

COUNCIL POLICY



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1	PRINCIPLES	2
1.1	SCOPE.....	2
1.2	PURPOSE.....	2
1.3	TREATMENT OF GST.....	2
1.4	ROLE OF PROCUREMENT	2
2	EFFECTIVE LEGISLATIVE AND POLICY COMPLIANCE AND CONTROL	2
2.1	LEGISLATIVE COMPLIANCE	2
2.2	CONDUCT OF COUNCILLORS AND CITY STAFF	3
2.3	TENDER AND QUOTATION PROCESSES.....	3
2.4	FAIR AND HONEST DEALING	3
2.5	ACCOUNTABILITY AND TRANSPARENCY	3
2.6	DISCLOSURE OF INFORMATION	3
3	GOVERNANCE.....	3
3.1	STRUCTURE.....	3
3.2	METHODS	4
3.3	RESPONSIBLE FINANCIAL MANAGEMENT	4
3.4	PROBITY ADVISOR/AUDITOR.....	4
4.	PROCUREMENT THRESHOLDS AND COMPETITION	4
4.1	REQUIREMENT.....	4
4.2	TENDERS	4
4.3	QUOTATIONS	5
4.4	EVALUATION OF TENDERS AND QUOTATIONS	5
4.5	PURCHASING CARDS.....	5
4.7	AGENCY	5
4.8	EMERGENCIES	5
4.9	VARIATIONS.....	5
4.10	MINISTERIAL EXEMPTION	6
5	RISK MANAGEMENT	6
5.1	GENERAL.....	6
5.2	SUPPLY BY CONTRACT	6
5.3	OH&S AND OTHER MANDATORY REQUIREMENTS	6
5.4	DISABILITY CONSIDERATIONS.....	6
5.5	DISPUTE RESOLUTION	6
5.6	CONTRACT MANAGEMENT	7
6	SUSTAINABLE VALUE	7
6.1	RECYCLED CONTENT AND ENVIRONMENTAL CONSIDERATION.....	7
6.2	ECONOMIC AND SOCIAL SUSTAINABILITY CONSIDERATIONS	7
6.3	G21 (GROW).....	7
6.4	ABORIGINAL AND TORRES STRAIT ISLANDERS.....	8
6.5	CLEVER AND CREATIVE	8
	REFERENCES:.....	9

1 Principles

1.1 Scope

This Procurement Policy is made under Section 186A of the *Local Government Act 1989*.

This section of the Act requires the City to prepare, approve and comply with a procurement policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the City.

This policy applies to all contracting and procurement activities at the City and is binding upon Councillors, City officers and temporary employees, contractors and consultants while engaged by the City.

1.2 Purpose

The purpose of this Policy is to:

- provide policy and guidance to the City to allow consistency and control over procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing;
- increase the probability of obtaining the right outcome when purchasing goods and services; and
- minimise and manage risk in procurement.

1.3 Treatment of GST

All monetary values related to this policy **exclude GST** except, where specifically stated otherwise.

1.4 Role of Procurement

The role of procurement is to carry out activities relating to procurement in such a way that the goods, services and works are procured of the right quality, from the right source, at the right cost and be delivered on time and within budget, to achieve a value for money outcome for the City.

The Procurement team will lead and oversee the process for all of the City's tender processes, acting as the councils independent representative between the City and its potential suppliers

2 Effective Legislative and Policy Compliance and Control

2.1 Legislative Compliance

The Local Government Act requires the City to publicly tender contractual procurements over certain thresholds.

The key legislative requirements for this Policy include:

- section 186 of the Act (power to enter into contracts)
- section 186A of the Act (Procurement Policy)
- section 3C of the Act (Objectives of Council)
- section 208B of the Act (Best Value Principals)
- sections 77A, 77B, 78, 78A to 78E, 79, 79B to 79D, 80, 80A to 80C, 81, 95 and 95AA of the Act (Conflict of Interest)
- section 98 of the Act (Delegations)

- section 140 of the Act (Accounts and Records)
- The relevant provisions of the Competition and Consumer Act 2010 (Cth).

2.2 Conduct of Councillors and City Staff

Councillors and City Staff, in their carrying out of duties in relation to procurement, are to ensure they:

- Conduct themselves ethically and with integrity;
- Comply with the City's Gifts and Hospitality Policy;
- Declare and effectively manage real, perceived and potential conflicts of interest;
- Maintain confidentiality and security of information; and
- Comply with the relevant Codes of Conduct:
 - Councillor Code of Conduct;
 - Staff Code of Conduct.

2.3 Tender and Quotation Processes

All tender and quotation processes shall be conducted in accordance with the requirements of this policy, the Procurement and Contracts Manual and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

2.4 Fair and Honest Dealing

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote.

2.5 Accountability and Transparency

The City's instrument of delegation determines the seniority levels of staff authority, required for expenditure on each instance of procurement.

Measures which intentionally seek to avoid the requirement to give public notice, for example contract splitting, placing multiple orders, seeking multiple quotations with a single supplier or engaging in effect a single supplier under different guises, are considered to breach the requirement to call public tenders where threshold values would otherwise be reached.

2.6 Disclosure of Information

Information received by the City that is Commercial in Confidence must not be disclosed and is to be stored in a secure location.

Councillors and City staff are to protect, by refusing to release or discuss the following:

- information disclosed by organisations in tenders, quotations or during tender negotiations;
- all information that is Commercial in Confidence; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

3 Governance

3.1 Structure

The City shall:

- establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditable procurement decisions;
- ensure that the City's procurement structure:
 - is flexible enough to purchase in a timely manner the diverse range of goods, works and services required by the City;
 - ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
 - ensures that all participating prospective contractors and suppliers are treated fairly and equitably;
 - encourages competition; and
 - ensures that policies that impinge on the purchasing policies and practices are communicated and implemented.

3.2 Methods

The City's standard methods for purchasing goods, services and works shall be by:

- purchasing card;
- purchase order following a quotation process;
- under contract following a tender or quotation process; or
- under purchasing schemes including collaborative purchasing arrangements with other councils and commercial schemes such as provided by Procurement Australia, Municipal Association of Victoria Procurement, Supply Clusters of Australia, State Purchase Contracts, Whole of Victorian Government Contracts and the Construction Suppliers Register.

3.3 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities. Where the tender sum exceeds budget allocation, the City will review scope of project or submit a report for expenditure variation to budget.

City staff must not authorise the expenditure of funds in excess of their financial delegations.

3.4 Probity Advisor/Auditor

The City will appoint a probity advisor or probity auditor for all tender processes with an expected spend of over \$1m or any projects that are under \$1m deemed as having high risk for reputational, political, or time constraints.

Exemptions to this can be granted in circumstances where officers feel there is minimal risk to council. The authority for the exemption sits with the relevant Director, Manager and Manager Property and Procurement. All three must agree for the exemption to be granted.

4. Procurement Thresholds and Competition

4.1 Requirement

The City's procurement thresholds will be amended from time to time to alter minimum spend competition thresholds, but at all times clear guidelines will be provided. These will be decided based on the size and complexity of the proposed procurement activities.

4.2 Tenders

Purchase of all goods, services and works for which the estimated expenditure exceeds the compulsory tender thresholds pursuant to Section 186 of the Act, must

be undertaken by public tender unless approved exemptions are available. There is no specific time limit applicable to the length of a contract which is subject to the thresholds. The City will determine the optimum period for the contract, on the basis of value for money and the efficiency and effectiveness of the procurement and then assess the value of the contract.

4.3 Quotations

For purchases of goods, services and works having a total valuation of less than compulsory tender thresholds the City will maintain a formalised system of procurement guidelines.

4.4 Evaluation of Tenders and Quotations

All tenders and quotations are to be evaluated by an evaluation panel of no less than two persons, in a two staged process:

1. Quantitative assessment of a weighted score totalling 100%; and
2. Evaluation of price against weighted score
 - $VFM_i = \text{Tendered Price} \div \text{Weighted Score}$

4.5 Purchasing Cards

A select number of purchasing cards are available for the low cost and of high volume purchases of goods and services. They must be used in accordance with the City's Purchasing Card policy and are not to be used for personal use.

4.6 Petty Cash

A petty cash system operates to reimburse legitimate, urgent and operational business expenses incurred by City staff in the course of discharging their roles. The maximum claim for petty cash is \$50 and must be authorised by the requesting officer's supervisor.

4.7 Agency

Council may use the services of a third party agent to undertake a tender on its behalf.

4.8 Emergencies

The City may enter into a contract, the value of which reaches the threshold amounts, for the provision of goods, services or works without first putting that contract to public tender, if it is resolved by a manager or above that the contract must be entered into because of an emergency. An example of an emergency is floods, bushfires, natural disasters, risk to persons or property, etc.

4.9 Variations

Contract and Scope variations must be approved in accordance with the CEO to Staff Delegations – Power to Approve Contract Variations. Variations should not exceed the available budget, and where the budget is exceeded there may be a requirement to submit a report to Council.

Coordinators & Superintendent Representatives may approve variations to contracts up to the lesser of these two options; 10% of the original contract value or a maximum of \$30,000. Where the aggregate of all variations exceeds 10% or is greater than \$30,000 they must be referred to the Manager for authorisation.

Managers/Superintendents may approve variations to contracts up to the lesser of these two options; 20% of the original contract value or a maximum of \$100,000. Where the aggregate of all variations exceeds 10% or is greater than \$100,000 they must be referred to the General Manager for authorisation.

General Managers may approve variations to contracts up to the lesser of these two options; 30% of the original contract value or a maximum of \$200,000. Where the aggregate of all variations exceeds 30% or is greater than \$200,000 they must be referred to the CEO for authorisation.

In the case of large projects, General Managers could seek special CEO delegation to increase from the maximum variation limit of \$200,000. Once delegate approval has been obtained the Superintendent will issue the approval letter to the Contractor.

4.10 Ministerial Exemption

The Minister for Local Government may exercise his or her discretionary power to approve an arrangement for the purposes of the Act, a contract that the City wishes to enter into without first exposing that contract to public tender. Ministerial exemptions will only be sought in exceptional circumstances.

5 Risk Management

5.1 General

The City is to manage all aspects of its procurement processes in accordance with its adopted Risk Management Policy and in such a way that all risks, including Occupational Health and Safety, are identified, analysed, evaluated, treated, monitored and communicated to the standard required by the law, in accordance with Australian Standards.

Procurement risk is the potential for failures of a procurement process designed to purchase services, products or resources. Common types of procurement risk include fraud, cost, quality and delivery risks.

5.2 Supply by Contract

The provision of goods, services and works by contract potentially exposes the City to risk. The City will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- ensuring the contract or purchase order reflects the tender pricing;
- requiring security deposits where appropriate;
- referring specifications to relevant experts;
- requiring a correctly executed contractual agreement before commencement;
- use of or reference to relevant Australian Standards (or equivalent); and
- effectively managing the contract including monitoring and enforcing performance.

5.3 OH&S and Other Mandatory Requirements

The City requires all contractors, service providers and volunteers to comply with all OH&S legislative requirements. These are mandatory requirements and non-compliance will disqualify prospective suppliers. Suppliers must provide evidence of certification or policy when providing goods, services or works.

5.4 Disability Considerations

The legislative requirements of the Disability Act 2006 and Regulations 2007 and the City's Disability Action Plan, are to be considered by City staff to ensure that procurement processes and decisions do not directly and indirectly discriminate against people with a disability.

5.5 Dispute Resolution

All City contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the potential for legal action.

5.6 Contract Management

The purpose of contract management is to ensure that the City, and where applicable its customers, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract.

6 Sustainable Value

6.1 Recycled Content and Environmental Consideration

To support sustainable procurement, incorporating the environment, social and economic considerations, the use of recycled materials in relation to goods or materials purchased, including construction material for the City's works programs, must be included as a weighted criteria in all tenders and quotations and weighted at 5% of the total weighted score.

The procurement considerations in determining the environment are to include:

- reducing greenhouse gas emissions;
- use of recycled materials;
- recycling of used materials;
- reducing waste to landfill;
- reducing water consumption;
- encouraging improved environmental management;
- select products/services that have minimal impact on natural resources and biodiversity; and
- improving our ability to adapt to climate change.

6.2 Economic and Social Sustainability Considerations

The City is committed to buying from local businesses where such purchases may be justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

Where practicable, the City will fully examine the benefits available through purchasing goods, services or works from suppliers/contractors within the Geelong Region, by applying a weighted score component of 10% for local content of total weighted score in tenders and quotations.

The City is committed to procurement that supports local businesses and economic diversity and viability by:

- generating local employment;
- taking into account the life cycle of products purchased;
- building relationships and encouraging purchasing by contractors from local suppliers; and
- fostering innovation and emerging sectors.

6.3 G21 (GROW)

A part of social procurement is to include opportunities of employment for residents in the low socioeconomic regions of Geelong in the delivery of goods or services.

The City will identify opportunities to work with social enterprises and other not-for-profit businesses in the G21 Region which deliver social outcomes as part of doing business, either directly or as part of our supply chain.

The City's expectation is that opportunities will be included as a weighted criteria in all tenders and quotations and weighted at 5% of the total weighted score.

6.4 Aboriginal and Torres Strait Islanders

The City will also identify opportunities to work with Aboriginal and Torres Strait Islanders businesses or enterprises engaged as a contractor or sub-contractor, and an individual's employment as a result of the provision of goods, services or works to the City of Greater Geelong.

City's expectation is that opportunities will be included as a weighted criteria in all tenders and quotations and weighted at 5% of the total weighted score.

6.5 Clever and Creative

The City of Greater Geelong is working toward being recognised regionally, nationally and internationally, as a clever and creative city-region. Delivering a clever and creative future will influence the City's connections and design, its prosperity and creativity, and increase its resilience through sustainable solutions.

All tenders and quotations are to have a weighting of 5% of the total weighted score for Clever and Creative and scored relative to the innovation of the solution offered in responses.

REFERENCES:

- Procurement and Contracts Manual
- Councilors - Code of Conduct Policy
- Confidential Information Procedure
- Fraud Control Policy
- Gifts & Hospitality Policy
- Goods & Services Tax Policy
- Occupational Health & Safety Policy
- City Safe – Heat and UV Radiation Procedure
- Risk Management Policy
- Staff Code of Conduct Policy
- Council Purchasing Card Policy
- Environment Management Strategy
- Sustainable Water Use Plan
- Local Government Act 1989
- Competition and Consumer Act 2010
- Human Rights and Responsibilities Act 2006
- Disability Act 2006 & Regulations 2007
- G21 Region Opportunities for Work Strategic Plan

ⁱ VFM = Value for Money, where the lowest VFM will represent the lowest price resulting from the formulae, and would determine Preferred Tenderer based on this principle.