



Moreland
City Council

Policy ID no: **DCS12-CL**

Procurement Policy

Date Authorised by Council:	12 June 2020
Commencement Date:	13 June 2020
Review Date:	13 June 2021
Responsible Department	Finance and Property

This Policy has been authorised.

Cathy Henderson
Chief Executive Officer

1 Introduction

This Procurement Policy is made under Section 186a of the *Local Government Act 1989* (The Act). The Act is the key legislative framework that regulates the process of all Local Government Procurement in Victoria. Section 186a of the Act requires that Council prepare, approve and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by Council.

The Local Government Act 2020 includes overarching governance principles that Council must in the performance of its role, give effect to. Please refer to section 2.3.2 of the Policy regarding the introduction of *The Local Government Act 2020*.

This Policy applies to all procurement and contracting activities (including agency and labour-hire staff) at Moreland City Council and applies to Councillors, Council officers, temporary employees, contractors, volunteers and consultants while engaged by the Moreland City Council. All values referred to in this Policy are inclusive of GST.

2 Context

The scope of this Policy commences from when Council has identified a need for procurement and continues through to the delivery/completion of that procurement.

This Policy does not apply to the recruitment and employment for Council employees, which are governed by Moreland City Council Enterprise Agreement, Council's Human Resources policies and procedures.

2.1 Procurement Principles

The following principles apply to Council procurement activities and are in alignment with the overarching governance principles contained in the Local Government Act 2020:

- Value for money – priority is to be given to achieving the best outcomes for the municipal community, including future generations and the ongoing financial viability of the Council is to be ensured;
- Collaboration with other Councils – collaboration with other Councils and Governments and statutory bodies is to be sought;
- Social and Sustainability Procurement – the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- Open and fair competition;
- Accountability – Council decisions are to be made and actions taken in accordance with the relevant law;
- Risk Management; and
- Probity and transparency – the transparency of Council decisions, actions and information is to be ensured.

2.2 Policy Objectives

The objectives of the procurement policy are to:

- Achieve the best outcome for the Moreland community (Governance Principle of the *Local Government Act 2020*)
- Deliver value for money through quality and cost standards that provide good value to the community (Service Performance Principle of the *Local Government Act 2020*).

- Ensure that all procurement activities support Council’s financial policies and strategic plans (Financial management principles of the *Local Government Act 2020*);
- Provide a mechanism for innovation and continuous improvement in the provision of services for the community (Service Performance and Governance Principles in the *Local Government Act 2020*);
- Ensure the ongoing financial viability of Council through the efficient and effective use of resources (Governance Principle of the *Local Government Act 2020*);
- Collaborate with other Councils to take advantage of economies of scale (Governance Principle of the *Local Government Act 2020*);
- Achieve compliance with relevant legislative requirements and alignment to the principles of the *Local Government Act 2020*;
- Ensure Council maintains high standards of probity and transparency through its procurement to be fully transparent and accountable to our community (Governance and Public Transparency Principles in the *Local Government Act 2020*)
- Monitor and manage financial risks prudently having regard to economic circumstances (Financial Management principle of the *Local Government Act 2020*);
- Facilitate preferential treatment to procurements which provide economic, social or environmentally sustainable benefits and mitigate climate change risk (Governance principle of the *Local Government Act 2020*); and

2.3 Alignment

2.3.1 The Local Government Act 1989 (The Act)

The Act requires Council to publicly tender procurements over \$150,000 incl. GST for goods and services and \$200,000 incl. GST for works. Section 186A of the Act requires Councils 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 Council.

2.3.2 The Local Government Act 2020

The introduction of the new [principles based](#) Local Government Act 2020 requires a transition from the more prescriptive 1989 Act. The *Local Government Act 2020* requires Council to focus on community accountability and embed the principles across Council. Council’s procurement will be guided by the overarching [governance principles](#) and supporting [principles](#) which include community engagement, strategic planning, financial management, service performance and public transparency.

Whilst the provisions of the new Local Government Act 2020 relating to Council’s Procurement Policy have not yet come into effect, this policy seeks to incorporate alignment to these principles. The Procurement Policy will be established under the Local Government Act 2020 by 31 December 2021.

3 Policy Implementation

3.1 Ethics and Probity

3.1.1 General

Council’s procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny by internal and authorised external entities or members of the community.

All tendering processes shall be conducted in accordance with the requirements of this Policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

Where guidance is required, the Unit Manager Procurement should be consulted. Breaches that appear to involve fraud are to be referred in accordance with the Fraud and Corruption Prevention Policy immediately.

3.1.2 Council's Protected Disclosure Obligations

Council is committed to fostering an ethical, transparent culture. In pursuit of this, Council values the disclosure of information about suspected wrongdoing within the organisation so that it can be properly assessed and, if necessary, appropriately investigated. Council will provide support to any employee, Councillor or other person who makes a disclosure about matters in the public interest.

The Public Interest Disclosure Policy, along with the associated Guidelines and Procedure approved by the CEO, sets out how Council will meet its obligations under the Public Interest Disclosure Act 2012 in responding to Public Interest Disclosures made about Council or Public Officers. The Guidelines and Procedure underpin Council's commitment and ensure practical and effective guidance is available. This Policy and Council's Public Interest Disclosure Guidelines are available for public viewing at www.moreland.vic.gov.au.

A Public Interest Disclosure can be made to:

- Public Interest Disclosure Coordinator, Manager Corporate Governance on 9240 2387 during and out of office hours.
- Public Interest Disclosure Officers
 - Manager Human Resource Operations.
 - Unit Manager Governance.
 - Manager Roads, Fleet & Waste
 - Unit Manager Integrity, Risk and Resilience
- CEO
- Direct / indirect manager or supervisor of discloser

Investigating Entities

- the Independent Broad-based Anti-corruption Commission (IBAC) - Telephone: 1300 735 135. Postal address: GPO Box 24234, Melbourne VIC 3001. Website: www.ibac.vic.gov.au

Full contact details are contained in Council's Public Interest Disclosure Guidelines, are available on Council's intranet and Council's website.

3.1.3 Conduct of Councillors and Council staff

Councillors and Council staff shall always conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will:

- Treat potential and existing suppliers with equality and fairness;
- Not seek or receive personal gain;
- Maintain confidentiality of commercial in confidence information such as contract pricing and other sensitive information;
- Present the highest standards of professionalism and probity;
- Deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- Provide all suppliers and tenderers with the same information and equal opportunity; and
- Be able to account for all decisions and provide feedback on them.

Any employee managing or spending Council funds (whether by purchase order, corporate credit card, petty cash or any other method) is to ensure this Policy and Council's procurement procedures are adhered to.

3.1.4 Conflict of interest

Councillors and Council staff shall always avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff shall not participate in any action or matter associated with the arrangement of a contract (i.e. evaluation, negotiation, recommendation, or approval), where that person or any member of their immediate family has an interest, or holds a position of influence or power, in a business undertaking tendering for the work.

The onus is on Councillors and Council staff to promptly declare any actual, potential or perceived conflict of interest to Council.

Council staff responsible for engaging consultants to act as experts are required to request the disclosure of relationships or situations where there may be an actual or perceived conflict of interest, both direct or indirect which could undermine their use in the present or future capacities. Any conflicts that are identified or disclosed must then be either carefully managed or avoided, with guidance from Procurement and Governance.

3.1.5 Fair and honest dealing

Impartiality must be maintained throughout the procurement process, so it can withstand public scrutiny. Tools such as the 'declaration of conflicts of interest' and processes such as ensuring the assessment weightings are finalised before advertising tenders or seeking quotations are designed to ensure impartiality and fairness.

3.1.6 Gifts and hospitality

No Councillor or member of Council staff shall either directly or indirectly solicit or accept gifts or presents from any member of the public involved with any matter that is connected with the duties of the officer, or in which Council is interested. Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the Chief Executive Officer.

Potential conflicts of interest related to the hospitality offered by vendors involved in current or future tendering activity can be checked by referring to Council's Supplier Portal to view known upcoming tenders. Any doubt can be confirmed with the Procurement Unit or the contract manager of the service potentially provided by the supplier.

Staff should refer to the Gifts and Hospitality Policy for detailed guidance.

3.1.7 Confidentiality (Disclosure of information)

Commercial in-confidence information received by Council must not be disclosed and is to be stored in a secure location.

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

- Information disclosed by organisations in tenders, quotation or during tender negotiations;
- All information that is commercial in confidence information; and
- Pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

Discussion with potential suppliers during tender evaluations should not go beyond the extent necessary to resolve doubt on what is being offered by that supplier. When negotiations take place for a best and final offer, there should be no disclosure or indication of the other respondents' pricing or format of submission.

3.2 Governance

3.2.1 Structure

To demonstrate good governance and compliance with transparency, the Procurement Team will be guided by the Procurement Policy and Local Government Procurement Best Practice Guidelines in their delivery of leadership and procurement services across Council.

Council has established a procurement responsibility structure and delegations ensuring accountability, traceability and auditability of procurement decisions of all goods, services and works purchased by Council and aims to ensure that Council's procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required whilst encouraging competition.

3.2.2 Policy and Legislation

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

- The Act,
- The Council's policies,
- The Council's Code of Conduct,
- Local Government Procurement Best Practice Guidelines,
- Other relevant legislative requirements such as but not limited to the Trade Practices Act, Goods Act and the Environmental Protection Act.

3.2.3 Methods

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

- Purchase order following a quotation process from suppliers for goods or services that represent the best value for money;
- Under contract following a tender process;
- Using collaborative purchasing arrangements with other councils, Municipal Association of Victoria (MAV) Procurement, Procurement Australia (PA), approved Whole of Government contracts, Victorian Government, or other bodies; and
- Corporate credit card.

3.2.4 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities.

Accordingly, to give effect to this principle, the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any procurement action for the supply of goods, services or works.

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

Equally Council staff must not request or authorise multiple payments within their delegation for the same supplier, within such proximity that could be interpreted as an intention to bypass the proper authorisation requirements.

Council staff must not disclose allocated tender budgets to suppliers unless it is assessed or known that the budget is insufficient, and disclosure will allow tenderers to offer the best outcome for the available funds.

Council funds must be used efficiently and effectively to procure goods, services and works and every attempt must be made to contain the costs of the procurement process without compromising any of the procurement principles set out in this Policy.

3.3 Social and Sustainable Procurement

Council will standardise procurement activities directly impacting Council's supply chain, optimising Council's ability to identify and deliver positive social and sustainability outcomes through procurement.

Council's supply chain has a material impact on the organisation's sustainability performance, therefore Council has a strong focus on social and sustainable procurement.

To deliver on Council's commitment to the environment and local community, Council uses procurement as an opportunity to generate social, environmental and economic benefits. This demonstrates corporate social responsibility by taking positive action to demonstrate Council's commitment to the environment and local community including the Victoria Social Procurement Framework.

Social and Sustainable procurement can be grouped into two broad approaches:

- Direct – Purchasing of goods, services or construction works (by Council or through the supply chain) from:
 - a. Victorian social enterprises;
 - b. Victorian Aboriginal businesses; or
 - c. other social benefit suppliers, including Australian Disability Enterprises.
- Indirect – Council using the tendering process and clauses in contracts with the private sector to seek social and sustainable outcomes.

Social, environmental and economic sustainability criteria are to be considered at the planning stage of procurement and included in Council's tender documentation to achieve Council's Social and Sustainable outcomes. Environmental and social outcomes sought to be achieved through the tender may be imbedded in any tender criteria.

These sustainability measures are to be evaluated independently of one another and are not to be bundled into a single sustainability measure.

When engaging in procurement, Council will consider the following:

3.3.1 Social Sustainability

Social sustainability focuses on the social aspects of sustainability and social equity. Social equity addresses disadvantage and is underpinned by principles of diversity, acceptance, fairness, compassion, inclusiveness and access for people of all abilities. A focus is also placed on people who are under-represented and with less opportunity. Socially sustainable procurement generates positive outcomes for and contributes to building stronger communities by:

- Promoting the inherent 'social value' of doing business;
- Creating new jobs and opportunities for people who may be struggling to find work such as employment that is gender-equitable and inclusive of people with disability;
- Women's equality and safety practices such as the contractor having in place family violence and leave policies, flexible work options, gender-equitable employment, equal remuneration and promoting a workplace culture that is equitable, respectful and supportive.
- Targeting cohorts that may be experiencing economic exclusion;
- Reinvigorating depressed or marginalised communities;
- Improving equity of access to opportunities;
- Seeking value in-kind offerings that support community programs or events that provide social outcomes;
- Ensuring all businesses have the same opportunity to bid for Council business;

- Enhancing partnerships with other Councils, providers and community stakeholders;
- Exploring, where appropriate and possible, the opportunity to maximise the social benefits of a contract by offering 'social tender';
- Ensuring that suppliers do not exploit workers and provide fair wages, including inclusive and sustainable business practices; and
- Excluding from future contracts, tenders or business dealings from any companies involved in Australia's offshore and onshore immigration processing system that fail to meet the No Business in Abuse (NBIA) pledge requirements.

Depending on the nature of the procurement, Council shall explore opportunities in engaging Social Sustainability and Social Enterprise arrangements for the procurement of goods, services and works.

3.3.2 Environmental Sustainability

To support the achievement of objectives and targets within Council's environmental strategies, in particular Zero Carbon Moreland, Integrated Water Strategy, Waste and Litter Strategy and Plastic Wise Policy, Council will minimise its impact on the environment by purchasing goods, services and construction which avoid air, water and soil pollution and minimise natural resource and biodiversity depletion. Council will equally consider the environmental performance of all suppliers and contractors and encourage them to conduct their operations in an environmentally sensitive manner.

Depending on the nature of the procurement, specifications for tenders and contracts will contain sustainability content as appropriate to the product or service being procured. Environmentally sustainable procurement includes but is not limited to:

- Energy/climate change: maximising energy efficiency and reducing greenhouse gas emissions, including the negative impacts of transportation when purchasing goods and services;
- Waste and recycling:
 - a. Avoiding unnecessary consumption, reducing waste to landfill and increasing amount of waste recycled;
 - b. Prefacing the procurement of services to meet Council's needs rather than acquiring new physical assets, as appropriate;
 - c. Selecting products/services that have minimal effect on the depletion of natural resources and biodiversity (i.e. recycled content within products, no harmful toxins, avoidance of single-use plastics etc);
 - d. Using only 100% recycled paper and encouraging less reliance on paper in processes where applicable.
- Water and waterways: reducing potable water consumption, minimising stormwater pollution and improving water management.

3.3.3 Economic Sustainability

Dependent on the nature of the procurement, Council supports local businesses and economic diversity and viability by:

- Building and maintaining a strong community by exploring ways to generate local employment (particularly among disadvantaged residents and social enterprises) and further strengthening the local economy, Victorian businesses and workers;
- Weightings supporting opportunities for the local industry and suppliers may be applied where deemed appropriate by Council. The application of local content shall have regard to the Best Value Principles of the Local Government Act 1989, Victorian Local Government Best Practice Procurement Guidelines 2013 and National Competition Policy

(Competition and Consumer Act 2010). The degree of available competition will vary and may be dependent upon such things as the type of project, service or goods and the number of potential suppliers;

- Increasing activity and spend in the local economy with identifiable benefits;
- Achieving value-for-money outcomes across the community through the use of effective procurement practices
- Fostering innovation and emerging sectors;
- Building supplier capability by conducting local supplier forums and tender briefing sessions on future opportunities and tendering information;
- Networking and presence building within the municipality;
- In accordance with section 186(3) of the Act, Council gives preference to goods, equipment, material or machinery manufactured in Australia and New Zealand whenever practicable.

3.4 Delegations of Authority

3.4.1 Requirement

Delegation of procurement authority allows specified Council staff to approve certain purchases, quotations and award contracts without referral to Council.

This enables Council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

3.4.2 Delegations

Council delegates powers, duties and functions to the Chief Executive Officer including the power to award contracts to the value specified in the *Instrument of Delegation to the Chief Executive Officer*.

Council's *instrument of sub-delegation from the Chief Executive Officer to Council Staff* is available via Council's website and determines the Chief Executive Officer's delegation of authorisations to staff relating to procurement matters, based on a Council officer's position and associated responsibilities. These authorisations are facilitated by Council's Governance Branch and are reviewed annually.

Whilst this Policy must be adhered to by all employees engaged in procurement activities, only delegated officers are authorised to approve expenditure relating to contracts, quotations or Corporate Credit Cards.

Notes: The Chief Financial Officer has unlimited delegation in the Enterprise Resource Planning (ERP) system to enable the processing of transactions that have been approved by Council and is for administrative purposes only.

*When exercising the delegation for purchase without order by the Chief Executive Officer of sums between \$50,000 and \$100,000, these transactions are to be reported to the next Council meeting following the purchase.

3.4.3 Delegations reserved for Council

Commitments and processes which must be approved by Council are:

- Recommendations to award a contract which exceeds the delegation of the Chief Executive Officer;
- Variations and contract term extensions resulting in the contract value exceeding the Chief Executive Officers delegation.

3.4.4 Internal Controls

Council maintains a framework of internal controls over procurement processes that will ensure:

- Segregation of duties where more than one person is involved in and responsible for a transaction end to end;
- Transparency in the procurement process;
- A clearly documented audit trail exists for procurement activities;
- Appropriate authorisations are obtained and documented;
- Systems are in place for appropriate monitoring and performance measurement; and
- The Procurement Unit provides a monthly report to the Executive Manager Finance and Council regarding the exercised delegations by the Chief Executive Officer, Directors and Managers.

3.4.4.1 Breach of the Tender Threshold

Measures which intentionally seek to avoid the requirement for public tendering, 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.

Consequences –The Act

If Council does not undertake a competitive process when required by the Act, then it has no power to contract, unless one of the exemptions applies (see section *Exemptions to requirement for public tendering*). This may have significant financial and reputational consequences for Council.

A council must make available for public inspection a list of contracts with a value equal to, or greater than, the threshold that were entered into during the financial year without first engaging in a competitive process and which were not exempt from the requirement to enter such a process.

This requirement is a disclosure by Council of all contracts that had been entered into in breach of section 186 of the Act during the financial year. A contract should appear on this list in the financial year in which it is entered into in breach of the Act. Further, Council is required to disclose this in its annual report and publish on its website.

Consequences – Internal

Where the tender threshold limit with a supplier or for a service has been breached, or the requirement to obtain quotations has not been complied with, the Executive Manager Finance, relevant Manager and Director will be notified, and corrective action taken immediately in accordance with the employee Code of Conduct.

3.4.4.2 Role of Specifications

Specifications used in quotations, tenders and contracts are to support and contribute Council's value for money objectives by:

- Ensuring impartiality and objectivity;
- Defining Council's requirements and performance expectations;
- Encouraging the use of standard products;
- Encouraging Social and Sustainable procurement; and
- Eliminating unnecessary and/or stringent requirements.

3.4.4.3 Contract management

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

- Establishing a system for monitoring and achieving 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; and
- Adhering to Council's Risk Management Framework and adhering to relevant occupational health and safety contractor compliance procedures.

All Council contracts are to include contract management requirements. Furthermore, contracts are to be proactively managed by the member of Council responsible for the delivery of the contracted goods, services or works to ensure Council receives value for money.

3.4.4.4 Staff Reimbursements

Staff reimbursements are reserved for conditions that are set out in employment contracts, and subject to Human Resources Senior Officers/Senior Executive Officer and other reimbursement guidelines.

Any use of this method of procurement is to be in exceptional circumstances and for incidental purchases only and must be in accordance with the 'Travel, Accommodation and Personal Expenses Policy', 'Gifts and Hospitality Policy' and the 'Corporate Credit Card Policy'.

Staff reimbursement claims will be returned to staff unpaid:

- If the supplier/or a suitable alternative supplier is on the ERP system and a purchase order could have been raised;
- If the goods/services purchased did not have prior approval;
- If the request is not accompanied by proof of purchase in the form of a tax receipt or tax invoice.

3.4.4.5 Credit Cards

Corporate credit cards are to be used in accordance with Council's *Corporate Credit Card Policy* and Credit Card User Manual. A limited number of credit cards will be issued across Council.

In accordance with the Corporate Credit Card Policy and to ensure compliance with this Policy, officers are not permitted to use private credit cards.

Select credit cards are designated for emergency use only. These will be released for use when the Chief Executive Officer declares an emergency. All transactions must be properly recorded, reconciled and acquitted by the cardholder. Cards are not to be used by staff other than the cardholder.

3.4.4.6 Achieving Value for Money

Council's procurement activity will be carried out based on obtaining value for money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. The lowest price is not the sole determinant of value for money.

In assessing value for money, consideration is given to:

- the whole of life monetary cost, including:
 - a. Procurement price
 - b. Operating and maintenance costs

- c. Cost of environmentally responsible disposal or recycling/re-use/re-sale of the product.
- Non-monetary impacts (both negative and positive) over the life of the product or service, including:
 - d. Environmental impacts;
 - e. Economic Sustainability;
 - f. Social impacts; and
 - g. Impacts on other Council priorities.

3.4.4.7 Performance Measures and Continuous Improvement

Appropriate performance measures are to be established and reporting systems will be used to monitor performance and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be agreed within Council and performance against these targets will be measured and reviewed regularly to support continuous improvement.

The performance measurements developed will be used to:

- highlight trend and exceptions where necessary to enhance performance;
- improve the internal efficiency of the procurement process and where relevant the performance of suppliers;
- facilitate programs to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories;
- reporting regime as identified within the Procurement Strategy and the Contract Management Framework.

3.5 Procurement Processes and Thresholds

3.5.1 Minimum Spend Competition Thresholds

Any Council procurement under the threshold \$150,000 including GST for goods and services or \$200,000 including GST for works, must comply with the decision process outlined at 3.5.2. Such expenditure value should be based on the anticipated aggregated expenditure value over the period of engagement. Before entering into financial or commercial transactions, officers are required to test the market having regard to the available funds, risk, market dynamics and Social and Sustainable procurement. Council objectives to ensure that Council is deriving best value from the transaction.

A formal risk appraisal, at a minimum using the risk tool, must be conducted for all purchases over \$30,000 and over \$2,000 where risks are evident.

The processes at 3.5.2 apply unless the procurement is being made under an existing Council contract, approved State Government contract, Procurement Australia, Municipal Association of Victoria contract and collaborative Council processes.

3.5.2 Decision Process - Risk and Expenditure Thresholds

For procurement less than \$150,000 for goods and services and \$200,000 for works, Council staff are required to seek quotations (inclusive of GST) in accordance with the table below:

Thresholds for procurement activities up to the total value of: \$150,000 including GST for goods and services (G&S) and \$200,000 including GST for works/construction (Works)			
Requirement (unless covered by an existing approved panel contract)	Low Risk	Medium Risk	High Risk
One verbal quote	< \$1,000	<\$1,000	N/A
Minimum one written quote	\$1,001 < \$10,000	\$1,001 < \$10,000	\$0 < \$2,000
Minimum two written quotes	\$10,001 < \$30,000	\$10,001 < \$30,000	\$2001 < \$5,000
Minimum three written quotes	\$30,001 - < \$150,000 G&S < \$200,000 Works	\$30,001 - < \$150,000 G&S < \$200,000 Works	\$5,001 - < \$150,000 G&S < \$200,000 Works
Request for Tender (RFT)	> \$150,000 G&S > \$200,000 Works	> \$150,000 G&S > \$200,000 Works	> \$150,000 G&S > \$200,000 Works

Note: Where it has been identified that there will be a large response to a public tender an expression of interest (EOI) may be used to shortlist potential tenderers.

Officers are to seek the minimum number of quotes as detailed in the table above. If officers obtain less than the minimum number of quotes, documentation of the process is to be saved in Council's Records Management System. For additional advice or clarification, contact Procurement.

Where an agreement may lead to non-routine charges (e.g. security alarm responses), the value of the contract is to be based on all known costs plus an amount representing a reasonable calculation of the likely charges based on market or technical expectations.

Council officers are not to enter into a supply arrangement without knowing the value of the procurement. Where doubt legitimately exists about the likely obligation, a professional estimation is to be made. It is not acceptable to knowingly or otherwise misrepresent the nature or value of a purchase or contract. Where doubt exists, the advice is to be sought from the Procurement Unit.

3.5.3 Contract Terms and Conditions

All contractual relationships must be executed and documented in writing based on standard terms and conditions. Where this is not possible, approval must be obtained from the appropriate member of Council staff listed in Council's delegations.

To protect the best interests of Council, terms and conditions must be settled and signed by both parties in advance of any commitment being made with a supplier. Any exceptions to doing this expose Council to risks and thus must be authorised by the appropriate member of Council staff listed in Council's delegations.

3.5.4 Dispute Resolution

Contracts should include dispute resolution processes and where possible include a third party for arbitration if internal escalation fails to resolve the dispute. Reliance upon the courts to resolve disputes is generally inefficient and likely to deliver unsatisfactory outcomes for all parties.

3.5.5 Terms of Trade

Council will pay creditors on the following terms:

- Less than 30 days after the goods have been delivered and the invoice has been correctly rendered to the Accounts Payable area. The invoice received from the supplier must show the appropriate Council purchase order number or it will be returned to the supplier;
- In accordance with the contract terms, where a contract exists.

Any payment terms other than 30 days must be requested by the supplier, in writing and approved by Council's accounts payable team prior to a purchase ordered being raised. Where a supplier offers a discount for prompt payment, the request for early payment must be discussed with the Finance Branch which will calculate the effect (cash flow and opportunity costs) and inform the requesting officer to accept or reject the offer.

3.5.6 Contract Variations

Where a contract variation occurs, the delegation is not defined by the value of the variation, but by the value of the whole contract.

An officer with a sub-delegation from the Chief Executive Officer or Council may vary a contract to the limit in the delegation, e.g. Director. Other officers cannot delegate variation discretion to another officer regardless of the limit of their delegation.

Where a variation is related to a project and is significant or material in price, process, risk or delivery, it must be referred to the Project Executive to consider whether the variation is significant enough to warrant re-tendering.

If the value of the whole contract (the original contract plus variation/s) is exceeding the CEO delegation, the variation is to be approved by Council.

3.5.7 Panel Contracts

Panel contracts are often established to provide a known service at a known cost where either leverage or efficiency can be gained using this method. Where a panel arrangement exists, it should be used for the circumstances it was designed.

3.5.8 Engagement of the Panel

When staff utilise a supplier from a Panel contract, there remains an expectation that staff will ensure value for money by seeking a competitive outcome through a minimum of three quotations when expected to exceed \$30,000 up to the limited value.

3.5.9 Transacting with the Panel Contractor

Reasons for not using existing panel contracts may include the inability for the contractor to meet Council's timeframes, inability to provide the required product, service or works required or inability to meet quality requirements at that time. On occasions, where the panel contract does not provide the required outcome, the Contract Manager is to assess the evidence and any procurement options outside of the existing panel arrangements. Please note, other factors would need to be assessed other than the price.

Staged projects shall be treated as one project.

3.5.10 State Government Registers (e.g. Construction Supplier Register) and Ministerial Approved Arrangements

For building and construction works, where there are suitable building, and construction industry contractors or consultants on the Construction Supplier Register maintained by the Department of Treasury and Finance for and on behalf of the State Government, staff are required to seek a minimum of three quotes (if the expenditure is expected to exceed \$30,000) from suppliers on the register in accordance with ministerial approval arrangements and applicable Procurement guidelines. Standard quotes processes then apply as outlined in the Procurement guidelines.

Other State Government registers and panels accessible to Local Government under ministerial approval will be considered as made available, subject to the approval of the Unit Manager Procurement.

3.5.11 Collaborative Procurement

Councils can form Regional Procurement Excellence Networks (RPEN) or utilise Procurement Australia and MAV Procurement for the procurement of goods, services or works undertaking a single competitive process. Each of the members of this group can enter into a contract with the preferred service provider identified through this competitive process. Alternatively, the members of the group may choose to enter into a contract with the council which conducted the public tender.

Each participating council must be involved in:

- the initial decision to undertake the procurement
- preparation of, and agreement to, the specifications and evaluation weightings
- ensuring probity for the procurement
- deciding which tenders to accept or reject

The collaborative Council approach to procurement brings together expertise from across Councils to identify the most appropriate and effective approach to deliver the Council's outcomes through sourcing and supply arrangements.

If a collaborative procurement policy that applies to the Moreland City Council is adopted, that Policy shall take precedence whenever collaborative procurement activity is undertaken within the region.

3.5.12 Internal Exemption from seeking a certain number of quotes

Internal Exemption

There are circumstances whereby staff can confine seeking three quotes to a particular supplier (seeking three quotes process).

This is a rare occurrence and should be undertaken with great care. Approval to restrict quote process must be obtained from the Unit Manager Procurement and Executive Manager Finance (CFO).

Confining the quote process will only be considered where purchases are less than \$150,000 for goods and services or \$200,000 for works including GST.

The confining procurement exemptions and value above is not applicable when engaging from an approved panel contract (see section 3.5.11) and is to be approved by the Unit Manager Procurement and Executive Manager Finance (CFO) before engagement. An example of an approved panel contract is State Purchase Contracts (SPCs), Procurement Australia and Municipal Association of Victoria contracts.

The following circumstances must apply:

- Where there is only one supplier that can provide the specialist goods/services being sought; or
- Where it is positively in Council's best interest.

Suitable evidence will be required to demonstrate that the circumstances apply. Staff are to seek advice from the Procurement team before engaging with any suppliers and follow the Procurement Guidelines.

3.5.13 Exemptions under the Procurement Policy

The following areas are exempt from the terms of this Policy:

- Payments with statutory/legislative requirements, such as payments to the ATO and other Local Government Councils;
- Superannuation;
- WorkCover;
- Legal costs (exempt from tendering requirements due to the provision of the Local Government (General) Regulations 2015);
- Payments to the Victorian Electoral Commission (VEC) as the VEC is now mandated to conduct all council elections (see clause 1 of Schedule of the Local Government Act 1989);
- Payroll deductions;
- Investments/term deposits;
- Sundry refunds (such as pension rate rebates, deceased animal refunds, crossing deposit refunds);
- Payments under the Building and Construction Industry Security of Payments Act 2002;
- Fire Services Levies;
- Mayoral and Councillor allowances and expenses;
- Property purchases;
- Warranty renewals;
- Leases and licences;
- Where the Council has resolved that the contract must be entered into because of an Emergency (see section 3.7 Critical or Emergency Incident);

3.5.14 Evaluation

The Tender Evaluation Panel (TEP) must comprise of at least two officers for quotes and three officers for public tenders.

The complexity, value and nature of the purchase should also be considered when selecting the TEP, as Director or Manager involvement may be needed to achieve strategic consideration or executive support for the recommendation.

The following table summarises the number of evaluation team members required:

Evaluation process	Evaluation team members (TEP)
RFQ < \$150,000 G&S < \$200,000 Works	2 officers, example: 1 officer and 1 Coordinator from the same business unit
RFT > \$150,000 G&S > \$200,000 Works	3 evaluation team members, example: <ul style="list-style-type: none"> • 2 officers from the same business unit, • 1 officer from an independent business unit
RFT > \$1million and/or high-risk procurement	3 evaluation team members, example: <ul style="list-style-type: none"> • 1 Director or Manager • 1 officer from the same business unit, • 1 officer from an independent branch
Procurement may opt to be in any evaluation for projects that are considered of high risk, regardless of the value	

In certain instances, tender briefs and/or site inspections are required when the tender is open or after the tender closure. In these occasions, more than one officer is required to attend or be part of these meetings. If possible, these team members should be part of the TEP.

The risk evaluation and quote/tender evaluation matrix must be stored in Council's document management system against the allocated contract or quotation number.

The recommendation report and matrix are to be submitted by the project manager to the Manager, Director, Chief Executive Officer or Council for approval in accordance with the appropriate delegated authority.

Template evaluation matrices and reporting tools are available on the intranet. Whilst the format provided is not mandatory, these tools ensure all process and probity requirements are met. Where a TEP elects to use different tools, it must ensure the tools work correctly and the TEP endorses that copies.

Tenders will be evaluated using evaluation criteria and weightings.

Criteria may include, but are not restricted to:

- Price;
- Capacity;
- Capability;
- Technical;
- Social sustainability;
- Environmental sustainability;
- Economic sustainability (local businesses and economic diversity);

Specification examples for the sustainability measures can be found in section 3.3.1 Social Sustainability, 3.3.2 Environment Sustainability and 3.3.3 Economic Sustainability of this Policy.

Council employees (other than TEP members) and Councillors are not to approach or discuss offers with tenderers during the evaluation period. The TEP Chairperson may request clarification of the tender received.

TEP reports to delegates are to clearly show the weightings for each category and the scoring achieved by each tenderer. Where a tenderer fails a mandatory assessment criterion, the TEP may elect to cease evaluating the tender.

Often it is desired to have residents, representatives of bodies or stakeholders that are not employed by council involved in projects that impact these organisations. Due to the legal nature of tenders and the fact that evaluating the tender does not inform the scope, it is recommended that these representatives are involved in specification development rather than tender assessment. This provides the opportunity to define what is being sourced, rather than selecting who will deliver the procurement.

Whether involved in specification development or tender evaluation, they are required to sign non-disclosure agreements and conflict of interest declarations as well as receiving a briefing on probity from a council officer (preferably a Procurement Unit representative).

3.5.15 Negotiation

Once a preferred tenderer is selected, negotiations can be conducted to obtain the optimal outcome and commercial arrangements, providing negotiations remain within the intent and scope of the tender.

If there are multiple suitable tenderers, Council may invite a best and final offer from the suitable tenderers in relation to all or some aspects of the tender.

All negotiations will be managed by the Procurement Team unless otherwise agreed to with the Department who will manage the contract and will be in accordance with the Procurement guidelines.

3.6 Risk Management

Risk management is an integral part of best practice in procurement. Risk management is the method of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risks associated with any activity or process to enable Council to minimise losses and maximise opportunities. Identifying risks early and selecting the best option for managing those risks helps Council to achieve favourable outcomes.

Procurement risk factors include, but are not limited to, fraud, waste, abuse, vendor performance, contract security, poor specification of need, public relations and administrative burden.

All staff have a responsibility to manage the risk associated with procurement. All staff intending to procure goods and/or services must undertake a level of risk assessment; the procurement risk management tool provides the preferred method for off-line quotes, and the purchase risk plan on the supplier portal presents the preferred method for online tenders and quotes. A risk assessment must be completed for all purchases greater than \$30,000.

Staff must assess the risk of scope creep, extension of the engagement, or re-engagement for related services within a short period. Where these remain a risk, staff should plan on the worst-case scenario and ensure the tender process and subsequent contract reflects this.

All contractors/vendors supplying goods, services and works to Council must demonstrate a specific understanding of the health and safety requirements of the work to be performed as well as provide evidence of appropriate insurances, risk management practices and other measures as deemed appropriate.

3.7 Critical or Emergency Incident

In recognition that full compliance with existing Council purchasing procedures may not support Council's needs during a critical or emergency incident, an alternative procurement process may operate during the incident.

This alternative process aims to accommodate urgent procurement needs while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration of standard purchasing principles and probity.

The alternative process is to be authorised by the Chief Executive Officer, Municipal Emergency Response Officer, Municipal Recovery Manager or Chief Financial Officer once a critical or emergency incident has been declared or in line with the Municipal Emergency Management Plan and Business Continuity Plan.

Such incidents are:

- A disaster declared under the Emergency Management Act 1986, or any other emergency declaration made by the State's Premier under an enactment;
- An incident declared by the Chief Executive Officer or Director where the safety or security of any person or property associated with Council is threatened; and
- An external incident to which the Chief Executive Officer has authorised the provision of urgent support.
- Once the immediacy of the incident has passed, purchase orders should be raised to record the expenditure in the same way as they would have been in normal circumstances.

4 Roles and Responsibilities

The Unit Manager Procurement is responsible for the administration of this Policy.

It is the responsibility of each Team Leader, Coordinator, Unit Manager, Manager, Director and the Chief Executive to ensure awareness, implementation and compliance with this Policy by the team for whom they are responsible and for all transactions which they authorise.

The Procurement Team are responsible for providing training and ongoing support across the organisation on all procurement, purchasing and contract activities.

The Unit Manager Governance is responsible for the administration of 'Instrument of sub-delegation from the Chief Executive Officer to Council Staff'.

5 Monitoring, Evaluation and Review

The Policy is subject to ongoing monitoring and an annual review by Council.

6 Associated Documents

- Councillor Code of Conduct
- Employee Code of Conduct
- Gifts and Hospitality Policy Employee
- Gifts and Hospitality Policy Councillors
- Travel, Accommodation and Personal Expenses Policy
- Corporate Credit Card Policy
- Fraud and Corruption Control Policy
- Child Safe Policy
- Contractor Health and Safety Policy
- Instrument of Sub-Delegation by the CEO to members of Council staff
- Financial Delegations Policy
- Contract Management Framework
- Risk Management Policy
- Contract Securities Procedure
- Victorian Local Government Best Practice Procurement Guidelines
- Victoria's Social Procurement Framework