



Procurement Policy

June 2020



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Policy governance

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Construction, Contracts and Operations Department

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Council

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Local Government Act 2020

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Procurement Card Policy

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Purpose

The City of Port Phillip (Council) purchases approximately \$150 million in goods, services and works each year to support service delivery and the maintenance and development of infrastructure. The Council is required under section 186 of the Local Government Act 1989 (the Act) to prepare, approve and comply with a procurement policy. In accordance with the Act, this policy sets out the key principles, processes and procedures applied to all purchases of goods, services and works by Council.

Guiding Principles

The procurement policy seeks to ensure Council and the community receive best value from its significant expenditure of public funds on the purchase goods, services and construction.

Best value means the best mix of cost, quality (i.e. ability to meet user requirements) and sustainability (environmental, social and economic).

In doing so, Council follows the following guiding principles:

- a) Efficiency and effectiveness – the cost of procurement to Council and participants should be minimised while delivering procurement objectives.
- b) Social benefit – Council will use procurement to further the social, economic and environmental wellbeing of our community.
- c) Probity – procurement should demonstrate fairness and impartiality, transparency and accountability, confidentiality, and effective management of conflict of interest.
- d) Advanced practice – the Council is committed to achieving advanced practice in procurement, including accreditation by relevant bodies and collaboration with other councils and bodies.
- e) Health & Safety – Council will describe the processes and management in the procurement of goods and services to ensure that identified hazards, are controlled so far as reasonably practicable (this includes Child Safety).



Definitions

Table 1: Definitions of terms

Term	Definition
Best value	The best mix of cost, quality (i.e., ability to meet user requirements) and sustainability (environmental, social and economic). The lowest price will not necessarily represent the best value.
Corporate Social Responsibility	Is when organisations use their buying power to generate social value above and beyond the value of the goods, services or construction being procured.
Emergency	A sudden or unexpected event requiring immediate action including the occurrence of a natural disaster, flooding or fire event such as flooding or fire at a Council property; the unforeseen cessation of trading of a core service provider; any other situation which is liable to constitute a risk to life or property.
Material breach	Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, and occupational health and safety.
Probity	Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. It can include planning, design, standards determination, specification writing, preparation of quotation and tender documentation, selection of suppliers, financing, contract administration, disposals, and other related functions. It also includes the organisational and governance frameworks that underpin the procurement function.
Reasonably practicable	That which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.



Responsibilities

Table 2: Responsibilities of roles

Role	Responsibility
All Financial Delegates	Ensure that all procurement exercised under their financial delegation complies with the Procurement Policy.
Chief Financial Officer	Ensure that assurance reviews of contract management activity occur on a monthly basis and are reported to the Executive Leadership Team (ELT).
Executive Leadership Team (ELT) Members	Responsible for approving exemptions from compliance with the Procurement Policy and for ensuring that such deviations provide best value, and that legislative compliance is achieved.
Head of Procurement, Contracts & Fleet	Responsible for the centre-led procurement and contract management function as per section 1.1 of this Policy



Scope

This policy applies to all procurement activities at the City of Port Phillip and all Councillors, Council staff and other persons undertaking procurement on Council's behalf.

Council Policy

Procurement Structure, Processes, Procedures and Systems

- 1.1 Council maintains a centre-led procurement function. The Procurement, Contracts & Fleet team within the Construction, Contracts & Operations department is responsible for:
 - a) Developing and reporting against a rolling four-year enterprise wide strategic procurement plan updated annually outlining all major procurement activity.
 - b) Maintaining the Procurement Policy, Contracts and Procurement Guidelines and associated processes and procedures.
 - c) Maintaining appropriate purchasing, procurement and contract management systems and tools.
 - d) Providing procurement related advice and support to the organisation as required.
 - e) Building organisational procurement and contract management capability (including delivery of training and provision of guidance materials).
 - f) Promoting awareness of and monitoring compliance, through a documented independent assurance program, with this policy and all relevant legislation and reporting breaches and corrective actions in a timely manner
 - g) Collaborating with other councils and organisations to identify best practice in and achieve better value from procurement.
- 1.2 Councillors, staff and persons undertaking procurement on Council's behalf are responsible for complying with this policy.
- 1.3 Council will maintain Contracts and Procurement Guidelines detailing the processes, procedures and systems related to procurement and contract management.
- 1.4 Council will maintain a procurement and contract management system which includes details of tendered contracts.

Ethics and Probity

- 1.5 At all times, Councillors, Council staff and other persons undertaking procurement on Council's behalf must:
 - a) conduct themselves ethically and with integrity
 - b) comply with the Gifts and Hospitality Policy and not seek or receive personal gain
 - c) declare and effectively manage all conflicts of interest
 - d) maintain confidentiality and security of information
 - e) comply with the Code of Conduct.

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- 1.6 Councillors must not improperly direct or improperly influence Council staff in the exercise of any duties or powers related to procurement.
- 1.7 Council officers with delegated Council powers or duties related to procurement are prohibited from exercising those powers, duties or functions if they have conflicts of interest.
- 1.8 All persons engaged in the evaluation of quotations or tenders must adhere to this policy and complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality.
- 1.9 A Tender Evaluation and Probity Plan must be developed for all high value and/or high-risk procurements. A probity auditor or advisor may be considered.
- 1.10 Any purchase in excess of \$50,000 must include a Quotation (Probity) Declaration.
- 1.11 The justification for selecting a successful quote through a request for quote process must be captured and documented. This includes the provision of itemised quotes to ensure the assessment of contract rates.
- 1.12 An audit trail must be kept for all procurement activities that shows clearly that a process has been undertaken and that the process is fair, transparent and reasonable.
- 1.13 Beneficiaries of goods or services cannot approve the expenditure. Council staff may not for example approve their own training, coaching or professional development.
- 1.14 Council officers are to ensure all general procurement takes into consideration all relevant ethical supply chain provisions identified within the Modern Slavery Act 2018.
- 1.15 The contract manager of a long-term service contract must not be a scoring member of the tender evaluation panel.

Procurement Methods

- 1.16 The standard methods for procurement will be:
 - a) Procurement card
 - b) Purchase order following a quotation process
 - c) Purchase order under contract following a tender process
 - d) Under approved purchasing schemes (panel contracts)
 - e) Under an arrangement approved by the relevant Minister.
- 1.17 The source of funds must be identified, and the procurement authorised in accordance with the delegations' register (see Table 3), before any commitment to purchase is made.
- 1.18 More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented.
- 1.19 Council may seek expressions of interest where:
 - a) there are likely to be many tenderers
 - b) tendering will be costly, or the procurement is complex, and Council does not wish to impose the costs of preparing full tenders on all tenderers
 - c) there is uncertainty as to the willingness and / or interest of vendors to offer the required procurement
 - d) Council requires advice from the market regarding how best to address a particular need.

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- 1.20 Expressions of interest must be publicly advertised.
- 1.21 Panel contracts include City of Port Phillip established panels of multiple contractors who can provide a good or service, eligible State Government panel contracts¹, including the Construction Supplier Register, and approved schemes including those through the Municipal Association of Victoria (MAV) Procurement and Procurement Australia. For procurements where there is an existing panel contract in place, it is a requirement to:
- Obtain the relevant number of quotes from suitable panel members (see Table 4)
 - Raise a purchase order at the time of ordering including a reference to the relevant panel contract.
- 1.22 Council will identify and actively investigate relevant collaborative procurement opportunities.

Procurement Delegation of Authority and Thresholds

- 1.23 This policy includes delegations made by the Council to the CEO and from the CEO to staff related to procurement (see Table 3).
- 1.24 Competitive procurement processes are demonstrated by compliance with the quotation and tender requirements incorporated in Table 4: Spend Thresholds & Procurement Requirements.
- 1.25 Public advertising is required for all tenders. Council officers may choose to publicly advertise for quotations where they believe this is warranted.

Procurement of Consultants and Independent Contractors

- 1.26 Council may from time to time engage consultants and independent contractors through procurement arrangements.
- 1.27 All procurement of professional services and labour (as defined in this policy), exceeding \$15,000 (Inc.GST) in value, must have a contract in place at the time of ordering.

Tender Evaluation and Negotiation

- 1.28 Late tenders will not be accepted.
- 1.29 The tender selection criteria and weighting for each criterion will be documented prior to the requesting of tenders.
- 1.30 An appropriately qualified tender evaluation panel (TEP) will be established to evaluate each tender submission against the tender selection criteria.

¹ Not all Whole of Victorian Government Panel Contracts are exempt from the provisions of the *Local Government Act*.

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- 1.31 The Contracts, Procurement and Fleet team must assess the appropriateness of the tender panel composition and consideration to conflict of interest and any mitigation strategy to rectify any concerns.
- 1.32 External representatives may be part of, or an advisor to, the panel to ensure appropriate skills, experience and/or probity.
- 1.33 The evaluation process must be robust, transparent and unbiased and documented in a tender evaluation and probity plan. A tender evaluation and probity plan must be developed for all high value (more than \$500,000 over life of contract) and/or high-risk procurements.
- 1.34 Contract negotiations can be conducted in order to obtain the best outcome for Council, providing negotiations remain within the intent and scope of the tender.
- 1.35 Council may conduct a shortlisting process. Shortlisted tenderers may be invited by the Council to submit a Best and Final Offer (BAFO).
- 1.36 The results of the tender evaluation and demonstration of the robustness of the process must be documented in a tender evaluation report (or Council report is beyond the financial limit delegated to the CEO) approved by the relevant delegate.
- 1.37 The Procurement, Contracts & Fleet team may be considered to provide a member to a tender evaluation panel based on complexity of tender and/or after considering capability of panel membership.
- 1.38 The tender evaluation process should take into consideration whole of life cost.
- 1.39 All tender documentation and contract management documentation including conflict of interest declarations must be stored in One Council.

Corporate Social Responsibility (Sustainable and Ethical Procurement)

- 1.40 Council is committed to optimising environmental, social and economic outcomes through procurement. This commitment supports Council's Declaration of a Climate Emergency (18 September 2019), the support for the Treaty on Prohibition of Nuclear Weapons (16 October 2019) and Organisational Strategy (2107-21). Corporate and social responsibility is embedded in procurement activities through:
 - a) the specification of goods, services and works to be procured e.g., banning single use plastics, requiring use of recycled materials or setting minimum employment ratios
 - b) setting quotation and tender evaluation criteria and weightings e.g., social, environmental and local economic impact criterion
 - c) inviting targeted organisations to participate in selective quotation processes e.g., ensuring local, social, or green enterprises are invited where appropriate
 - d) ensuring local businesses are encouraged to quote for Council procurement
 - e) consideration of developing local employment opportunities
- 1.41 All other things being equal, a price preference of up to ten per cent can be collectively applied to:
 - a) Products that support a circular economy

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- b) Products that have certified sustainability benefits
 - c) Environmentally preferable products and services
 - d) goods, machinery or material manufactured in Australia and New Zealand
 - e) purchases from social enterprises.
- 1.42 Council must include access and inclusion principles in all relevant procurement.
- 1.43 Wherever practical, for all procurement processes with a total contract value of \$500,000 or greater, a representative from the City Strategy, Design & Sustainability department will be engaged in the development of tender specifications, and all advertised tenders will include a corporate social responsibility schedule including mandatory disclosure of whether a company has dealings with, support or provide ancillary services or funds activities in the following industries:
- Offshore detention
 - Tobacco
 - Fossil fuels energy generation distribution, exploration or extraction
 - Gambling, including poker machines
 - Entertainment involving animals, including racing
 - Arms.

Occupational Health and Safety and Consideration of Risks

- 1.44 The procurement of goods and services comply with Council's OHS procurement procedures to ensure hazards are identified and controlled so far as reasonably practicable.
- 1.45 Suppliers must have appropriate OHS practices, insurances, and quality assurance processes relevant to the nature of good, services or works being supplied.
- 1.46 Works projects must include OHS compliance as a prerequisite requirement (tender filter evaluation criteria)
- 1.47 A risk assessment must be applied prior to all general procurement to ensure satisfactory OHS compliance.
- 1.48 The procurement process must align with Councils Safety Management System.
- 1.49 Council must ensure that working with children legislation and regulation compliance is incorporated in all relevant procurement.
- 1.50 Before endorsing any new supplier the approving Manager must ensure Child Safety Standards and Conflict of Interest are reviewed.
- 1.51 Should any current supplier or new supplier not comply with Councils information requirements (including Child Safety Standards) they will be removed as an active supplier.

Policy exemptions and breaches

- 1.52 The relevant Executive Leadership Team (ELT) member may provide an exemption to this policy and related procedures provided best value and legislative compliance can be demonstrated.

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- 1.53 A situation may arise for instance where insufficient quotations are received to satisfy the procurement thresholds.
- 1.54 Provisions in the Act including public tender thresholds of \$150k for goods and services and \$200k for works can only be exempted in accordance with the Act.
- 1.55 To enable prompt action the CEO has delegation to declare if that a contract must be entered into because of an emergency and hence be exempt from the public tender thresholds.
- 1.56 The scope and timeframe for such contracts entered into in an emergency must be limited to deal with the emergency while a compliant procurement process is conducted.
- 1.57 A breach of the policy and procedures without an appropriate exemption may result in disciplinary action.
- 1.58 Any material breach such as a breach of the LGA will be reported to the ELT, Council, the Audit and Risk Committee (ARCo) and public (via the CEO Report as soon as practical).

Assurance, Monitoring, Review and Audit

- 1.59 The Procurement, Contracts & Fleet team will implement a quarterly assurance process for all contracts to ensure compliance with Contract Management Plans. This will include monitoring procurement activity on an ongoing basis and provide as a minimum the following reports:
 - a) An annual report to the Audit and Risk Committee and the Council on annual procurement activity, expenditure profiles for all panel contracts, trends in quotation amendments, monitoring of work orders, compliance with key internal controls, financial savings and economic, environmental and social benefits achieved through procurement.
- 1.60 Council's Chief Financial Officer (CFO) will ensure that regular assurance checks of contract management activity occur on at least a quarterly basis and are reported to the Executive Leadership Team (ELT).
- 1.61 Procurement will be included in the internal audit plan with implementation of this policy and related internal controls audited on at least a four yearly basis unless deemed prudent not to by the Audit and Risk Committee.



Relevant policy, regulations or legislation

The key legislative requirements for this Policy include:

- a) section 186 of the Act (Power to enter into Contracts)
- b) section 186A of the Act (Procurement Policy)
- c) section 3C of the Act (Objectives of a Council)
- d) section 208B of the Act (Best Value Principles)
- e) sections 77A, 77B, 78, 78A to 78E, 79, 79B to D, 80, 80 A to C, 81, 95 and 95AA of the Act (Conflict of Interest)
- f) section 98 of the Act (Delegations)
- g) section 140 of the Act (Accounts and Records)
- h) The relevant provisions of the Competition and Consumer Act 2010 (Cth).
- i) Modern Slavery Act 2018
- j) Working with Children Act 2005 and Working with Children Regulations 2016
- k) Occupational Health and Safety Act 2004.

Key policies and other documents relating to this policy include:

- a) Councillor Code of Conduct
- b) Staff Code of Conduct (including conflict of interest clause)
- c) Gifts and Hospitality Policy
- d) City of Port Phillip Procurement and Contract Management Guidelines
- e) Victorian Local Government Best Practice Procurement Guidelines
- f) City of Port Phillip Grants Policy Framework.
- g) Occupational Health and Safety Policy
- h) Occupational Health and Safety Procurement of Goods Procedure.



Attachments

Table 1: Delegation Limits – Financial Authority, Power to Award, Enter into and Sign Contracts

Council approves delegations to the CEO. Delegations to staff are authorised by the CEO and recorded in the delegations register. These may be amended from time to time by the CEO.

Table 3: Delegation Limits – Financial Authority, Power to Award, Enter into and Sign Contracts

Limit of delegation (including GST)	Delegate
\$1,000,000	Chief Executive Officer
\$500,000	General Manager - Customer, Operations & Infrastructure
\$350,000	All other General Managers
\$300,000	Executive Manager - Construction, Contracts & Operations
\$200,000	Chief Customer Officer Chief Financial Officer Chief Information Officer Executive Director - South Melbourne Market Executive Manager – People, Culture & Safety Executive Manager - Property & Assets Manager Safety & Amenity
\$100,000	All other managers Head of Project Services
\$30,000	All Coordinators All other Heads of
\$10,000	All Team Leaders



Schedule of Additional Authorisations to the Chief Executive Officer

Limit of delegation (including GST)	Delegate
\$5M	Power to declare a contract is required to be entered into due to an emergency and to award, enter into and sign such contracts up to a value of \$5M.
Insurance Exemption	The CEO has delegation to authorise payment of annual insurance premiums procured in accordance with the requirements of Table 4

Variation to Contract

The delegate has the power to vary any contract however the revised contract value (inclusive of variation/variations in aggregate) must not exceed the financial limit delegated to the position. Variations must only be approved provided they are within the budget allocation and the contract variation is in accordance with this policy.



Table 2: Spend Thresholds

*All values are including GST

**Only exemptions are Rates Refunds, Fleet Refunds, Staff Reimbursements and certain utilities.

All procurement of consultants and/or independent contractors exceeding \$15,000 (Inc.GST), must have a contract in place at the time of engagement. The issuing of a purchase order does not meet this requirement.

Table 4: Spend Thresholds & Procurement Requirements

Range of total value of goods or services*	Procurement action	Management requirement	Record keeping requirement (Appendix J)
Up to \$1,000**	A minimum of one quotation (can be verbal, email or screen shot)	A procurement card to be used or a purchase order raised at the time of ordering	Records to be kept within the finance system.
\$1,001 to \$15,000	A minimum of one written quotation (can be an email or screen shot)	A procurement card to be used (whose limit permits) or a purchase order to be raised at the time of ordering.	Records to be kept within the finance system.
\$15,001 to \$50,000	A minimum of two written quotations are to be sought in response to a brief or specification. No advertising is necessary;	A purchase order must be raised at the time of ordering and a contract considered.	Records of quotations sought and received must be stored in the financial system.
\$50,001 to \$149,999	Three written quotations are to be sought in response to a brief or specification. No advertising is necessary. Quotation/probity declaration must be completed	Request for quotation specification/brief must be prepared. Evaluation criteria and weighting must be established prior to quotations being sought. Tenderlink or procurement system portal may be used. Evaluation panel must be established prior to procurement commencing. A Purchase order must be raised at the time of	Records of quotations, evaluation reports and materials must be stored in the financial system.



Range of total value of goods or services*	Procurement action	Management requirement	Record keeping requirement (Appendix J)
		ordering and a contract considered	
\$150,000 plus	Public tender process or eligible panel contracts	In accordance with Contracts and Procurement Guidelines	In accordance with Contracts and Procurement Guidelines

Deviations

Deviations will be reported to the Executive Leadership Team (ELT) on at least a quarterly regular basis and the Head of Procurement, Contracts and Fleet (or their delegate/s) is to sign off on the deviations to confirm legislative compliance and that they meet best value principles.