

COUNCIL POLICY



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1. References

Local Government Act 1989 (Vic)
Local Government Act 2020 (Vic)
Gender Equality Act 2020 (Vic)
Protected Disclosures Act 2012 (Vic)
Victorian Industry Participation Policy Act 2003 (Vic)
Charter of Human Rights and Responsibilities Act 2006 (Vic)
Privacy and Data Protection Act 2014 (Vic)
Occupational Health and Safety Act 2004 (Vic)
Local Government (General) Regulations 2015 (Vic)
Competition and Consumer Act 2010

Instruments of Delegation by the CEO to Officers authorised to procure goods, services and supplies on behalf of Council

Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001
Glenelg Shire Council, Discipline Procedure OPR-CEO-OD-014
Glenelg Shire Council, Staff and Councillor Code of Conduct OPO-CEO-HR-003
Glenelg Shire Council, Councillor Code of Conduct CPO-CEO-CS-008
Glenelg Shire Council, Environmental Sustainability Policy CPO-PLECDV-EV-001
Glenelg Shire Council, Gifts, Benefits and Hospitality Policy and Procedure CPO-CEO-CS-007
Department of Treasury and Finance, Competitive Neutrality Policy 2012
Victorian Local Government Best Practice Procurement Guidelines 2013
Local Jibs First Policy (LJFP) Guidelines
MAV Model Procurement Policy 2011
Australian Standards Code of Tendering AS 4120-1994
ORGANISATIONAL POLICY Current Credit Card Policy - OPO-CORPS-FI-007
Petty Cash Policy CPO-CORPD-FI-004b
OHS CONTRACTOR MANAGEMENT PROCEDURE –
OPR-CORPS-RM-012

2. Purpose

The purpose of this document is to;

- Provide policy and guidance to allow consistency and control over the procuring and contracting of goods, services and works on behalf of Council;
- Demonstrate accountability to rate payers and external stakeholders;
- Provide guidance on ethical behaviour in procurement;
- Provide and demonstrate the application of best practice and best value in purchasing; and
- Increase the probability of obtaining the best outcome when procuring goods, services and works; and

- Through this policy Council commits to behaving ethically and transparently in the procurement decisions it makes and to continually strive to identify objective approaches in making procurement decisions.

3. Scope

Section 186A of the Local Government Act 1989 (the Act) requires Glenelg Shire Council to prepare, approve and comply with a Procurement Policy that outlines the principles, processes and procedures that apply to the purchase of goods, services and works for the Council. It also requires that Council review the procurement policy annually and make the policy available for inspection by the public at the Council office and on its internet website. Importantly, the Act compels Council to comply with its procurement policy.

Importantly, the Act and its associated 'Order in Council' prescribes that any procurement for goods and services with a contract value exceeding \$150,000 (GST Inclusive) and any procurement for works with a contract value exceeding \$200,000 (GST Inclusive) must be put to public tender.

This Policy applies to all tender, contract and procurement activities at Council and is binding on Councillors, Officers, temporary/casual employees, contractors and consultants whilst engaged by Council and when involved with Council procurement.

Third party providers undertaking procurement activity on behalf of the Shire must also act in accordance with the requirements of this policy.

This document should be read in conjunction with the Organisational Procurement Guideline and Procedures.

3.1. Charter of Human Rights

Council will ensure that all of its procurement operations are fully consistent with prescribed rights and responsibilities and that they respect the 20 fundamental rights within the Victorian Charter of Human Rights and Responsibilities Act 2006.

3.2. Treatment of GST

All monetary values stated in this policy include GST except where specifically stated otherwise.

4. Definitions

Term	Definition
Act	Local Government Act 1989 (Vic).
Best Value	Principles prescribed in section 208B of the Act which in part promote quality and cost standards for the provision of any Council service provided for the community.
CEO	Chief Executive Officer
Commercial in Confidence	Confidential information that is released for a specific purpose and that cannot be used for any other purpose.
Conflict of Interest	A Councillor or Council Staff member must not allow a conflict to exist between personal interests and public duty. Specific obligations exist under s77A of the Act. Any conflict of interest is to be disclosed in writing.
Contract	Means 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 by Council's unconditional acceptance of the Tender or Quotation.
Contractor	Respondent (person, firm, etc.) whose tender/quotation offer has been accepted by the council with or without modification.
Contract Management	The process that ensures both parties to a contract that fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Contract Supervisor	The person nominated by Council to manage day to day matters of the contract.
Council	Glenelg Shire Council
Council Staff	Includes full-time and part-time Council officers, and temporary employees, contractors and consultants while engaged by the Council.
Contract Term	A written agreement which explicitly states a fixed duration that the contract will be in effect. The signing parties are obligated to adhere to the terms and conditions within the contract until the expiration, or end date, of the contract.
Economic Contribution	Where a tenderer is required to list any measurable economic contribution which it currently makes, or would make to the municipality if its tender or quotation is accepted.
Evaluation Criteria	The criteria against which the tender or quotation submissions will be evaluated as stated in the tender or quotation documentation.
Evaluation Panel	A panel formed to evaluate the tender or quotation submissions based upon the evaluation criteria.

Goods	Movable personal property, especially merchandise used in trade or commerce and requiring carriage from one place to another.
Lease	A contract that has exclusive use of land or a building for a period of time.
Licence	A contract that has non-exclusive use of land or a building for a period of time.
Local Supplier	A local supplier is defined as a business whose operating address is located within the Municipal boundaries of Council or within a municipality that borders Council and that employs residents in the area and/or contributes to the local economy.
Panel Contract	A contract which has one or more suppliers based upon a schedule of rates, for a determined period.
Policy	This Procurement Policy.
Probity	In the context of procurement, probity is a defensible process able to withstand internal and external scrutiny; one which achieves both accountability, transparency and provides tenderers with fair and equitable treatment. Probity is about ensuring the procedural integrity of the procurement process.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. Also includes organisational and governance frameworks that underpin the procurement function.
Quotation	A document in the form of an offer to supply goods/and or services or works, inclusive of a quoted price and usually in response to a request for quotation.
Services	The act of helping or doing work for another, expert work done a certain way, assistance or benefit given to someone. The provision of doing what is necessary in providing the task required.
Sustainability	The purchase of products and services that are environmentally preferable, socially beneficial or improve local economies, while achieving value for money on a whole of life basis.
Social Procurement	The use of procurement processes and purchasing power to generate positive social outcomes in addition to the delivery and of efficient and value for money goods, services and works.
Tenderlink	Council's Electronic Tender System.
Tender Process	The formal process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Value for Money	The combination of cost and non-cost factors like quality, quantity, risk, timeliness and cost on a whole of contract basis which apply in the evaluation process.
LJFP	Local Jobs First Policy

Works	The Construction, alteration, extension, resolution, repair, demolition or dismantling of buildings, structures or infrastructure works that form part of Council's assets whether or not the buildings, structures or infrastructure works are permanent.
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5. Council Policy

5.1. Principles

The best practice and best value principles will be applied to every procurement in order for Council to meet its statutory obligations and achieve the best outcomes for the community.

5.2. Value for Money

Section 186(4) of the Act provides that there is no obligation to accept the lowest tender therefore value for money does not necessarily mean accepting the lowest price. Value for money is to be applied to the evaluation of the supply of goods, services and works taking into account both cost and non-cost factors.

5.3. Open and Fair Competition

All prospective suppliers/vendors must be treated fairly in an open and transparent manner without bias and with the same access to information regarding the proposed purchase, in order to enable submission of quotes/tenders to be made on the same basis.

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.

5.4. Accountability

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 documented, fair and reasonable. Therefore, the processes by which all procurement activities are conducted, will be in accordance with the Council's procurement policies and procedures as set out in this Policy and related, relevant Council policies and procedures.

5.5. Risk management

Risk management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

5.6. Probity and Transparency

Probity in purchasing relates to fairness, impartiality and integrity, and is often used in a general sense to mean good process. All Council dealings must be conducted in a fair and open manner, observing the highest standards of honesty, and demonstrating the highest levels of integrity consistent with the public interest.

5.7. Sustainable Procurement

Council will consider benefits and value for money based on whole of life costs, as well as social and environmental impacts of its procurement processes, in order to achieve the best outcomes for the community having regard to the long-term and cumulative effects of its decisions.

5.7.1. Social Procurement

The Local Government Act states (Section 3C) that “the primary objective of a council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions. In seeking to achieve its primary objective, a council must promote the social, economic and environmental viability and sustainability of the municipal district”.

Council supports procurement that not only delivers appropriate value for money but also generates positive social outcomes. This includes fostering and maintaining a strong community by exploring ways to generate local employment and further strengthening the local economy.

Council is committed to supporting the local business community and encouraging its involvement in purchasing processes. Buying locally is preferred where local suppliers are competitive and achieve value for money.

Council requires all procurement evaluation criteria to include the following:

Evaluation Criteria	Weighting
Economic Contribution to the Shire	Up to 25%

5.7.2. Environmental Procurement

Council is committed to minimising Council’s environmental footprint by purchasing goods and services with fewer impacts on the environment.

Council requires all procurement evaluation criteria to include the following:

Evaluation Criteria	Minimum Weighting
The level of commitment demonstrated to maximise environmental sustainability	10%

5.8. Ethical Behaviour

Ethical behavior encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency.

At all times, Councillors and Council staff must act in accordance with relevant policies, codes of conduct and guidelines regarding gifts and hospitality and conflicts of interest.

5.9. Continuous Improvement

Council recognises that in order to achieve sustainable value, a strategic assessment of procurement activities is to be undertaken.

This strategic assessment will include an ongoing Council effort to improve services and processes to provide excellence and added value for Council's community and staff.

Continuous improvement initiatives will be a consideration in Council's procurement practices and decisions where practicable and appropriate.

Council will communicate to current and potential suppliers in the most appropriate manner as specific circumstances arise to appraise them of any continuous improvement initiatives identified or required.

6. Contract Management and Method

6.1. Contract Management

The purpose of contract management is to ensure that Council receives the goods, services or works provided to the required standards of quality and quantity as intended by the contract by:

Establishing a system of monitoring and understanding of 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;

Enforcing adherence to the Risk Management Framework and compliance with relevant occupational health and safety contractor compliance procedures;

Enabling a process that ensures both parties to a contract fully meet their respective obligations to deliver both the business and operational objectives required from the contract; and

Actively managing the relationship between the parties' over the term of the contract for the provision of goods and services.

6.2. Developing and Managing Suppliers

Council recognises the importance of effective and open working relationships with its suppliers and is committed to encouraging and maintaining existing suppliers, as well as encouraging new suppliers to compete for work wherever possible or appropriate.

This encouragement may include appropriate feedback to unsuccessful tenderers and quotation providers so that their submissions may be improved in the future.

6.3. Procurement Methods

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

Purchasing card;

Purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;

Under contract following a tender process;

Using aggregated purchasing arrangements with other Councils, MAV Procurement, Victorian Government, or other bodies;

Other arrangements authorised by the Council or the CEO on a needs basis as required by abnormal circumstances such as emergencies.

The Council may, at the CEO's discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

5.4 Organisational Structure / Model for Procurement

It is Council policy to operate a centre-led procurement structure wherein all strategy, policy, technology, best practice and networking in procurement matters will be led by council's centralised procurement unit/department.

Council's procurement coordinator is responsible for leading the operation of the procurement unit/department.

6.4. Procurement Schemes

Council currently utilises and accesses a number of procurement aggregators and whole of government contracts. An aggregator is an entity that performs the tendering and contract management activities on behalf of a number of

local government authorities and other entities. The two predominant aggregators are MAV Procurement and Procurement Australia.

The Victorian State Government also make whole of government contracts accessible to local government. These contracts can be accessed through the Victorian Government Purchasing Board (VGPB) or individual government departments such as the Department of Transport, Department of Justice and Department of Treasury and Finance.

6.5. Innovation and Collaboration

Council will use innovative procurement solutions to promote sustainability and achieve best value. Council will actively collaborate with other Local Government entities whenever possible in order to achieve the best outcomes for the community.

7. Effective Legislative and Policy compliance and Control

7.1. Financial delegations

Section 98 of the Act defines the process for Council to delegate its powers, duties and functions to a member of its staff. Council has by an appropriate Instrument of Delegation, delegated powers and responsibilities to the Chief Executive Officer.

In turn the Chief Executive Officer has by an appropriate Instrument of Delegation, delegated powers and responsibilities to Officers as appropriate to perform their role.

Council maintains a documented system of procurement delegations, which controls employee authorisation limits in line with the below authorisation limit table. Officers must be aware of their role and financial responsibilities and must ensure that all purchases they make are within their delegated authority.

7.2. Authorisation Limits

Authorisation limits for requisition and purchase order approvals are set by the CEO under the CEO's power of delegation. Procurement authorisation limits for the CEO are set by Council.

Any Council employee may requisition works, goods or services. However, only employees with delegated authority, as listed below, can authorise the associated requisition or purchase order:

Position	Level of Authority
CEO (or delegate)	\$150,000 to \$500,000
Directors (or delegate)	\$100,000 to \$149,999
Managers	\$50,000 to \$99,999
Coordinators, Supervisors and	\$10,000 to \$49,999

Team/Unit Leaders	
Responsible Budget Officer	\$1,000 to \$9,999
Other Officer	Up to \$999

Employees must not generate multiple purchase orders for the one supplier to circumvent the above procurement limit processes.

7.3. Quotation Thresholds

There are a number of methods by which goods and services can be purchased, however not all methods are appropriate to all circumstances. The critical factors in determining the most appropriate method to purchase goods or services are the value of the purchase, the extent of risk associated with the purchase and complexities involved in the purchase decision.

The legislated value of contracts for which a public tender is to be undertaken by Council is \$150,000 GST inclusive for contracts for goods and services and \$200,000 GST inclusive for contracts for the carrying out of works.

Due to section 186 of the Act relating solely to goods, services or works, the Act does not generally apply to leases, although there are exceptions. Section 186 of the Act is likely to apply in the case of finance leases only where, under the terms of the lease, Council will acquire the goods under lease (and hence there is contract for goods; a lease not otherwise being a contract for services) and, of course, the lease is over the threshold amounts.

Officers responsible for procurement are prohibited from splitting invoices for the purpose of avoiding established procurement delegations.

In order to ensure that unforeseen variations will not cause Council or its officers to be non-compliant with the Act or Council policies, the total estimated value (including any possible variations) of the purchase needs to be taken into consideration when factoring in the appropriate process requirement to be undertaken.

The applicable thresholds are:

Value	Process Requirement (Only one process required)	Minimum Quotes Received
Up to \$4,999	Request for Quotation	1
	Purchasing Card	1
\$5,000 to \$14,999	Request for Quotation	2
\$15,000 to \$149,999 (goods and services) or \$15,000 to \$199,999 (works)	Request for Quotation	3
	Procurement Scheme	3
	Panel Contract	3
	Possible Public Tender Process	3

\$150,000 and over for goods and services or \$200,000 and over for works	Procurement Scheme	No minimum quotes required but award of a tender or use of a procurement scheme is subject to Council approval
	Public Tender	

A verbal quote for purchases up to \$4,999 may be obtained the details of which should be recorded in writing by the authorised officer.

These quotation procedures apply unless the procurement is being made under an existing Council Contract or approved State Government Contracts. For example, where a Council contract exists for a panel of suppliers, authorised officers may engage just one of the panel suppliers for a procurement without seeking multiple quotes for any procurement with an aggregate value of \$15,000 or less. Officers however, may call for lump sum quotes from more than one panel supplier where it is considered in Council's best interest to obtain competitive quotes. Officers should always ensure that quotations from panel suppliers are based on the rates they submitted during the panel tender process to which they were a respondent. (refer also to clause 6.5 of this policy).

Verbal quotations are not acceptable for any purchase with a value exceeding \$4,999. Written quotations must be retained and recorded, and documentation must be registered in accordance with relevant Records Management policies, procedures and guidelines.

For procurement activities with a low value threshold or those that do not require the formal tender documentation, officers must abide by the principles in this policy.

As a guide, Officers shall base their decisions on the following factors:

- Occupational Health and Safety and Risk Management factors;
- Value for money;
- Preference to Local suppliers and;
- The quality of the product or service to fulfil the requirement in a time efficient and effective manner.

Conflict of interest requirements and Financial Delegation Authorities will apply for all levels of procurement.

7.4. Aggregate Spend

There is no specific length of time applicable to a contract for the purpose of applying thresholds under section 186 of the Act, where significant amounts are spent in aggregate either on one supplier or for one service over time.

- The test(s) to be applied in determining the financial value of a contract are;
- The value of a contract is the aggregate value of the contract over the term of the contract.
- If the term of the contract is not clear, a default term of 2 years is to be used for cumulative expenditure.
- Where the aggregate value of similar suppliers across Council exceeds the relevant threshold over a 2 year period.
- Where the aggregate value of the same supplier exceeds the relevant threshold over a 2 year period.
- Reviews of the aggregate spend of all Council suppliers will be conducted quarterly and where aggregate expenditure with suppliers not under contract exceeds the above threshold, formal tenders will be called for the supply of the relevant categories of goods services or works.

7.5. Quotations and Panel Suppliers

Where Council has previously appointed suppliers (e.g. Consultants etc.) to a panel of 'preferred suppliers', after a formal tender process, competitive quotations should still be sought from preferred suppliers for projects when the expected value of the project exceeds \$15,000.

Projects of less value than \$15,000 can be allocated to the most appropriate preferred supplier after assessment of the supplier's capacity, availability and relevant experience and after considering their lump sum quotation for the project.

7.6. Expressions of Interest:

Council may determine to seek expressions of interest (Section 186(1) of the Act) where there is:

- likely to be many tenderers, 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
- uncertainty as to the willingness and/or interest of parties or vendors to offer the potential products or services or to undertake the proposed works.

An expression of interest process can be undertaken where determined by the CEO or a director, and where council advertises publicly the:

- purpose and nature of the contract

- date by which it will invite tenders.

7.7. Request for Information

A request for information is to be used to determine whether the:

- available technologies, products or services available in the marketplace meet council needs
- proposed terms and conditions or deliverable expectations are acceptable in the marketplace
- proposed budgets are adequate to meet non-standard procurement needs – inadequate budgets should not become apparent when tenders are opened.

7.8. Tender evaluation

- late tenders will not be accepted under any circumstances
- evaluations will be conducted in accordance with the methodology set out in council's procurement manual
- an evaluation panel will be established to evaluate each tender against the selection criteria and its composition will be determined by the respective director
- tender evaluation panels can include external personnel in order to ensure value for money.
- the evaluation process must be robust, systematic and unbiased
- a price preference of 10% can be applied to the purchase of recycled and environmentally preferable products – all other considerations being equal
- once a preferred tenderer is selected negotiations can be conducted in order to obtain the optimal solution and commercial arrangements, providing they remain within the intent and scope of the tender. Such negotiations must be exhausted with one tenderer before beginning with another tenderer
- tender evaluation panels will produce a written report of their evaluation using the appropriate prescribed template.

7.9. Disclosure of Information

Following receipt of a tender submission and award of any tender or quotation, unsuccessful tenderers will be notified of the name only of the successful

tenderer. No other information regarding the successful tender will be provided due to commercial in confidence obligations.

For a Public Tender Process that requires Council approval, a report will be presented at a meeting of Council for award. When awarded, information from the successful tenderer may become publicly available.

Additional disclosure may occur where applicable, under the Freedom of Information Act 1982 (Cth), Privacy and Data Protection Act 2014 (Vic) or as required by the Victorian Auditor-General's Office or the Victorian Ombudsman. Requests for this type of information are to be directed through the nominated Council Officer.

7.10. Conflict of Interest

Councillors, Council employees and independent tender panel members must comply with the sections 77A to 80A of the Act requiring the disclosure of conflicts of interest.

A person involved in a procurement at any stage who has a conflict of interest may compromise the integrity of the procurement.

As such, Glenelg Shire Council requires officers and decision makers involved in a procurement to declare they have no known conflict of interest or likely conflict of interest at the commencement of their involvement in that procurement. If at any stage a potential conflict of interest arises, officers and decision makers involved in the procurement must notify their direct manager or Officer in Charge of the procurement so that an appropriate resolution may be minuted for the procurement file.

A 'No Known Conflict of Interest Declaration Form' is to be completed by prior to any involvement in a given procurement.

A Councillor, Council employee or independent panel member must excuse themselves from evaluation of the tender if there is a direct or perceived conflict under the Act.

There are two steps in the process of identifying a conflict of interest.

First, there must be a relevant direct or indirect interest. Often this is a financial interest, but it can also be another sort of interest, such as a special advantage to a family member or a responsibility to another organisation.

Second, the interest must intersect or overlap with a person's official duty. This may involve a decision to be made by a council officer who has been delegated a council power or one who is advising council, including preparation of a report on tender evaluation.

Should the direct or perceived conflict be only a small part of the tender (e.g. a category of a panel contract) the movements and exclusion of the officer will be documented and managed by the Evaluation Panel Chairperson.

Under s80A, a Councillor must excuse themselves from the awarding of contracts if a conflict exists.

A 'Conflict of Interest Declaration Form' is to be completed prior to any evaluation by all evaluation panel members.

7.11. Probity Requirements

Councillors and members of staff (and all persons engaged in procurement on council's behalf) must exercise the highest standards of integrity in a manner able to withstand the closest possible scrutiny.

All members of staff have an overriding responsibility to act impartially and with integrity, avoiding conflicts of interest (Section 95 of the Act). In procurement matters:

- Councillors must also comply with the Councillor Code of Conduct
- Councillors must not improperly direct or improperly influence a member of council staff in the exercise of any power in the performance of any duty or function. (Section 76E of the Act)
- Members of staff must also comply with the Code of Conduct for Council Staff (Section 95AA of the Act)
- All staff engaged in the evaluation of quotations or tenders evaluation must adhere to this policy and complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality
- All councillors and staff must adhere to council's gifts and hospitality policy in matters of procurement.

Late tender: It is council policy not to accept late tenders under any circumstances.

Probity plan and probity audits: A probity plan should be prepared and a probity advisor or auditor may be appointed by the relevant council director to any tender evaluation panel where the value of the subject tender is assessed to reach \$10 million in value.

7.12. Australian and New Zealand Supplier Preference

Section 186(6) of the Act provides that whenever practicable, Councils must give effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia and New Zealand.

Council will apply this requirement where applicable.

7.13. Local Jobs First Policy

The LJFP has been implemented to help drive local industry development. LJFP must be applied to all relevant grant and procurement activities that meet or exceed;

- 3 Million for procurement activities occurring in metropolitan Melbourne or across all of Victoria; and
- 1 Million for procurement activities occurring in rural and regional Victoria.

For the purposes of LJFP, 'procurement activities' include;

- Procurement of goods and services, regardless of the method of Procurement (tenders, State Purchase Contracts and major events)
- Construction activities
- Delivery of major events and other government projects
- Using a panel of suppliers to deliver goods or services
- Grant recipients (funding to private, non-government and local government organisations for investment support, business development and community infrastructure)
- Design contracts (planning and designing capital works or other large infrastructure projects).

7.14. Contract Length (Terms)

There is no specific time limit applicable to the length of a contract which is subject to the thresholds applying under section 186 of the Act. To determine appropriate contract lengths (terms) Council will firstly determine the optimum period for the contract on the basis of value for money and the efficiency and effectiveness of the procurement and then nominate the appropriate length of the contract.

The optimum length of a contract period in order to secure value for money can vary considerably depending on a range of factors, including:

- the extent of competition on the supply side – council may wish to approach the market more regularly if pricing is competitive, and vice versa;
- ensuring the contract term is sufficient to make the cost of the tendering process
- worthwhile;

- the cost of equipment which the contractor must amortise over the term of the contract;
- in order to submit an economic price.

8. Apply a Consistent and Standard Approach

8.1. Professional Standard

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

- The Act;
- Council's policies;
- Council's Code of Conduct for Staff and Councillors;
- Local Government Procurement Best Practice Guidelines; and
- Other relevant legislative requirements.

8.2. Standard Processes

Council will provide effective and efficient arrangements for the acquisition of goods and services that include payment within the terms of the contract, records management and reporting requirements.

This will be achieved via establishing the following:

- Procurement Guidelines, processes, procedures and techniques;
- Tools and business systems (e-tendering, evaluation or sourcing arrangements);
- Reporting requirements, advice and communications; and
- Application of standard contract terms and conditions.
- Report as required on its compliance;
- Make certain public information is easily available;
- Maintain a Contracts Register.

8.3. e-Procurement

e-Procurement is integral to the overall development of procurement processes and involves the use of an electronic system/s to acquire and pay for supplies,

services` and works. By utilising e-procurement including electronic tender management and tender lodgement systems Council aim to:

- reduce transaction costs;
- achieve greater leverage;
- make processes more efficient;
- improve management information and visibility of spend;
- increasing control and consistency of processes; and
- improve spend compliance.

8.4. Category Management

Council will use a category management approach to identify the most appropriate and effective sourcing and supply arrangements in order to achieve the best outcomes for the community.

9. Risk Management

The provision of goods, services and works by contract potentially exposes the Council to risk. Risk management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance the Council's capability to prevent, withstand and recover from personal injury, property damage, damage to Council's reputation, financial exposure and interruption to the supply of goods, services and works.

9.1. Risk Measures

The Council will manage this risk using measures such as:

- Standardising contracts to include current, relevant clauses;
- Requiring security deposits where appropriate;
- Requiring Bank Guarantees, Appropriate Insurance, Defects Liability Periods, and Liquidated damages clauses to be accepted to protect its risk in large capital works projects;
- Requiring that risk assessments and risk management plans be undertaken and developed for higher risk procurements such as high value; infrastructure purchases and goods and service supplies.
- Reporting on the performance of the contractor for corporate memory, audit and reference purposes;
- Referring specifications to relevant experts;

- Requiring contractual agreement before allowing the commencement of work;
- Use of or reference to relevant Australian Standards (or equivalent); and
- Effectively managing the contract including monitoring and enforcing performance

Council will establish, document and maintain a framework of internal controls over procurement processes in order to ensure:

- a framework for supplier engagement is in place
- more than one person is involved in, and responsible for, each transaction
- transparency in the procurement process
- a clearly documented audit trail exists for procurement functions
- appropriate authorisations are obtained and documented
- systems are in place for appropriate monitoring and performance measurement.

All persons engaged in procurement processes must diligently apply all internal controls.

9.2. Internal Audit

Council's internal audit committee charter will include provision for the committee to monitor and review this procurement policy and its implementation and the related internal controls.

9.3. Occupational Health and Safety

Council will collect and assess the OHS regime of all contractors when evaluating their tender to ensure that the contractor's OHS management system demonstrates compliance with all duties of an employer as specified in the Occupational Health and Safety Act 2004 (Vic).

All OH&S Information, copies of the relevant OH&S records, Contractor Information, breaches or other information is to be completed and contained in each Contract File for Contract Management purposes, compliance, recall or external audit.

9.4. Modern Awards and Enterprise Agreements

Employers are legally required to comply with the provisions of Modern Awards and Enterprise Agreements.

When Council enters procurement contracts with contractors/suppliers who directly employ staff or who engage sub-contractors it will endeavor to ensure that the contractor/supplier complies with their obligations under the Fair Work Act 2009.

9.5. Procurement Planning

A strategic procurement plan and a procurement conduct plan must be completed and approved for all procurements of a value of \$1 million or greater.

10. Exemptions from Procurement Policy

This section only applies to cases where the goods, service and/or works are under the Public Tender Thresholds amounts.

There are limited circumstances in which there may be legitimate reason(s) for claiming an exemption to the Procurement policy. To obtain an exemption a 'Procurement Policy Exemption Form' must be completed and approved by the appropriate persons as per the delegated limits of expenditure.

An exemption cannot be sought if the value of the goods and services are over \$150,000 and \$200,000 for provision of works. In this case, only a Ministerial Exemption can be sought by Council.

Category	Reason for Exemption
Legal Services	In accordance with Local Government (General) Regulations 2015, Reg 11, a contract for legal services is exempt for the Act.
Ministerial Exemption	An exemption from the Minister for Local Government in accordance with s186(5)(c) of the Act has been obtained for the specified services or works.
Collaborative Procurement	In accordance with s186(5)(b) of the Act, the contract is entered into with a Council acting as the agent for a group of Councils, and that Council has otherwise complied with the Act.
Statutory Payments	Statutory payments such as Superannuation (Employer /Employee Contributions) and Work Cover premiums.
Loan Funds	Loans are considered to be contracts of loan and not contracts for goods, services or the carrying out of works, so therefore are not subject to s186 of the Act.
Emergency	In accordance with s186(5)(a) of the Act, the contract must be entered into because of an emergency.

Category	Reason for Exemption
Sole Supplier/ Insufficient Quotes	When it is that there are not sufficient suppliers to provide requisite quotes. An exemption authority form and valid reason is required by the requisitioning officer.
Scope Change	When there is unforeseen need to alter the scope of the project in a minor way (less than a 10% estimate) and the cost of obtaining further quotations or retendering will outweigh the potential benefits.
Exceptionally Advantageous Time-limited Conditions	Includes unusual disposals by suppliers, unsolicited innovative proposals, liquidation, bankruptcy, or receivership and which are not routine purchases from regular suppliers.
Intellectual Property	Where the goods or services can only be supplied by a particular business and no other reasonable alternative or substitute exists, e.g. theatre Performance, work of art; or to protect patent, copyright, or other exclusive right, proprietary information, specialist software, etc.
Absence of Competition	Goods and services that are limited by patents or licences. To be supported by documentation and demonstrated organisational benefits.
Support from Original Supplier	For additional goods or services by the original supplier or representative where a change in supplier would compel Council to procure goods or services that do not meet the compatibility requirements with specialised goods or services. E.g. spare parts for vehicles and plant.

Exemptions regarding application of the mandatory weightings as stated in 5.7.1 and 5.7.2 can only be approved by the CEO. A 'Procurement Policy Exemption Form' must be completed.

11. Enforcement of Policy

The CEO has overall accountability for the procurement of goods, services, and works required to support the business of the Council and is responsible for enforcing the Procurement Policy.

11.1. Breaches of the Policy

Council's Executive Team is responsible for authorising corrective action to rectify all breaches of the Procurement Policy.

11.2. Reporting Breaches

All suspected breaches of this Policy should, in the first instance, be reported to the relevant Supervisor or Manager who, through the respective Director will actively manage the breach to comply with this policy.

All reports received will be treated with appropriate concern for the law, privacy and confidentiality.

11.3. Penalties for Breaches

Breaches of this Policy will be dealt with in accordance with the Council's Discipline Procedure and Staff and Councillor Code of Conduct and any applicable legislation.

12. Records Management

All Council records created and managed as a result of implementing this policy will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this policy. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

13. Victorian State Legislation Copyright Acknowledgement

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