assets is compromised unless immediate action is taken.
eTender Portal	Online service where Tenders can be downloaded and lodged electronically.
Expression of Interest (EOI)	The first stage of a two part Tender Process by public advertisement, which aims to assess the capacity of parties to provide goods, services and works before formal Tender offers are invited. The EOI process culminates with the development of an approved shortlist of parties to be invited to lodge formal Tenders.
Group A	The Schedule of Miscellaneous Sub-Delegations by the Chief Executive Officer to Council Staff classifies Group A to include Directors, the Chief Financial Officer and the Chief Operating Officer.
Group B	The Schedule of Miscellaneous Sub-Delegations by the Chief Executive Officer to Council Staff classifies Group B to include Executive Managers and Managers
iProcurement	Council information technology system utilized for the raising of purchase requisitions and orders.
Notional Pricing	Pricing that is indicative in order to assess a Tender submission and does not necessarily become the Tendered rate.

Term	Definition
Probity	The dictionary definition of Probity refers to uprightness, honesty, proper and ethical conduct and propriety 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.
Probity Auditor	A person appointed to ensure that the Procurement process for large value goods, services and works tenders is conducted in accordance with legislation and Council policy.
Procurement	Procurement is the whole process of acquisition of 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.
Quotation	A written proposal for goods, services and works submitted in response to a selected 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).
Registered Contract	A Contract registered in Council's electronic contracts register and allocated a specific contract number. All Procurement arrangements with a contract value above \$50,000 (including GST) must be registered as contracts to ensure any additional risk posed to Council is identified and responsibly managed.
Standing Offer Arrangements (SOA)	A Contract that sets out a schedule of rates for goods, services or works 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, services or works.
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 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 (using public advertisement), followed by evaluation of submissions and selection of a successful bidder or Tenderer via the eTendering Portal.

Term	Definition
Value for Money	Value for Money in Procurement is about selecting the supply of goods, services and works taking into account the: <ul style="list-style-type: none"> • 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 and works.

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

Council Staff who are responsible for managing or supervising contracts are prohibited from performing any work under the Contract they are supervising.

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 Standards 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 that fairness to Tenderers' and potential Tenderers'. More specifically, it 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 to be used to comparatively 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 that cost.

Council shall maintain robust procedures to ensure that processes associated with all aspects of Procurement relating to Expressions of Interest, Quotation, Tender 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 (as defined in Sections 77 and 78 of The Act); 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 involved being alert to and promptly declaring an actual or potential conflict of interest to Council.

All members of the evaluation panel must complete and sign a 'Conflict of Interest and Confidentiality Statement' prior to an evaluation commencing.

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. 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.

2.1.6 Accountability and Transparency

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.

All Procurement activities will be in accordance with Council's Procurement Policy 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 Council and provide feedback on them; and
- all Procurement activities are to provide an audit trail for monitoring and reporting purposes and recorded in Council's Contract Management System.

2.1.7 Gifts and Hospitality

No Councillor or Council Staff shall, either directly or indirectly solicit or accept any 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 Council has an interest.

Councillors and Council Staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives, or from organisations or individuals with whom they have official dealings and comply with the conflict of interest provisions of The Act. 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.

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 disclosed by organisations 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.

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

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.

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 through authorised pre-contract negotiations.

2.2 Governance

2.2.1 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 Council;
- ensure that Council's Procurement structure:
 - is flexible enough to purchase in a timely manner the diverse range of goods, services and works required by Council;
 - affords prospective contractors and suppliers an equal opportunity to tender/quote; and
 - encourages competition.

2.2.2 Standards

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

- The Act;
- Council's Policies;
- Council's Code of Conduct; and
- Other relevant legislative requirements such as but not limited to the Consumer and Competition Act, Goods 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 may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage Tenders.

Typically a multi-stage Tender process will commence with an Expression of Interest (EOI) stage followed by a Tender process involving the organisations selected as a consequence of the Expression of Interest 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 such issues as whether those tendering possess the necessary technical, managerial and financial resources to successfully complete the project;
- Tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement do not incur unnecessary expense;
- it is necessary to pre-qualify suppliers and goods to meet defined standards; or
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

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 activities for the supply of goods, services and 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.

2.3 Procurement Thresholds and Competition

2.3.1 Requirement

Council will publish clear guidelines for minimum spend competition thresholds. These will be decided through analysis of historical Procurement activity.

2.3.2 Minimum Spend Competition 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 by a compliant public Expression of Interest or Tender Process or with another process 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 result for Council, public Tenders may be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

All publicly advertised Tenders or Expressions of Interest must be received via the eTender Portal by the advised 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. The CSR is 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 through Council's eTender Portal.

2.3.2.2 Quotations

Procurement by Quotation limits the amounts for the purchase of Goods and Services less than \$150,000 (GST inclusive) and 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 public Tender Process.

Estimated Expenditure (Including GST)	Minimum Procurement Process
\$2,000 to \$9,999	Request for Quotation. A minimum of <u>ONE written Quotation</u> must be obtained and a copy attached to the Purchase Requisition.
\$10,000 to \$49,999	Request for Quotation. A minimum of <u>TWO written Quotations</u> must be obtained. A Purchase requisition must also be issued according to

	<p>the preferred Quotation offering the best value outcome and a copy of the Quotations attached to the Purchase Requisition.</p> <p>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 \$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. Public advertising is <u>not</u> required. 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>The original supplier's Quotations and approval report signed by the appropriate delegated officer are recorded in Council's Contract Management System and the approved report must also be attached to the requisition. The appropriate Contract number must also be selected on the Purchase Requisition.</p> <p>If Quotations sought without public advertising 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. This may include (i) a public Tender Process or (ii) use of the CSR.</p>

- Public Advertising.

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

- Insufficient quotations.

Where the number of quotations as stated in item 2.3.2.2 cannot be achieved, Strategic Procurement endorsement and Group A approval is required.

Where insufficient quotations are received, staff may either continue or terminate the evaluation process.

Where the process is terminated, the original process must be closed and suppliers notified before recommencing a new Procurement process.

Where the process is continued, the details of all invited suppliers must be noted in the recommendation report and approved by Group A. A copy of the approval must be attached to the Purchase Requisition.

- Panel Contracts

Council has in place a number of Panel Contracts where respondents to Expressions of Interest, Tenders, Quotations or Agency Tenders have been assessed against specific criteria and notional and/or specific schedule of prices.

Where schedules of rates reasonably cover the specific requirements, it is not necessary to seek/obtain Quotations.

Where Notional Pricing does not reasonably cover the specific requirements, it will be necessary to seek/obtain Quotations from two or more of the panel suppliers.

- 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

Council recognises the management of a person or organisation to perform a Consultancy function involves Council undertaking additional Procurement reporting. It is important to refer to the definition of a Consultancy as compared to a Contractor as both parties could be providing a service.

Council will follow standard Procurement practices identified in this document for the engagement of Consultancy services.

In addition, prior to making a decision on whether to engage a person or organisation to perform a Consultancy, Council will consider and document:

- the reasons why the work required to be performed by the Consultancy is necessary and is of value to Council;

- whether the skills required for the Consultancy project exist internally among Council Staff; and
- if the skills required do exist internally, whether Council Staff member/s have capacity to undertake the Consultancy project and, if not, whether the Consultancy project can be delayed until a time when Council Staff will have capacity.

Group A Officers will have the responsibility to approve engagements greater than \$5,000 and within the upper limit designated in the Manual of Delegation.

Despite any other delegation to the contrary, where it is considered that the skills required for a Consultancy project 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 the Consultancy Register. As a minimum the Register will record the following information for each Consultancy over \$20,000.

- brief description of the Consultancy project;
- name of the Consultancy firm and principal consultant;
- contract or approved value and end cost;
- start date and completion dates;

For the avoidance of doubt, Consultancy* is defined as a service that facilitates decision making through

- Provision of expert analysis and advice; and/or
- Development of a written report or other intellectual output

For clarity, exclusions from Consultancy include

- Building and works design, construction and related services including fit out;
- Research or project management where recommendations are not provided; and
- Accounting, audit, taxation and legal services.

*Note: this definition of Consultancy (with exclusions) is consistent with the definition provided by the *Department of Treasury and Finance, Guidance note to Financial Reporting Direction (FRD) 22H*

A copy of the Consultancy Register shall be circulated to Council biannually in January and July.

2.4 Delegation of Authority

2.4.1 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 Council. This enables Council to conduct Procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

Procurement delegations provide accountability and confidence to Council and the public that purchasing activities are dealt with at the appropriate level.

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 such 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. This will include but not be limited to the following:

- Acceptance of tenders;
- Acceptance of Quotations;
- Contract term extensions (within authorised budget);
- Contract amendment (non-financial);
- Contract amendment (financial);
- Appointment to register 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 60% for all Tenders and Quotations unless the Tender Process is managed by a party acting as Council's Agent;
- Tender recommendations and Contract approval for all expenditure over CEO's delegation;
- Authorising of the initial signing and sealing of contract documents for Contracts approved by Council;
- Variations to Council Approved Contracts where it exceeds \$100,000 or the revised Contract sum exceeds 10% of the original Awarded Contract price plus any Council approved contingency amount;
- 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 or 10% of the original awarded contract price plus Contingency, but must report these approvals to the next cycle of Council meetings. Exceptional circumstances are where urgent and immediate works are required and the normal approval cycle through Council would impede the progress of works under Contract, or where in the view of the CEO it is in the best interests of Council to proceed because of financial or other impacts which may arise if an approval is delayed.

2.5 Internal Controls

Council will establish internal controls over Procurement processes ensuring:

- Purchase Orders are raised for all Contract related purchases over \$2000, and Consultancy Engagements. Some purchases are exempted by the Chief Financial Officer and are also listed under Strategic Procurement on Council's intranet;
- Purchase Orders are raised before invoices are received;
- Consultant Engagement forms are completed and attached to Purchase Requisitions for all Consultancies. If greater than \$20,000 a copy of the form must 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 of the Schedule of

Miscellaneous Sub Delegations. Note: Contracts with estimated annual expenditure do not constitute approval to commit expenditure to this level, as each engagement requires delegate approval;

- More than one officer is responsible for a commitment or payment transaction;
- 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 all involved; and
- Amendments to the Procurement Policy can only be made following resolution of Council.

2.6 Commercial Information

Procurement activities will be carried out in a way that supports Council Staff in meeting their obligations. Information of a commercially sensitive or confidential nature will be obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant Council guidelines.

2.7 Risk Management

2.7.1 General

Council is committed to ensuring that its employees and the community are properly protected against loss through the application of sound 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 for improvement as much as mitigating losses.

Risk Management is applied at 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 through measures such as:

- standardising contracts to include current, relevant clauses;
- requiring security deposits 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 that it must clearly define the Scope of Works, Performance Requirements, Insurance/Indemnity obligations and Evaluation Criteria.

In addition, the following must be included:

- Conditions of Tender, including Tendering Policy;
- Formal Instrument of Agreement;
- General Conditions of Contract, including Annexure(s); and
- Specifications, including Scope of Works.

General Conditions of Contract can take various forms. Refer to the Intranet – Strategic Procurement for more details.

2.7.4 Evaluation Requirements for Tenders and Quotations

The aim of the Tender and Quotations evaluation process is to select a Tender and/or Quotation that provides Best Value in accordance with the 'Best Value Principles' (The Act S.208) to Council while ensuring that all respondents are treated in a fair, equitable and impartial manner.

Council will ensure that the evaluation of Tenders and Quotations is undertaken on a systematic basis using selection criteria identified in the Tender documentation. Council will consider all Tenders and Quotations as part of the bid evaluation process.

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

- Tender/Quotation price;
- Financial viability;
- Relevant experience;
- Track record (verifiable past performance);
- Technical skills and resources;
- Management competence;
- Occupational Health and Safety competence;
- Environmental Sustainability competence;
- Methodology;
- Quality systems;
- Time performance;
- Customer focus;
- Current Work Load; and
- Corporate Social Responsibility including commitment to Fair Trade

Council will ensure that financial viability, Occupational Health and Safety, Insurance and Indemnity competency must be satisfied, prior to the recommendation of a Contractor.

Council will ensure that Price is a major consideration with an evaluation weighting of at least 60% for all Tenders and Quotations. The weighting percentages of all other evaluation selection criteria will also be agreed by the Tender Evaluation Panel prior to the close of a Tender or Quotation.

2.7.5 Corporate Social Responsibility

Consideration of Corporate Social Responsibility, 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 Procurement helps build stronger communities and meets Council’s social objectives. When evaluating Corporate Social Responsibility, evaluation panels may consider the following drawn from the Victorian Governments Corporate Social Responsibility guidelines.

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. Developing practical training to build long-term employment opportunities.
Diversity and equality	Ensuring all businesses have the same opportunity to tender for Council contracts. Ensuring that the supply markets around essential and key services for Council remains diverse and vibrant. Ensuring that local suppliers such as small to medium-sized enterprises (SMEs), social enterprises and Indigenous businesses are well-positioned to prosper in the local economy.

Service innovation	Fostering a new social economy, addressing service gaps by piloting joint ventures between councils and external partners.
Fair trade	Purchasing ethical and fair trade goods to support equitable local, national and international trade compliant with Australian Government Fair Trade laws. Ensuring Council supply chains adhere to local, national and international labour standards.

2.7.6 Financial Viability

Minimum requirements for Financial Viability, to be assessed during Tender evaluation are as follows:

- Completion of Company Profile in the Returnable Tender/Quote Schedules;
- Operating of a business for a minimum of 2 years; and
- Security for building or construction works (Minimum of 5%) in the form of either cash, Bank Guarantee or direct deposit.

For Contract Sums over \$1,000,000 for works (GST inclusive) or over \$500,000 for goods and services (GST inclusive), Council will also obtain audited financial statements and/or an independent financial assessment for the recommended supplier for approval by the Manager Financial Services or their nominee.

2.7.7 Insurance and Indemnity Requirements

Council will ensure that a minimum of \$20,000,000 Public Liability Insurance Cover and where appropriate \$5,000,000 Professional Indemnity Cover is required, dependent on the type of Contract. Evidence of cover in the form of a Certificate of Currency as a minimum 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 at least two members, and where the Contract value equals or exceeds \$150,000 (GST inclusive), must also include a member of Strategic Procurement. For contracts equal to or greater than \$150,000 (GST inclusive) for goods and services or \$200,000 (GST Inclusive) for works, a member of Council Staff from a Council department **not** responsible for the engagement and management of the Contractor must be included on the Tender Evaluation Panel.

All members of the Evaluation Panel must also complete a 'Conflict of Interest and Confidentiality' Statement.

The Tender Evaluation Panel will act in accordance with Procurement Evaluation Guidelines located on Monnet. For Tenders greater than \$1,000,000 (GST Inclusive) a member from Group A or B from the Miscellaneous Sub Delegations Manual must chair the Tender Evaluation Panel.

2.7.9 Appointment of a Probity Auditor

Appointment of a Probity Auditor will facilitate the conduct of a transparent and appropriate tender process from development of the specification through to award of the Contract.

A Probity Auditor will be appointed for projects/contracts valued at \$10,000,000 or more (GST inclusive), or as requested by the CEO.

Legal review of Tender documents, specifications prior to publishing to market and contracts prior to signing must be performed by a legal counsel where the value exceeds \$10,000,000 including GST.

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 Delegation Policy (Miscellaneous Sub Delegations Manual).

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 and will exhaust negotiations with one Tenderer before beginning negotiations with another.

Council will award the Contract on the basis of the best quality and Value for Money for the community.

Appointment of Contractors to a panel for the provision of goods, services and works can only be made in accordance with Council's Delegation Policy. Following the appointment of Contractors to a panel of suppliers, Quotations or selective Tender processes may be used to obtain a Value for Money outcome in accordance with this Procurement Policy. The Expression of Interest process to appoint a Panel must be run in a transparent manner the same as that of a tender process.

2.8 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 Council Delegations. A request for such an approval must also be supported by Strategic Procurement and appropriate legal advice (as required).

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 Council's Delegations.

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 shall 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 adhering to relevant Occupational Health and Safety Contractor Compliance Procedures.

All Council contracts are to include Contract Management requirements. Furthermore, 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 Value for Money.

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

1. A Livable Sustainable City
2. Inviting Open and Urban Spaces
3. An Inclusive Community
4. Responsive and Efficient Services

3.2 *Achieving Best Value Procurement*

3.2.1 Requirement

Council's Procurement activities will be carried out on the basis of obtaining Best Value Procurement.

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 Procurement.

3.2.2 Approach

This 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 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.

3.2.3 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 Procurement objectives through being written in a manner that:

- is clear and concise;
- ensures impartiality and objectivity;
- encourages the use of standard products;
- encompasses the requirements of Council;
- encourages sustainability; and
- eliminates 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 Procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be agreed within Council and performance against these targets will be measured and reviewed regularly to support continuous improvement.

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 management;
- Recycling;
- Energy management;
- Water conservation;
- Social and economic Sustainability;
- Environmentally sustainable development;
- Sustainable Procurement;
- Sustainable supply chain.

3.4.2 Sustainable Procurement

Sustainable Procurement is an approach which 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 Procurement.

Council is committed to sustainable purchases of goods, services and works with recycled content, or reusable, or are recyclable after use, 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 Procurement.

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 which are more energy, fuel and water efficient;
- 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;
- Sustainable supply chain that adopt environmentally conscious practices;
- innovative products and services that promote Best Value Procurement;
- 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.

3.5 Diversity

Promoting equality through Procurement can improve competition, Best Value Procurement, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every Procurement activity and reflect corporate commitment to diversity and equal opportunities.

3.6 Support of Local Business

Council is committed to buying from local business where such purchases may be justified on Best Value Procurement.

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 (e.g. implementing appropriate e-Tendering, e-evaluation; e-catalogue or e-sourcing arrangements);
- reporting requirements; and
- application of standard Contract terms and conditions.

4.2 *Management Information*

Council seeks to improve its 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.

4.3 *Performance Indicators*

The Strategic Procurement Department will monitor corporate performance as it relates to Procurement by:

- the proportion of spend against corporate contracts;
- user and supplier satisfaction levels; and
- measuring the success of Procurement initiatives e.g. training, collaborative arrangements.

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 State Government panel 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 outcome.

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 organisations offering business diversity include:

- local businesses;
- green suppliers;
- small to medium sized enterprises;
- social enterprises;
- Ethnic and minority business;
- voluntary and community organisations; 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 Council and how to become an approved supplier;
- a list of existing and forthcoming contract opportunities, projected over a number of years;
- guidelines for doing business with Council;
- standard documentation used in the Procurement process; and
- links to other relevant sites.

6 Continuous Improvement

Council is committed to continuous improvement and will review the Procurement Policy on an annual basis, 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 join with other Councils as a defined group, based on similar requirements for products, goods or services. In doing so, Council may nominate to appoint another council to act as Council's Agent or for Council to act as Agent for other councils.

Council is able to access contracts from State Government, Municipal Association of Victoria Procurement (MAVP) and Procurement Australia (PA) via Approval of Arrangements (section 186(5)(c) of The Act). This means that Council can utilise the rates and suppliers established under any existing State Government, MAVP or PA contract without the requirement to complete the 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 be required including:

- formal appointment of the Agent;
- review of the Specification to meet Council's requirements; and
- advice to the Agent of Council's Procurement Policy requirements including evaluation criteria, Tender panel and weightings to the criteria.

Appointment of an Agent to act on Council's behalf to meet the objectives of Council's Procurement Policy and legislation governing Procurement for Local Government requires that the Chief Executive Officer provide advice to Council of their intention to appoint an Agent and that 48 hours' notice will be provided to Council before the appointment of the Agent is made.

8 Policy Owner and Contact Details

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.