
Regional Procurement Framework to support policy development (outline policy)

Eastern Region

DRAFT v.7 – June 2021

Responsible service area: [Insert]

Date adopted: [Insert]

Review must occur within 4 years of this date

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1. BACKGROUND

This Procurement Policy is made under Section 108 of the [Local Government Act 2020 \(the Act\)](#). The Act requires each council to:

- prepare, adopt and comply with a procurement policy which specifies the principles, processes and procedures applying to all purchases of goods and services and carrying out of works by the Council to promote open and fair competition and provide value for money
- establish the thresholds and processes for public procurements
- provide for collaboration in procurement
- review the Procurement Policy at least once during each 4-year term of the Council

2. PURPOSE

The purpose of this Procurement Policy is to:

- provide a procurement framework for the Council to achieve value for money in the procurement of goods, services and works
- support the achievement of Council's strategic objectives as stated in the Council Plan and policies
- assist in advancing Council's sustainability and social objectives
- ensure continuous improvement in the provision of services for the community
- ensure that Council resources are used efficiently and effectively
- specify the thresholds and criteria for public tender or expression of interest purchases

3. SCOPE

- The Procurement Policy and procurement function set the direction of procurement governance, processes and procedures.
- The Policy applies to all contracting and procurement activities conducted at Council and applies Councillors, Council Staff or their delegate or agent
- The Policy is enabled through the Procurement and Contract Management Framework (PCMF) or Function but does not extend to related accounts payable processes.

4. PROCUREMENT OBJECTIVES

This policy enables Council and Council employees to:

- comply with legislation, corporate policies and other requirements
- ensure all staff responsible for procurement and contract management are aware of and adhere to these requirements in an impartial, fair and ethical manner
- support Council's Community Vision, Council Plan, corporate strategies, aims and objectives
- use procurement practices to promote sustainability and social procurement
- demonstrate accountability to ratepayers
- deliver best practice procurement processes and outcomes that:
 - o take a long term strategic view of procurement needs while continually assessing, reviewing, auditing and improving processes and procedures
 - o provide a robust and transparent audit trail
 - o achieve value for money and quality in the timely acquisition of goods, services and works
 - o ensure risk is identified, assessed and managed
 - o make use of collaboration and partnership opportunities

5. EXPECTATION TO COMPLY

All Council staff, including their agents are expected to implement the Procurement Policy:

- All Council staff are responsible for complying with the Policy

- Non-compliance with the Policy may result in a breach of legislative requirements and disciplinary actions that could include dismissal. In addition, criminal and civil penalties may be imposed if you breach fraud, corruption, bribery or Australian Consumer Laws
- Employees engaged in the selection of external suppliers should seek timely input from the procurement team
- Employees engaged in any procurement activity must be able to demonstrate that they have complied with the Policy
- The source of funds must be identified, and the procurement authorised in accordance with Council delegations of authority, before any commitment to purchase is made
- More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented

6. BEST PRACTICE PROCUREMENT PRINCIPLES

6.1. Best Practice Principles

- Council purchases goods, services and works to support service delivery and the maintenance and development of infrastructure.
- Council's procurement processes will be based on the following principles:
 - o value for money
 - o open and fair competition
 - o accountability
 - o risk management
 - o probity and transparency
 - o sustainability (local, social, economic and environmental outcomes)

6.2. Applying Best Practice

6.2.1. Value for Money

- Council's procurement activities will be carried out on the basis of obtaining value for money consistent with acceptable quality, reliability and delivery considerations.
- Lowest price is not the sole determinant of value. Both cost and non-cost factors are considered including:
 - o contribution to the advancement of Council's priorities and objectives
 - o fitness for purpose, quality, social and environmental impacts, service and support
 - o cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works
- Value for money is best achieved by:
 - o developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
 - o aggregating purchasing whenever possible; and
 - o undertaking competitive procurement processes.

6.2.2. Open & Fair competition, Accountability, Probity & Transparency

- In all commercial dealings, Council will apply the highest standards of integrity and honesty, and conduct business in a fair, honest and open manner consistent with the public interest to build confidence in the outcome
- Councils must adequately test the market in a consistent manner without any bias or perception of bias
- All prospective suppliers must be treated (and be seen to be treated) fairly and provided with the same access to information
- All people undertaking procurement activities on Council's behalf are responsible for the actions and decisions they take in relation to Procurement and for the resulting outcomes
- Where a third-party agent is engaged to procure works, goods or services on behalf of Council, they must ensure they are compliant with this Policy and relevant legislation including the Act

6.2.3. Risk Management

- The provision of goods, services and works by a supplier or contractor potentially exposes Council to risk.
- Council shall have in place consistent strategies for managing risks associated with procurement activities.
- Appropriate risk management principles must be considered and applied at all stages of procurement to ensure continuity of supply of goods and services to Council.
- Procurement activities will be properly planned and carried out in a manner that will protect and enhance Council's capability to prevent, withstand and recover from risks of personal injury, property damage, reputation, financial exposure and interruption to the supply of goods, services and works.
- Council will minimise its risk exposure through measures that:
 - o Allow sufficient planning and lead-time for procurement preparation and consideration
 - o integrate risk identification at the earliest planning stage to inform the procurement process
 - o use Council standard-form or Australian Standard contracts which include current, relevant clauses to mitigate risk to Council
 - o require security deposits where appropriate
 - o refer of specifications to relevant experts
 - o review and negotiate contract departures and non-standard contracts prior to the award of the contract with advice retained as evidence of review and approval of the terms
 - o ensure agreements are executed prior to commencement
 - o ongoing and timely contract management including monitoring and enforcing performance

6.2.4. Sustainability (local, social, economic and environmental)

- Council will seek to improve local, social, economic and environmental sustainability outcomes through sustainable procurement. This may include measures such as:
 - o strategies to avoid unnecessary consumption and manage demand
 - o purchase of goods, services, works (and infrastructure) that can be reused, repaired and recycled, and that include recycled content
 - o purchase of goods, services or works that benefit local businesses or social enterprises
 - o minimise environmental impacts over the life of the goods and services, including their production, use or disposal
 - o foster innovation in sustainable products and services
 - o ensure that fair and ethical sourcing practices are applied and that suppliers comply with socially responsible and ethical practices, including legislative obligations to employees
- Strategies to improve local, social, economic and environmental outcomes are detailed in Section [12](#)

7. COUNCIL'S PROCUREMENT FUNCTION (POLICY, PROCESSES AND PROCEDURES)

Council's procurement function is responsible to:

- develop and review the Procurement Policy and associated guidelines, processes and procedures
- maintain procurement and contract management systems and tools
- provide procurement-related advice and support to the organisation
- build organisational procurement and contract management capability through mandatory training and guidance materials
- promote awareness of and monitor compliance with this Policy and all relevant legislation
- report on procurement activity including compliance with key internal controls, financial savings and local, social, economic and environmental benefits achieved.
- collaborate with other councils and organisations to identify best practice for continuous improvement and achieve better value from procurement
- Support Council Internal Audit Committee processes

8. PROCUREMENT METHODOLOGY

8.1. Strategic Procurement

- Council's procurement processes will be based on Strategic Procurement practice. Planning for an individual procurement exercise will include consideration of aggregation opportunities; access to suppliers under existing contracts; and an analysis of alternative contract models and risk considerations
- Effective and open working relationships with suppliers and managing existing suppliers via performance measurements is necessary to realise benefits negotiated through contracts
- Supply market development to diversify suppliers competing for new work

8.2. Considering Risk

- The identification, assessment, monitoring and management of risk is integrated into all aspects of Council's procurement processes, utilising Council's risk framework (risk definitions, likelihood and consequence ratings).
- The level of risk will inform the procurement process which may therefore differ from the method usually applied to that threshold.

8.3. Process Options

The Procurement policy applies to all procurements regardless of process. Procurement process options include:

- I. Direct purchase (using Corporate credit card; Purchase card) or utilising existing supplier contracts
- II. Approved purchasing schemes or use of Panel contract (including panels established by councils in the eastern region and Victoria)
- III. Select tender
- IV. Open or Public tender
- V. Collaborative or joint procurement (through Aggregators or with one or more other council)
- VI. Victorian State Government contracts (e.g. State Purchase Contracts, Whole-of-Government contracts or Construction Supplier Register (CSR))
- VII. Under an exemption outlined in this Policy

8.4. Direct Purchase, Purchasing Schemes, Panel Contracts (including approved regional panels)

- When purchasing directly, through a Scheme or Panel, staff are required to:
 - o obtain the required number of quotes from suitable suppliers or Panel members
 - o raise a purchase order

8.5. Public Tender & Expressions of Interest

- Expressions of Interest must give public notice. They are used where:
 - o the amount is greater than the threshold:
 - \$250,000 works
 - \$250,000 goods and services
 - o there are likely to be many tenderers and tendering will be costly
 - o the procurement is complex, and Council does not wish to impose the costs of preparing full tenders on all tenderers
 - o there is uncertainty as to the willingness and/or interest of vendors to supply
 - o advice from the market is required regarding how best to address a particular need.
 - o at times, a best and final offer may be requested

8.6. Probity Plan

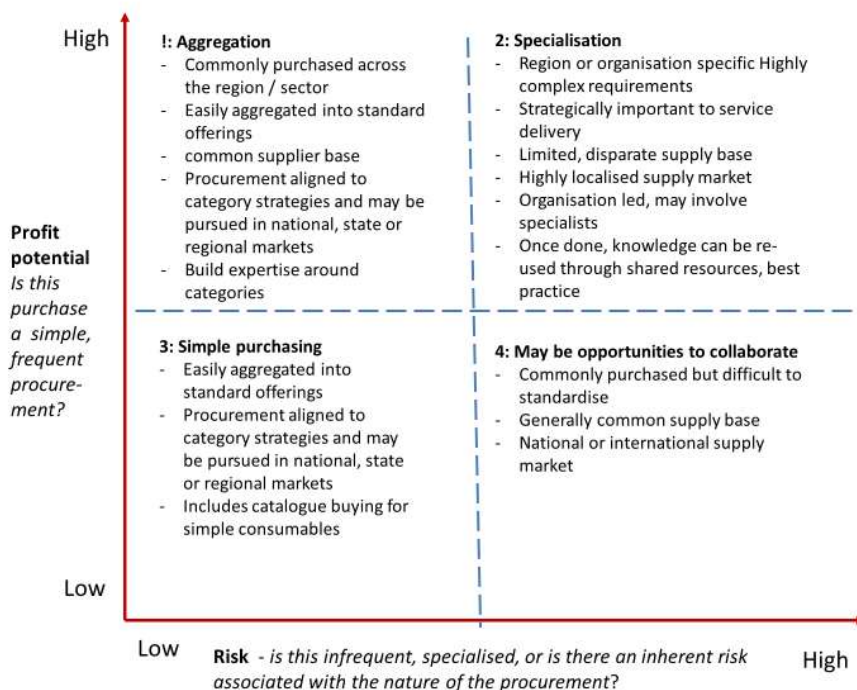
- A Probity Plan must be prepared, reviewed, approved and implemented when:
 - o the expected purchase value is above \$5,000,000
 - o the purchase is highly complex, or of a high risk or controversial nature
 - o requested by the Chief Executive Officer or a Director

8.7. Collaborative Procurement

- Where practical, Council will collaborate with other Councils in order to take advantage of economies of scale, reduce risk and deliver community benefits for all participating councils.
- Any tender award report must set out information relating to opportunities explored for collaborative procurement and why or why not those identified opportunities are recommended
- Collaborative procurement will be achieved through:
 - o aligning procurement categories and timing (Joint procurement)
 - o using Panels, including Panels in the eastern region (that include the capacity to provide services outside of the contracting council area under the same Terms and Conditions)
 - o using State Government contracts and aggregators
 - o sharing resources such as documents, training and data
 - o Collaborative procurement is the centralisation of the procurement of goods, services or works which are repetitive and common to multiple organisations, or that are highly complex and benefit from specialisation.

To guide collaboration and particularly joint procurement, the following framework is utilised:

Framework for collaboration

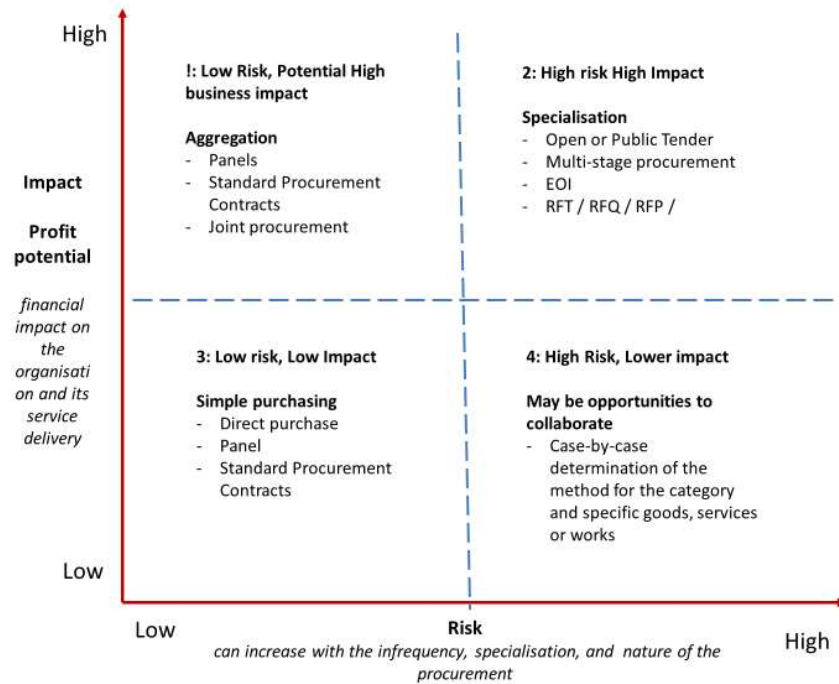


9. PROCUREMENT PROCESSES & THRESHOLDS

9.1. Determining the threshold and process

- The procurement method is determined by both the nature, value and the risk of the purchase.
- A tender process will be used for high value items and below that, those items considered to be of high risk. The level of risk is determined on a case by case basis by Council.
- Value thresholds are determined by Council according to Council delegations, policy and experience
- All monetary values stated in this policy include GST unless specifically stated otherwise The diagram below identifies procurement processes or methods relative to risk and business impact

Procurement method



9.2. Council's Thresholds for procurement are:

Procurement Threshold incl. GST	Risk	Procurement Methodology (RFT/RFQ/Simple RFQ/ Direct purchase / single Quote)
Low value (< \$2,000) Adjust re benchmarking data)	NA	Direct purchase from local supplier without a PO (as specified) One verbal or written quote PO optional << council to insert method >>
Low - moderate value (\$2,000 - \$10,000)	NA	One email or written quote (from local supplier where possible) PO required unless exempt << council to insert method >>
Moderate value (\$10,000 - \$50,000)	Low risk	Three email or written quotes from identified suitable suppliers. If using a Panel: - One email or written quote - else two email or written quotes << council to insert method >>
	High risk	As above, but use of panel preferred << council to insert method >>
Moderate - high value (\$50,000 - \$250,000)	Low risk	Three email or written quotes from identified suitable suppliers or two quote from a Panel: << council to insert method >>
	High risk	Public process - Three email or written quotes from identified suitable suppliers. Probity Plan << council to insert method >>
High value Over \$250,000	Low risk	Public process If using a Panel, three email or written quotes << council to insert method >>
	High risk	Public process Probity Plan << council to insert method >>

9.3. Process for seeking an exemption

- The process for approval for an exemption from the minimum number of quotes must be followed, including approval from the CEO unless specified.

9.4. Cumulative spend

- Procurement may not be split to avoid procurement thresholds
- The threshold must be considered on the basis of a rolling 2-year average spend, taking into consideration the lifetime spend of the goods, services or works purchased from a supplier

9.5. Exemptions

Exemption Description	Explanation, including any limitations and responsibilities
1. A contract made because of genuine emergency or disaster	Where the Council or CEO has resolved that the contract must be entered into because of a declared emergency or disaster.
2. A contract made with, or a purchase from a contract made by another government entity, government-owned entity, or other approved third party	<ul style="list-style-type: none"> - This general exemption allows engagements with another government entity or government owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government. And the contracts were entered by complying with the Act. - Contracts and arrangements established by another government entity, local authority or local government group purchasing scheme, Municipal Association of Victoria (MAV) or National Procurement network members (e.g. Local Buy), Procurement Australia (PA), Regional Waste Management Group, etc. Such contracts were entered into by undertaking a public tender process.
3. Proven Monopoly Market	<ul style="list-style-type: none"> - Statutory Compulsory Monopoly Insurance Schemes, such as Work Cover and Motor vehicle compulsory third party - Other statutory bodies, such as Water, legislatively required services - When supply of goods, services or works can only be sought from a monopoly supplier, for example – marketplace is restricted by statement of license, technology or third-party ownership of an asset
4. Professional services unsuitable for tendering	<ul style="list-style-type: none"> - Insurance Brokerage Services) Legal Services - The issuing of Insurances (exclusive of
5. Select tender from pre-qualified registers or panels by another government entity	<ul style="list-style-type: none"> - Construction Services Register - Marketing Services Register - E-services Panel
6. Novated Contracts	Where the initial contract was entered into in compliance with this Policy and due diligence has been undertaken in respect to the new party

10. EVALUATION PROCESS

10.1. Tender Evaluation and Negotiation Process

- The process to evaluate and negotiate the supply of goods, service and works is determined by the procurement process used
- The aim of the evaluation process is to select a supplier that provides the best value for council while ensuring that all suppliers are treated in a fair, equitable and impartial manner.

10.2. Evaluation criteria

- Evaluation criteria are used to determine value for money
- Evaluation criteria include both price (whole of life) and non-price factors (risk, quality and contribution to council's sustainability objectives)

- Unless approved by Procurement, price (cost) will be weighted at 25% or over
- Evaluation criteria (and weightings) should be included in the tender / procurement documents
- Mandatory evaluation criteria common to all procurements include: Price, Capability (skills, experience), Capacity, Methodology (approach), Sustainability(local, social, economic and environmental)
- Specific criteria for local, social, economic and environmental sustainability objectives are determined on a project by project basis

10.3. Evaluation panel

- An evaluation panel is used to undertake a systematic assessment using the selection criteria published in the tender documentation
- The panel will advise on evaluation criteria and their weighting prior to inviting a quote or tender
- Financial viability, Occupational Health and Safety (OHS), Quality Assurance (QA), Insurance and Indemnity are requirements that must be satisfied prior to the recommendation of a supplier

Thresholds	Evaluation panel composition	Financial delegation to enter into contracts
<\$10,000	NA	\$10,000: Team Leaders \$6,000: EAs, PAs
\$10,000 to \$50,000	Two people	\$50,000: Building Projects Coordinator \$25,000: Coordinators
\$50,001 to \$1 million	Three people, including an independent member from the relevant operational area	\$100,000: Managers, Chief Financial Officer, Corporate Counsel \$250,000: Directors
\$1 million and above	Five people including an independent member from the relevant operational area	Directors \$2M Chief Executive Officer \$5M Council

11. CONTRACT MANAGEMENT

Good contract management ensures goods, services or works are delivered to the required standards of quality and quantity as intended by the contract through:

- Establishing a system monitoring and achieving the responsibilities and obligations of all parties under the contract;
- Providing a means for the early recognition of issues and performance problems and the identification of solutions;
- Adhering to the Council's risk management framework and relevant Occupational Health and Safety and sustainability requirements

All contract variations must be assessed to determine whether they are properly characterised as variations, or whether they are in effect a new contract.

Where relevant, all Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes escalating to legal action

12. ADVANCING LOCAL, SOCIAL, ECONOMIC AND ENVIRONMENTAL OBJECTIVES

- Council seeks to advance local, social, economic, and environmental objectives of direct benefit to the community through its procurement of goods, services and works
- Council will monitor and report on procurement activities that contribute to local, social, economic and environmental sustainability
- To support local, social, economic and environmental outcomes, Council may apply a preference of up to 5% in the evaluation of proposals

Council will consider the following when making procurement decisions:

12.1. Local sustainability

- Council seeks a direct local benefit through procurement that:

- supports local businesses and communities
- encourages local business to act as sub-contractors to existing suppliers and panels
- involves early local market engagement

12.2. **Social sustainability**

- Council encourages diversity, acceptance, fairness, compassion, inclusion and access for people of all abilities through procurement to:
 - create new jobs, apprenticeships and opportunities for people who may be struggling to find work
 - support social enterprises and indigenous suppliers
 - target cohorts that may be experiencing economic exclusion, depressed areas and marginalised communities
 - include social requirements in contracts with private sector providers to screen supply chains for ethical considerations
 - improve equity of access to opportunities, particularly towards gender equality and for CALD communities
- To improve Council may seek the following information from Suppliers:
 - Gender equality**
 - evidence of gender equity in leadership, or prescriptive measures to address gender imbalance
 - ratio of employment of men and women
 - a link to / copy of gender equality policies and commitments
 - Indigenous / CALD**
 - tbc

12.3. **Economic sustainability**

- Council supports local business and economic development through purchases that:
 - are from local suppliers, from local inputs
 - support Small to Medium Enterprises
 - generate local employment and support local supply chains
 - consider the whole of life cost and durability of purchases

12.4. **Environmental sustainability**

- Council will maximise environmental benefits by:
 - Green purchasing (i.e. making purchases that use materials made of recycled content, are energy efficient and greenhouse friendly, are from a Social Enterprise or second hand/refurbished);
 - prioritise purchases that minimise waste, conserve water and energy, reduce greenhouse gas emissions, and reduce natural resource and biodiversity depletion
 - support the circular economy locally and improve the environmental management of Council's supply chain, including reduced waste to landfill and increased reuse or recycling
 - Improve resilience and adaptability to climate change

13. **POLICY COMPLIANCE AND CONTROL**

(to be done)

- 13.1. **Role of Internal Audit Committee**
- 13.2. **Ethics and probity**
- 13.3. **Conflict of interest**
- 13.4. **Complaints handling**

14. **RELEVANT LEGISLATION, POLICY AND OTHER DOCUMENTS**

The key legislative requirements for this Policy include:

- Local Government Act 2020
- The relevant provisions of the Competition and Consumer Act 2010 (Cwth).
- Modern Slavery Act 2018
- Working with Children Act 2005 and Working with Children Regulations 2016
- Occupational Health and Safety Act 2004.

Relevant Council policies as listed below:

(insert as appropriate)

15. DEFINITIONS

(insert from Glossary as required)