

Regional Procurement Framework to support policy development

Executive summary

This document sets out an agreed framework to inform the development of local government procurement policies in the eastern region. The framework assists councils meet the requirements of the Local Government Act 2020 (the Act), guides a more consistent approach to procurement, and supports increased collaboration.

The framework was developed by the Eastern Metropolitan Regional Procurement Excellence Network (ERPNE) comprising Boroondara, Manningham, Maroondah, Monash, Knox, Whitehorse and Yarra Ranges councils with the support of the Eastern Region Group (ERG).

The framework draws on current ERPNE policies, draft policies of other regions & councils (Inner South, Northern, City of Melbourne), and the guidance provided by LGV and through the MAV model procurement policy.

The framework outlines the structure, principles, objectives, and approach to procurement that will generally be applied across the region and how increased collaboration among the ERPNE group, and more broadly, will occur.

The framework will be given effect through each council's own procurement policy and will be reviewed by the ERPNE group at least every four years.

The framework comprises:

1. **Regional Procurement Framework Outline Policy (Policy):** The purpose of the Policy is to inform local procurement policy development by Councils in 2021. The Policy outlines areas of regional agreement and responds to the requirements of the new Act. The Policy will be adapted and used differently by each council.
2. **Glossary of terms and acronyms:** The purpose of the glossary is to provide a comprehensive record of definitions of terms and acronyms used in the framework to enable greater consistency of terms used by councils.
3. **Context for collaboration:** The purpose of the context is to provide a background regarding effective collaborative procurement in the public sector and describe how collaboration with other councils and groups will occur. It proposes regional objectives and criteria to guide collaboration, based on agreed ERG objectives and criteria that are reflected in the Policy.

The requirements for procurement are set out in Sections 108 & 109 of the Local Government Act 2020 (Attachment 1). Consistent with the Act, the framework and policy:

- specify principles, processes and procedures applying to the purchase of goods, services or carrying out of works
- set thresholds for public tender and evaluation criteria (up to the value in the regs re s108(4))
- establish effective risk identification, assessment, monitoring and management
- promote economic, social and environmental sustainability
- guide how collaboration occurs
- guide how compliance monitoring occurs (may need a few points)
- provide for regular independent review from audit risk committees

A single ERPNE Policy was not preferred due to:

- existing council procurement policies largely comply with the Act and are familiar and embedded in Council processes (evolution not revolution)
- differing maturity levels, resourcing and approaches to procurement across the region
- an ongoing need to reflect and integrate with existing council policies and systems
- cascading implications for council processes and procedures that give effect to the policy

Regional Procurement Framework Outline Policy

Refer to separate document.

Glossary of terms & acronyms

Principles and objectives

Best practice principles - These are the fundamental best practice procurement principles that should be applied to every procurement, irrespective of the value and complexity of that procurement, and are:

- value for money
- open and fair competition
- accountability
- risk management
- probity and transparency
- sustainability (local, social, economic and environmental)

Value for money - Value for Money in procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including:

- Contribution to the advancement of Council's priorities
- Non-cost factors such as fitness for purpose, quality, service and support
- 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

Open and fair competition - All prospective suppliers must be treated (and be seen to be treated) fairly in an open and transparent manner. This means they are provided with the same access to information about the procurement to enable them, as far as possible, to respond on the same basis. Councils must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.

Accountability - Council staff are responsible for their actions and decisions in relation to procurement and for the resulting outcomes. Staff are answerable for such activities through established lines of accountability and delegation, and ultimately to their chief executive officer (CEO). Staff must also provide adequate and reliable advice to the elected councillors to allow them to make sound decisions on procurement matters.

Risk management - All procurement carries some level of risk. It is important to recognise the risks that may arise in the course of each procurement and under any resulting contract entered into with a successful respondent, and to develop appropriate strategies to identify and manage those risks and ensure a robust audit trail.

Probity and transparency - Probity is a defensible process which is able to withstand internal and external scrutiny – one which achieves both accountability and transparency, providing tenderers with fair and equitable treatment consistent with the public interest and guarding against collusion, fraud, anti-competitive conduct and not receiving personal gain.

Probity Adviser - A probity advisor is involved in providing advice on probity issues which may arise, together with advice on strategies to overcome potential problems

Probity Auditor - A probity auditor's role is more generally confined to reviewing all processes and documentation throughout the tender process and reporting to council or the CEO after the end of the process.

Probity Plan - A formal Probity Plan sets out the steps to be taken and the processes implemented to ensure a tender is conducted fairly and ethically with compliance monitored and reported against.

Procurement objectives - Guide the application of best practice principles and assist in determining procurement methods. They reflect the need to demonstrate value for money and that service delivery is meeting community expectations and values, and may include other local objectives.

Sustainable procurement - The Victorian Local Government Best Practice Procurement Guidelines 2013 (p. 15) define sustainable procurement as: '...a process whereby organisations meet their needs for goods, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, while minimising damage to the environment.'

Social procurement - Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to delivering efficient goods, services and works. Positive social outcomes contribute to building stronger communities and meeting council's broader social objectives. (refer to Social Procurement: A Guide for Victorian Local Government and the Social Procurement Toolkit).

Gender equality - Influencing organisational culture, work environment and practices to shape social norms and relationships, and ensure women, men and gender non-binary people have equitable access to resources, power and opportunities.

Local business - is a business operating in a specific local area. This means the business has a permanent office or presence in the council area, employs workers resident in the council area or whose supply chain is predominately within the council area, and if not in the council area is in an adjacent council area or the eastern region.

Procurement process, terms and methods

Aggregators - Organisations that aggregate demand for goods or services across multiple Councils and go to market as Council's agent. Councils may access contracts created by approved aggregators at any time (MAV Procurement, Procurement Australia, State Government, council/s) unlike a one-off collaborative procurement activity.

ATM - Approach to Market

BAFO - Best and Final Offer - A request for the supplier to make a revised pricing proposal with their best possible price

Collaboration - to add

Collaborative Procurement - 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

Competitive procurement process - Is any procurement process where more than one supplier is approached to respond or submit a proposal, quote or tender.

Commercial in Confidence - Information that, if released, may prejudice the business dealings or commercial interests of Council or another party, e.g. prices, discounts, rebates, profits, methodologies and process information, etc.

Consultant - is a particular type of contractor engaged to provide recommendations, specialist or professional advice to assist decision-making. A consultant is usually engaged by way of a short term or temporary contract, is normally expected to work without direct supervision, to exercise their own judgement, conduct complex research or investigations and provide advice or recommendations. A consultant may include specialist professional services and be an individual or an organisation.

Contract - is a legally binding agreement (including deeds and purchase orders) between parties. While an agreement does not need to be in writing it is generally documented in some way, such as an exchange of letters or emails. A contract requires the parties to obey the terms in the contract and perform their contract duties as stated. Failure to do so may result in legal consequences, such as a damages award.

Contract Management - The process that ensures all parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the contract objectives and provide value.

Contractor - is a person or organisation engaged under a contract to provide specified goods or services. A contractor is not an employee. A contractor will usually work under the supervision of a Council officer.

Council - The entire Council organisation, including Councillors and Council Staff.

Councillors - Council's elected representatives (the Mayor and Councillors) or Administrator(s) appointed to act in this capacity.

Council Staff - Includes all Council officers, temporary employees, contractors, volunteers and consultants while engaged by Council.

CSR - Construction Supplier Register - A pre-qualification scheme for building and construction industry consultants and contractors for government bodies (including councils) to engage when undertaking construction projects. The CSR is available on the Department of Treasury and Finance website.

Direct purchasing - A buyer does not conduct any competitive process in the procurement of a good or service and selects/purchases the goods or services instantly without any evaluation or selection process e.g. Purchase Card; use of Panel /aggregator etc. in accordance with policy.

Eastern Metropolitan Regional Procurement Excellence Network (ERP) includes Procurement Officers from the ERG councils plus Boroondara.

Eastern Region - includes the local government areas of Boroondara, Knox, Manningham, Maroondah, Monash, Whitehorse and Yarra Ranges and may include directly abutting council areas.

Eastern Region Group of councils (ERG) - The ERG comprises six councils including the metropolitan councils of Knox, Manningham, Maroondah, Monash, Whitehorse and Yarra Ranges

Emergency - A sudden or unexpected event requiring immediate action including the occurrence of a natural disaster, flooding or fire event such as flooding or fire at a council property; the unforeseen cessation of trading of a core service provider; any other situation which is liable to constitute a risk to life or property.

EOI - Expressions of Interest - An invitation for parties to submit an EOI for the provision of the goods, services or works as set out in the overview of requirements. This invitation is not an offer or a contract. It is used to identify potential suppliers who have the capability to do the work. It is usually the first stage of a multi-stage tender process. (See also RFP)

Evaluation criteria - The basis for assessing the merit of the services offered and the capability of the respondent to fulfil the requirements set out in the specification and draft Services Agreement. They give effect to the best practice principles and may include technical and management competence, financial viability and relevant skills, experience and availability of key personnel, whole-of-life costs, risks or constraints associated with the offer. They may include both mandatory and other criteria, including sustainability (local, social, economic and environmental) objectives (e.g. local employment, long term environmental impacts). Evaluation criteria are weighted so that the overall score balances the ability of the respondent to fulfil its contractual obligations against the price to achieve value for money for council.

Goods and services - also includes procurement by way of lease or rental as well as outright purchase of goods or services

Life cycle cost- An evaluation that determines the cost of acquisition, operation, maintenance, and disposal of items.

Major works - are works valued at \$250 000 or more.

Material Breach - Any breach of this policy that may also represent a breach of legislation such as procurement thresholds, fraud or corruption, or occupational health and safety.

Multi-Stage procurement - involves an initial approach to market followed by one or more subsequent approaches to market (for example, inviting EOI followed by a RFT)

Open or Public Tender - is an open approach to market where all interested suppliers may submit an offer in response.

Panel or Standing Offer - A panel contract (panel arrangement or standing offer) is a contractual arrangement established with at least two suppliers for the anticipated provision of goods or services, as and when required over a specified period of time. The panel contract contains standard terms and conditions under which the goods or services will be provided by panel members.

Prequalification category - is a category within which suppliers are registered as eligible to supply

Procurement - is the process used to obtain goods, services and works. It can involve planning, specification writing, preparation of quotation and tender documentation, selection of suppliers, contract administration, and other related functions. The procurement process may include direct purchasing, select (or limited) tender, quotation process and public (or open) tender. It also includes the organisational systems and governance frameworks that underpin the procurement function.

Procurement and Contract Management Framework or Function - Council's online Procurement and Contract Management Framework or Function (PCMF) which prescribes the processes, templates and guidelines for all stages of the end-to-end procurement and contract management lifecycle.

Procurement Matrix - outlines the procurement methodology taking procurement type, cost and risk into account

Procurement process - the process of obtaining goods, services or works. The process can include defining requirements, issuing an invitation to market, selecting a supplier and contracting. The procurement process may include direct purchasing, select (or limited) tender, quotation process and public (or open) tender.

Purchase Order - A form of contract. It is an official document used to authorise and record the purchase of goods or services by a buyer and is the prime reference confirming the contractual situation between the buyer and supplier

Quotation process - is a market approach where a minimum number of quotes are sought from potential suppliers.

Quote - A document in the form of an offer to supply goods and/or services, usually in response to a request for quotation.

RFI - Request for Information - Formal request for information to gain a more detailed understanding of the supplier market and the range of solutions and technologies that may be available. It may be used to develop documentation for a future tender

RFQ - Request for Quote - A written process of inviting offers to supply goods and/or services involving simple documentation, a limited number of potential suppliers and generally of relatively lower values

RFP - Request for Proposal - A written process of inviting a proposal from selected suppliers (see also EOI)

RFT - Request for Tender - A request for offer against a set of clearly defined and specified requirements. Tenderers are advised of all requirements involved, including the conditions of tendering and proposed contract conditions.

Select (or Limited) Tender - is where a Council either negotiates directly with a single supplier (direct sourcing) or, with approval, a limited number of suppliers rather than a market approach

Specification - The statement which clearly and accurately describes the essential requirements for goods, services or works. It may also include the procedures by which it will be determined that the requirements have been met and performance required under a contract. See also Expression of Interest

SPC - Standard Procurement Contract - standing offer agreements for Victorian Government common use goods and services which are established when improved value for money can be achieved through aggregating demand.

Tender - An offer in writing to supply goods and/or services, usually submitted in response to a public or selective invitation such as a Request for Tender

Tender briefing - A forum held where a council representative(s) briefs prospective tenderers regarding a tender process and responds to questions.

Tender process - The 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.

Thresholds - The value above which a procurement, unless exempt, is subject to the mandatory procurement procedures

Works - is any building, civil engineering or engineering work. It includes building construction, roads and bridges construction, and maintenance of structures or engineering works. It excludes consultancies related to those matters.

Context for Collaboration

Background paper

Still for discussion - What will we collaborate on? (category review? / How will collaboration be managed / What needs to be included in Procurement Policies and in council reports / Any process changes that may be needed

Purpose

The purpose of this context paper is to provide a background to effective collaborative procurement in the public sector and describe how collaboration with other councils and groups will occur. It proposes regional objectives and criteria to guide collaboration, based on agreed ERG objectives and criteria that are reflected in the Policy.

What is collaborative procurement

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. It may be achieved through:

- aligning procurement categories and timing (Joint procurement)
- 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)
- using State Government contracts and aggregators
- sharing resources such as documents, training and data

Context

There is a global trend towards more centralised procurement across the public sector, demonstrated by the increasing role of aggregators (such as Procurement Australia (PA) and MAV Procurement), the establishment of RPENs and the inclusion of collaborative procurement into the Local Government Act (2020).

COVID has disrupted supply chains, restricted movement and impacted local economies leading to a greater focus on local procurement for social, economic and environmental benefits. In the UK, local / collaborative procurement is a key strategy of the Community Wealth Building (CWB) framework.

Pros and Cons

Collaborative procurement should lead to benefits for all parties. These benefits include:

- Savings from economies of scale from aggregated demand (greater purchasing power)
- Savings through increased standardisation, enabling suppliers to be challenged, reducing stock held and re-training requirements (e.g. for PPE)
- Reduced transaction costs for both councils and the market (more efficient)
- Greater expertise through specialisation and scale

Realising these benefits can be challenging, particularly for demonstrating economies of scale. Greatest benefits are generally driven through standardisation and from access to specialised expertise. Other challenges relate to:

- Inability for local suppliers to compete / respond to larger collaborative contracts, leaving them potentially locked out of the market for years
- Can lead to more disputed processes, and encourage corruption
- May reduce end market interaction by the internal customer
- May hollow out local procurement teams' capability
- Large contracts can prove hard to manage: agreeing on the common specification and managing the process

Areas that have demonstrated benefits through collaborative procurement

Similar to PA, MAV Procurement and State panels, UK experience through the Office of Government Commerce's (OGC) Collaborative Procurement Programme focuses collaborative procurement on:

- Energy & waste
- Construction / Infra
- Professional Services
- Facilities Management
- ICT
- Office solutions

- Vehicle Fleet

- Travel

- Food

Strategies and opportunities to create value through collaborative procurement

There are a number of strategies that, together with a strategic approach to procurement can optimise the benefits of collaborative procurement for all parties. These are:

1. Establish a clear framework to coordinate shared and aggregated procurement
2. Avoid unnecessary procurement; require use of a framework agreement where one exists
3. Identify framework agreements utilised (or that duplicate or overlap) across the region
4. Regularly compare unit prices and compare these with framework agreements
5. Standardise specifications to aggregate demand (manage end-user specifications (brand & model) to increase volume on common goods and services and for sustainability objectives)
6. Joint category management including standardised pre-qualification
7. Support the development of different specialisations/expertise in each council to support each other's procurement
8. Ensure an ongoing strategic approach to procurement so that:
 - o Collaborative procurement management information supports decision making and user needs
 - o in-house category management is able to focus on unique areas of spend (specialised), and for other areas
 - o delegate category management and procurement to the most suitable place supported by aggregation contracts / framework agreements
 - o measure savings

Objectives for collaboration

Two higher order objectives are drawn from those agreed by the ERG Mayors and CEOs. They are:

1. Better community outcomes in a higher demand environment
2. Service efficiency & effectiveness in a constrained environment

The ERG has also set criteria for when they collaborate on advocacy. The relevant criteria are:

1. Major regional project or issue with genuinely regional benefits/need (i.e. a high likelihood of benefits (including non-financial) generally flowing to all parties in excess of any negative or unintended impacts)
2. Preventative and future-focused
3. Clear and specific (may require specialist input /advice)
4. Politically current with a realistic chance of success

A framework for collaboration

The ERPN councils take a strategic approach to procurement. A framework has been developed to determine what categories are best suited to collaborative procurement, considering the nature and value of the goods, services or works, and the risk associated with the procurement.

The framework has adapted the Kraljic matrix¹ to identify:

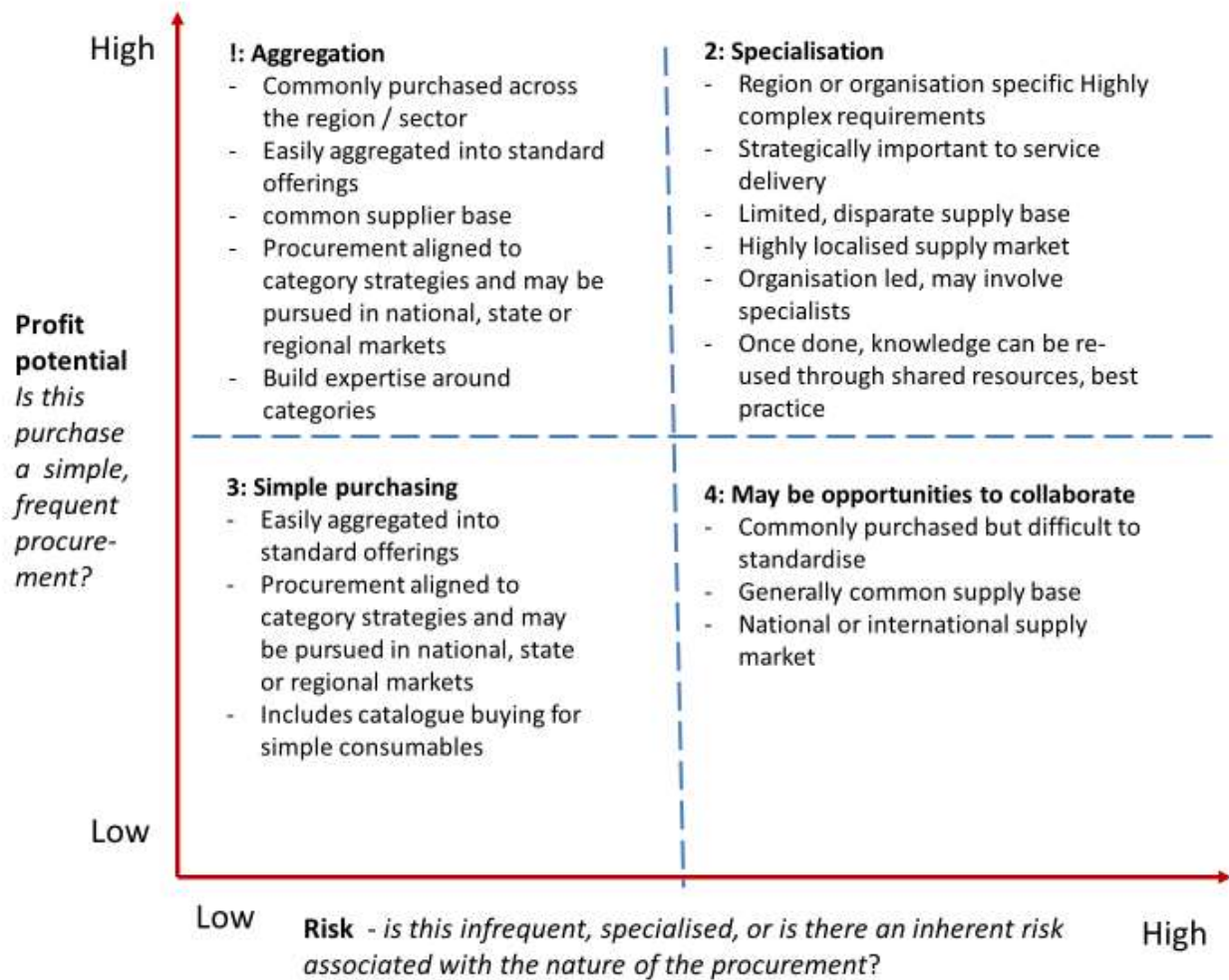
- aggregation opportunities for simple, common and low risk categories (e.g. stationery)
- the need for a specialised approach for complex or unique categories
- which categories of procurement could be managed at a regional level
- whether the approach could deliver wider sustainability objectives (Local, social, economic and environmental)
- who should develop the category strategy and run the procurement

Kraljic Matrix - a well-established framework to segment purchases based on the complexity of the supply market and the importance of the purchase is the Kraljic matrix¹. It is a tool used to determine the risk of supply and inform the procurement process. The matrix has two axes - Risk and Profit Potential. Risk considers the degree of difficulty associated with sourcing a product or service and the council's vulnerability to late supply or failure. Profit potential is used to indicate the potential contribution to profitability (or efficiency). The complexity of the supply market and the importance of the purchase is also considered.

¹ <https://www.cips.org/knowledge/procurement-topics-and-skills/supplier-relationship-management/kraljic-matrix/>

This is summarised in the diagram below:

Framework for collaboration



Reviewed literature

- Overview collaborative procurement - <https://www.publicspendforum.net/blogs/peter-smith/2017/03/20/collaborative-procurement-public-sector-benefits-negatives/>
- Northern Ireland Department of Finance - <https://www.finance-ni.gov.uk/articles/understanding-collaborative-procurement-strategy>
- National Audit Office - review of collaborative procurement across the public sector May 2010 https://www.nao.org.uk/wp-content/uploads/2010/05/A_review_of_collaborative_procurement_across_the_public_sector.pdf
- Collaborative Procurement - UK Construction Industry - https://constructingexcellence.org.uk/wp-content/uploads/2015/01/Collaborative_Procurement_Guide.pdf
- SV Collaborative Procurement Guidelines (*easily adapted for regional use*) <http://www.beancomms.com.au/wp-content/uploads/2016/05/Collaborative-Procurement-Guidelines-for-RWRRG-Nov-2015.pdf>
- CWB - <https://cles.org.uk/community-wealth-building/what-is-community-wealth-building/>
- UK Operational Efficiency Programme (April 2009) and the Roots Review (February 2009)
- ADB Guide on Assessing Procurement Risks and Determining Project Procurement classification <https://www.adb.org/sites/default/files/procurement-risks.pdf>
- <https://hbr.org/1983/09/purchasing-must-become-supply-management>

Attachment 1

Sections 108 & 109 Local Government Act 2020

s108 Procurement Policy

- (1) A Council must prepare and adopt a Procurement Policy which specifies the principles, processes and procedures applying in respect of the purchase of goods and services by the Council, including for the carrying out of works.*
- (2) A Procurement Policy must seek to promote open and fair competition and provide value for money.*
- (3) A Procurement Policy must include the following—*
 - (a) the contract value above which the Council must invite a tender or seek an expression of interest;*
 - (b) a description of the criteria to be used by the Council to evaluate whether a proposed contract provides value for money;*
 - (c) a description of how the Council will seek collaboration with other Councils and public bodies in the procurement of goods or services;*
 - (d) the conditions under which the Council may purchase goods or services without inviting a public tender or expression of interest;*
 - (e) a description of the process to be undertaken in inviting a public tender or expression of interest;*
 - (f) any other matters prescribed by the regulations.*
- (4) The contract value to be included in a Procurement Policy in accordance with subsection (3)(a) must not exceed the value prescribed by the regulations for the purposes of this section.*
- (5) A Council must review its Procurement Policy at least once during each 4 year term of the Council.*
- (6) A Council must adopt the first Procurement Policy under this section within 6 months of the commencement of this section.*
- (7) Until a Council adopts a Procurement Policy under this section—*
 - (a) the procurement policy approved by the Council under section 186A of the Local Government Act 1989 which is in effect before the commencement of this section applies as if the procurement policy had been adopted under this section; and*
 - (b) the restrictions on the power of a Council to enter into a contract under sections 186 and 186A of the Local Government Act 1989 as in force before the commencement of this section continue to apply as if those sections had not been repealed.*

s109 Procurement

- (1) A Council must comply with its Procurement Policy before entering into a contract for the purchase of goods or services or the carrying out of works.*
- (2) The Chief Executive Officer must ensure that any report to the Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other Councils or public bodies which may be available*