



## **MAV Collaborative Procurement Guidance Note Local Government Act 2020**

### **1. Introduction**

MAV Procurement has worked with the sector for several years and supports aggregated purchasing, collaborative and join up arrangements via panels established to support local government.

In recent weeks, several councils have asked the MAV Procurement area for information, advice and assistance on the policy framework that is now required under the Local Government Act 2020.

The primary request has been for assistance on how to approach, or what to include in a framework, that would satisfy new requirements now under the Act for councils to consider opportunities for collaborative procurement. MAV Procurement has developed this guidance note, with input from procurement specialist ArcBlue, to better inform councils' decision-making process.

This document is not a policy framework or intended to replace Council policies. It does provide some guiding principles for councils to consider as they undertake their procurement functions.

### **2. Discussion**

The requirements for local government procurement were previously established under section 186 of the Act and were generally prescriptive in nature, essentially requiring that where a council spend was more than \$150,000, it generally had to go to public tender.

The Local Government Act 2020 now provides the responsibilities for procurement matters under Section 108 & 109 of the Act.

As a principles-based Act, the requirements for councils in procuring goods and services are now not as prescriptive and enable a council to set its policy, determine its \$ thresholds for how it acquires good and services and using its own policy determinants to provide value to the community.

As always, the principles of a fair and open competition need to be maintained by any procurement process and this should be reflected in how the council goes about its procurement.

One important change in the Act relates specifically to section 109, which requires the CEO to demonstrate how opportunities for collaboration were identified in the procurement process.



Whilst this is documented in the Act, there have been many questions asked of MAV procurement as to how this can be demonstrated, what is acceptable and what should councils do to prepare for this requirement.

Several councils have already adopted their own procurement policy and have been working with other councils in developing a framework around collaborative purchasing.

In some instances, councils have tried to align their policies for a geographic region, wording on policy and thresholds is similar and there is a demonstration of genuine intent to acquire goods and services by way of collaboration.

### **3. Procurement Policy Guidance**

MAV Procurement suggests that a council procurement policy should contain information including:

- Thresholds for purchasing / acquiring of goods and services; (must not exceed the value prescribed by regulations)
- Leadership initiatives (local suppliers/environment/gender equality/sustainability)
- Delegations within the organisation and to council
- A definition as to what “collaborative purchasing” means for council/sector
- **What opportunities for collaborative purchasing will be identified and how they will be implemented (see section 4)**
- Reporting/information sharing (also may include complaints reporting)
- Delivering value for the community, transparency, and accountability to ratepayers
- Review and responsibilities for the actions within the policy
- Risk management
- Probity guidelines (includes Conflict of Interest, Gifts and Benefits disclosures)
- Evaluation processes and how these are set (i.e. \$ value weightings)
- Review requirements of the policy, at least once every four years;
- Ethical behaviour requirement in public sector procurement;
- Consistency of processes and controls over procurement activities;
- Comply with Legislation, other council policies and best practice requirement;
- Modification of Councils’ Procurement Policy to accommodate collaborative procurement opportunities.

### **4. Collaborative Procurement**

It is important that councils identify a basis and the tools for determining what opportunities lend themselves to a collaborative purchasing opportunity. This will not always mean that each of the identified opportunities will translate into a collaborative purchasing arrangement, but it will provide a plan for assessing these arrangements.



Each council has a range of contracts in place, as of 1 July 2021, with different end dates, extensions timeframes, standards expected, and supplier/provider experience known.

If a council is expecting that any of these contracts could be part of a collaborative opportunity moving forward, then it should understand which other councils may also wish to enter into such an arrangement. This may be assisted by having a Collaborative Procurement Register.

This can be achieved via good planning – say in a region where a plan is drawn up on the opportunities that will present themselves over the course of the next year or even the next three years.

Councils may want to consider where their contract arrangements will be at the time that the first council needs to organize a new contract and determine what will be the basis of allowing other councils to be part of this contract at a future time.

Contract registers and finance data are key tools for identifying collaborative purchasing opportunities across councils. This includes mapping out start and end dates, identifying category strengths and weaknesses, aligning categories and sub-categories across councils, and identifying common suppliers.

About a third of councils across Victoria currently participate in the MAV-led LEAP program, which provides detailed procurement dashboard analytics and support opportunity analysis.

Other useful data sources include:

- Ibis world – a good source of data on industries, major players, and drivers in the market
- Know your Council results
- Department information (tonnage/mileage/quantity/program etc)
- Industry specialist consultants
- State Government entities

#### **4.1. Practical Example**

Council A is part of a regional council grouping with five other councils. The councils have planned that the contract for road re-surfacing will be a contract considered to be an opportunity for collaborative purchasing.

This will require that the planning has considered the contract standards expected, the volume of work anticipated by each council and the timing that allows other councils to join the contract.

These are not simple matters to agree to and be a part of, they require information sharing, acceptance that some councils will not join the contract and the properly written contract to allow councils to join at different times.



The idea that contract dates need to align across councils has been identified as a common myth by procurement specialist consultants, ArcBlue. Rather, they argue that staggered start dates are preferred for suppliers to onboard a large number of large customers.

## 5. Suggestions for Consideration

- **Undertake and prepare a plan** – consider in advance the type of collaborative arrangements that will be considered/worked on by the group. This process should identify the common type of contracts that exist across the councils and the extent (number of councils) for which a collaborative procurement process would be considered by each council.
- **Establish a governance process, align documentation and approach** - councils have varying documentation and procurement approaches. However, for collaborative purchasing to be successful, they must be able to agree on aligned contracts, how decisions will be made, standard evaluation questions and scoring, key dates and commitments from participating councils (including the stages councils can withdraw from the process). Decision tools, and core governance processes and documents, are essential for this.
- **Have more than one contract** - it should be a combination to allow collaboration to occur. In order to satisfy the requirements of the Act and allow each Council within the group to consider its opportunities, it should be for more than one type of service/acquisition of goods. The group of councils should consider the categories/types of contracts in place and potentially pick 1 or 2 from each category or type for consideration of opportunities.
- **Timing of contracts** - it is unlikely that all contracts in existence at councils within the group start and end on the same date. So, there will need to be an assessment of opportunity to be part of a collaborative contract given existing contractual obligations.
- **Decide which council will be the lead** - as all procurement officers know, there is considerable work required in leading a tender process for a council, to be the lead for a range of councils will require significant time and effort. Each group in the region should be mindful of this time commitment and provide the resource assistance for the lead council. There may need to be some form of cost sharing/resource allocation plan in place to support the lead council.
- **Write clear specifications** - this matter is not just about agreeing to the types of services/goods required, the standards set and other factors but also about who will



prepare these documents, how will they be approved / agreed to and negotiated with potential suppliers.

- **Consider the regional economic benefit** - in most communities, councils want to support local business, jobs and economic growth. Potentially, this may require a council to be more considerate of the regional benefit rather than the council area benefit. This may be easier for metropolitan councils but may not be as simple for regional/rural communities where services/goods etc cannot be as easily sourced or be seen to be supporting the local business community. This will take some consideration as to the impact of such arrangements on the local economy.
- **Monitor contract management and reporting** - there will be an expectation of contract reporting/management/monitoring and it will be important to establish what this means such as monthly/quarterly reports, meetings with the supplier, dispute resolution process for the councils involved, or negotiations on extensions/pricing.
- **Consider using contracts already in place** – councils will already have contracts that support and provide for collaborative procurement. This includes MAV contracts that have been through a tender process, meet the requirements of the Act and are in place.
- **Establish a monitoring system** - adopt a set of KPI's that will hold the group of council's accountable for measuring collaborative purchasing and be used as a form of reference or validation of the intent of councils in meeting the requirements of the Act.

## 6. Conclusion

This guidance note was prepared by MAV Procurement, with input from ArcBlue, to support councils as they move towards meeting the requirements of the Local Government Act 2020.

MAV Procurement is focused on achieving better procurement outcomes for local government in Victoria. By leveraging the combined purchasing power of councils, we can achieve better value on products and services.

## 7. For more information

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