

Procurement Policy

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Purpose

The purpose of this Policy is to ensure Moonee Valley City Council (Council) undertakes its procurement activities in accordance with this Policy and the public tender requirements under the *Local Government Act 1989* (the Act). To achieve this, Council, through its procurement processes ensures the following fundamental procurement principles are met:

- Value for money
- Open and fair competition
- Accountability
- Risk management
- Probity and transparency
- Social value

Scope

This Policy applies to all Council staff, Councillors, contractors and volunteers and all other persons who are authorised by Council to undertake procurement on Council's behalf. A breach of this Policy, may result in disciplinary action in line with the staff Code of Conduct Policy and may also invite further investigation into the conduct depending on the severity of the breach. All values referred to in this Policy are inclusive of GST.

Policy statement

Council is committed to providing best practice procurement outcomes which are ethical, sustainable and compliant for the community they serve. Best value procurement maximises the benefit that Council can deliver to the community.

Council's procurement team is committed to continuous improvement in order to achieve best value outcomes to the community. This includes opportunity to improve processes by using tools, guidelines and exploring procurement best practice to make the procurement process more effective and efficient.

A procurement process with robust integrity will be undertaken by Council in accordance with the Act and Policy. The table below outlines the procurement activities that are required to be undertaken relevant to the procurement values:

Procurement values outlined below are inclusive of GST				
\$0 - \$999	\$1,000 - \$9,999	\$10,000 - \$49,999	\$50,000 - \$149,999 [Goods & Services] \$50,001 - \$199,999 [Construction Works]	\$150,000 + [Goods & Services] \$200,000 + [Construction Works]
Obtain minimum one quote	Obtain minimum one written quote	Obtain minimum two written quotes	Obtain minimum three written quotes	Public Tender

Note:

- For the purposes of calculating the total value of procurement, whether it is a one-off supply, per-annum or recurring for the same scope, the cumulative value for the whole life of the contract must be taken into account. This includes any exercised or remaining extension options as well as any contract variations. For example, a quotation which has been awarded with an initial term of two years for \$90,000 and has an extension option for one year with a value of \$45,000 the cumulative value would be \$135,000.
- The value for money concept involves taking into account cost and non-cost factors. When undertaking a procurement, the whole of life and transaction cost associated with acquiring, operating, maintaining, disposing and replacing of the goods, services or works need to be considered.
- Where two or more suppliers were invited to quote and only one submitted an offer, records of the invitation process must be maintained for audit purposes.
- Expenditure below \$10,000 for purchases of goods and services that occur using corporate credit cards, such as memberships and registrations, as exemptions to the purchase order system must be undertaken in accordance with Council's Corporate Card Management Policy.

With existing pre-approved panel arrangements through State Government Contract(s), Procurement Australia (PA) contract(s), or Municipal Association Victoria (MAV) contract(s), the tendering process itself may not be applicable, however the outlined delegation limits and relevant procurement processes still apply.

Where the procurement value is between \$10,000 and \$149,999 an exemption is required from seeking the minimum quotes, i.e. where there is a sole source supplier situation arises, a certificate of exemption form must be completed providing the justification for the exemption.

The requirement to carry out a public tender or expression of interest is not required for contracts valued at or over \$150,000 for goods or services, or \$200,000 for construction works when:

- Council or its delegate resolves that the contract must be entered into because of an emergency
- Council is acting as an agent for a group of Councils and has carried out a public tender or expression of interest process on their behalf
- The Minister for Local Government has approved the arrangement prior to the Council entering into the contract, or
- The contract is for legal services (which are exempt under the *Local Government (General) Regulations 2015*)

Where Council has established a panel of suppliers for specified works through a tender process which has satisfied the Act, these suppliers can be invited to provide an offer through a request for quotation (RFQ) process at any time throughout the period of the panel arrangement irrespective of the procurement value.

The following is required to support tender evaluation and negotiation:

- An appropriate selection criteria and weightings relevant to the specification must be set prior to the tender evaluation
- Establishment of an appropriately qualified tender evaluation panel to evaluate each tender submission against the tender selection criteria
- Robust, transparent and unbiased documentation detailed in the tender evaluation and Probity Plan where applicable
- Council may enter into post-tender negotiations with one or more shortlisted tenderers.

The following is required in relation to contract variations:

- The total contract value including any variations must be within the authorised budget. The table below provides the approval requirements for contract variations:

Contract Variations	Approval
Variations of up to 20 per cent of initial contract value (provided within authorised budget and financial delegation)	Manager
Variations of more than 20 per cent of initial contract value (provided within authorised budget and financial delegation)	Director
Total contract value including variations of up to 5 per cent of authorised budget	CEO

Contract Variations	Approval
Total contract value including variations of more than 5 per cent of authorised budget	Council
Where a quotation process has been undertaken, the total value including any variations must not exceed \$150,000 for goods and services and \$200,000 for construction and works	Breach of Section 186 of the <i>Local Government Act 1989</i> (except in an emergency as defined by the <i>Emergency Management Act 1986</i>)

Council staff and all other 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 and to avoid conflicts of interest (s.95 of the Act).

In procurement matters:

- Council staff must disclose a direct or indirect interest (and the type of interest) before providing advice or reports (or any other matter) (section 80C of the Act)
- Council staff who have been delegated Council powers, duties or functions are prohibited from exercising those powers, duties or functions if they have a conflict of interest (section 80B of the Act)
- Councillors must not improperly direct or improperly influence a member of Council staff in the exercise of any power or in the performance of any duty or function (section 76E of the Act)
- Council staff must also comply with Council's staff Code of Conduct (section 95AA of the Act)
- Council staff engaged in the evaluation of quotations or tenders must complete and lodge a conflict of interest and confidentiality agreement
- Council staff must make their interests known in any situation where it could be perceived that an interest might unduly influence them
- Council staff must declare to their manager any items delivered to Council which were not part of the requirements of the contract and which could be construed as gifts or new assets to Council. Any gifts must be declared to the governance and communications department for the purposes of maintaining the gifts and hospitality register
- Council's probity charter must be followed at all times when undertaking procurement activities.

Any procurement undertaken that is equal to or greater than \$50,000 must use the eProcure portal to distribute and receive documents from potential suppliers. If the

procurement undertaken is via an existing Council Panel, Municipal Association Victoria, State Government or Procurement Australia contract or panel arrangement the use of eProcure is not required. The procurement department provides access and any related training to eProcure.

Responsibilities

The following Council departments and business units have direct and / or supporting responsibilities associated with this policy.

The Procurement department is responsible for:

- Ensuring the Procurement Policy and associated processes remain relevant and up-to-date
- Maintaining appropriate procurement and contract management systems
- Monitoring procurement expenditure and compliance with this Policy and relevant legislative requirements
- Promoting awareness of this Policy
- Reporting breaches and corrective actions in a timely manner
- Building organisational procurement and contract management capability
- Collaborating with other Councils and relevant organisations to identify procurement best practice where possible
- Providing procurement advice and support to Council staff where the procurement value is between \$50,000 and \$149,999 for goods and services, or between \$50,000 and \$199,999 for construction works
- Providing procurement advice, support and lead activities where the procurement value is \$150,000 and above for goods and services and \$200,000 and above for construction works.
- Managing the exemption process according to the below guidelines;
 - Any exemption request must be recorded in the appropriate form and submitted to the Procurement department to review
 - The relevant Director or Chief Executive Officer can then provide exemption approval to this Policy and related procedures provided best value and legislative compliance is demonstrated
 - Provisions in the Act including public tender thresholds of \$150,000 for goods and services and \$200,000 for construction works can only be exempted in accordance with the Act
 - To enable prompt action, the Chief Executive Officer 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

- The scope and timeframe for such contracts entered into in an emergency must be limited to deal with the emergency
- A breach of the Policy and procedures without an appropriate exemption may result in disciplinary action
- Any material breach will be reported to the Executive Leadership Team, Council, Audit Committee and public (via the Chief Executive Officer as soon as practical).

Council staff and other persons responsible for undertaking procurement on Council's behalf must:

- Undertake the procurement in accordance with this Policy, the Procurement and Contract Guidelines and the procurement process available on Council's intranet
- Conduct themselves ethically and with integrity
- Comply with the Gifts, benefits and Hospitality Policy
- Declare and effectively manage real, perceived and potential conflicts of interest
- Maintain confidentiality and security of information
- Comply with the Staff Code of Conduct and all relevant legislative requirements
- Complete and lodge a Conflict of Interest Declaration and a Deed of Confidentiality
- Develop a Tender Evaluation Probity Plan for all high value (more than \$5,000,000 over the life of the contract), and/or high-risk procurement identified in the risk assessment undertaken at the planning phase that is likely to occur and the impact has major consequences as defined by Council's Risk Management Framework
- Complete a conflict of interest declaration for any purchase in excess of \$50,000
- Maintain an audit trail for all procurement activities.

Related legislation and reference sources

- *Local Government Act 1989*
- *Local Government (General) Regulations 2015*
- Victorian Local Government Best Practice Procurement Guidelines 2013

Related Council documents

- Annual Capital Works Program Variation Request Form
- Certificate of Exemption Form
- Code of Conduct Policy
- Conflict of Interest Declaration and a Deed of Confidentiality
- Corporate Card Management Policy
- Fraud and Corruption Policy
- Gifts, Benefits and Hospitality Policy
- Instrument of Delegation Council to the Chief Executive Officer
- Instrument of Sub-Delegation (Miscellaneous and Administrative Powers) by Chief Executive Officer
- Probity Charter
- Procurement and Contracts Management Guidelines
- Records Management Policy
- Risk Management Policy