

6.3 Policy Reports

6.3.1 Procurement Policy - Amendment

Responsible GM: Debbie Tyson
Author: Bruce Walker

Recommendation(s)

That Council adopt the revised Procurement Policy as attached.

Attachments

1. Procurement Policy [6.3.1.1 - 7 pages]

Executive Summary

To undertake an annual review of the Procurement Policy.

Background

Section 186A of the Local Government Act required that the Council prepare and adopt a Procurement Policy, with reviews to be conducted annually. This Briefing paper provides for this annual review. The new Local Government Act 2020 will require a number of changes to the Policy and practices; therefore, this document only contains minor administration updates.

It is recommended that Council adopt these minor amendments to the Policy as detailed below.

Policy Implications

Council last reviewed and adopted the Procurement Policy on 23 October 2019 and is now required to review the Policy. A review has been undertaken with the following changes recommended:

- Section 5.3. Probity Auditor renamed Probity Advisor as it is a proactively appointed role.
- Section 5.5. Reference to Contract procedures, rather than Management Manual and Sustainable practices, rather than Sustainable Policy.
- Section 5.7. Simplified description of procurement through aggregated contract and supply panels that comply with the Local Government Act.
- Section 5.8. Same description applied (as per 5.7) Removal of reference to a Project Manager being required to prepare a specification for the Business Unit Manager, as all higher valued contract require detailed requirement specifications.
- Section 5.9. Removal of Membership to tender evaluation panels requiring approval by CEO under delegation, as this would be an unnecessary step in the process that is already independently managed by the Procurement Advisor.
- Section 5.10. Internal Controls now also refers to guidelines, processes and procedures, rather than a Framework.
- Section 6. Quarterly reporting of exemptions to Procurement Policy are reported to Senior Leadership Team. This alignment with business process, removes the requirement to report to the Audit Committee.
- Section 8. Definition of Probity has been added to the Glossary.

Relevance to Council Plan

5.2 Our Governance - Open governance

5.2.1 Embrace and demonstrate effective governance and transparency, notwithstanding that on occasions, matters under consideration will be confidential.

5.2.2 Govern and make decisions in the best interests of the Cardinia Shire community.

5.3 Our Governance - Long-term financial sustainability

5.3.1 Make financial decisions that achieve the objectives of Council and long-term financial sustainability.

5.3.2 Make financial decisions that are fair and ethical and balance costs and benefits between present and future generations.

5.3.3 Manage the municipality's finances and assets in a responsible way.

5.3.5 Identify ways to contain Council's cost base by a focus on innovation and efficiency.

Climate Emergency Consideration

Refer to the attached Procurement Policy - Section 5.13.

Consultation/Communication

The Policy has been discussed with relevant staff.

Financial and Resource Implications

Having a robust Procurement Policy ensures that wherever possible Council will receive value for money in its purchasing processes and procedures.

Conclusion

To comply with the provisions of Section 186A (7) of the Local Government Act, Council must review the Procurement policy each financial year. A review has been undertaken with only minor changes to the Policy proposed. It is recommended that these minor administrative updates to Policy be approved, as attached to this report.



Procurement Policy

SharePoint Number	Share Point		
Policy owner	Office of the CEO		
Adopted by	Council		
Adoption date	30/11/2020	Scheduled review date:	31/12/2021
Publication	CardiNet and website		
Revision/version number	4.0		

1 Policy alignment

This Procurement Policy meets the requirements of Section 186a of the Local Government Act 1989, as amended on 30 November 2020.

This section of the Act requires the council 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 council.

This Policy will be reviewed for alignment with the new LG Act 2020 and therefore this document only contains minor administration updates.

2 Purpose

The Council maintains a centre led procurement function. The purpose of this Policy is to

- provide policy and guidance 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; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

3 Scope

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

4 Treatment of GST

All values stated in this Policy include GST except where specifically stated otherwise.

5 Policy description

5.1 Best Practice

Council's procurement activities and its contracting, purchasing and contract management activities will:

- support the council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate responsibility;
- span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract;
- achieve value for money and quality in the acquisition of goods, services and works by the council;
- demonstrate that public money has been well spent with appropriate procedures in place to cover minor, simple purchasing requirements to higher value, more complex procurement practices;
- be conducted, and be seen to be conducted, in an impartial, fair and ethical manner;
- Seek continual improvement which embrace innovation and technological initiatives to improve value and reduce administrative support costs;
- generate and support local and/or small business across the Cardinia community

5.2 Ethics and Probity

The council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible scrutiny.

Councillors and council staff shall at all times 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 either directly or indirectly;
- maintain confidentiality of Commercial in Confidence information such as contract prices 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.

Council staff who are responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising.

5.3 Probity Advisor

For all competitive processes involving a joint venture, an expression of interest or tender for sale or development of Council land or any major projects or capital works for high value/ high risk contracts, (at the discretion of the CEO) an independent, suitably qualified Probity Advisor must be appointed by Council, or the CEO under delegation.

Prior to Council resolving to appoint a successful proponent from the tender or EOI process the Probity Advisor must certify that the process documentation, selection criteria, receipt of

submissions, security and confidentiality of submissions and evaluation criteria were appropriately observed and faithfully applied.

5.4 Fair and Honest Dealing

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

Impartiality will be maintained throughout the procurement process so it can withstand public scrutiny.

The commercial interests of existing and potential suppliers will be protected.

Confidentiality of information provided by existing and prospective suppliers will be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

5.5 Standards and References

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

- The Local Government Act 1989, with specific references to
- Section 186 of the LGA (Power to enter into Contracts)
- Section 186A of the LGA (Procurement Policy)
- Section 208B of the LGA (Best Value Principles)
- Section 77-80, and 95 (Conflict of Interest)
- Contract procedures,
- Sustainable practices
- Councillors and Employee Code of Conduct.
- Working with Children Act 2005 and Working with Children Regulations 2016
- OH&S Policies & Procedures
- Risk Management Policy, and

Other relevant legislative requirements such as but not limited to the Trade Practices Act, Goods Act and the Environment Protection Act.

5.6 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.

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.

5.7 Procurement Thresholds and Competition

This Policy includes delegations made by the Council to the CEO and from the CEO to staff related to procurement.

Purchase of all goods and services with an estimated expenditure exceeding \$150,000 or for building and construction works for which the estimated expenditure exceeds \$200,000, shall be undertaken by public tender as per the thresholds contained in the Local Government Act. The thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus the value of any options to extend the initial contract term and are to be inclusive of GST.

As an alternative however purchases can be made through an approved aggregated contract and supply panels such as Procurement Australia, MAV Procurement or State of Federal Government panel contracts. Provided that compliance with the requirements of the Local Government Act has been undertaken.

Should the CEO consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the council, public tenders may be called for purchase of goods, services and works for which the estimated expenditure is below these thresholds.

5.8 Quotations, Specifications and Tenders

Purchases below the Local Government Act public tender thresholds must represent the estimated value of the whole of term of the contract i.e. the initial term plus the value of any options to extend the initial contract term, and are to be inclusive of GST.

Depending on the amount of the purchase proposed these purchases shall be in accordance with threshold guidelines issued by the Chief Executive Officer from time to time in order to achieve best value for money. This shall be by written or verbal quotations for lower valued purchases or via an annual supply contract, a service supplier contracted to the council or through an approved aggregated contract or supply panel.

For higher valued contracts, under the public tender threshold the Business Unit Manager is to decide whether the purchase is made through a publicly advertised competitive tender or whether three written quotations are obtained.

5.9 Tender Evaluation Panels

For all contracts valued at \$150,000 or more for the supply of goods and services or \$200,000 or more for the carrying out of works (incl. GST), a tender evaluation panel must be appointed.

The tender evaluation panel may comprise of Council staff or other persons appropriate to the project or contract, but must comprise at least three persons, with a mix of both Technical and

Commercial competencies. The Procurement Advisor or another member of the Finance team must form part of the evaluation panel.

Councillors are precluded from membership of an assessment panel making a recommendation in regard to any procurement related decision.

All members of the tender evaluation panel must complete a Conflict of Interest declaration and a Confidentiality declaration.

5.10 Internal Controls

The council will install and maintain internal procurement controls, guidelines, processes and procedures that will ensure:

- More than one person will be involved in, and responsible for, each transaction with appropriate authorisations obtained and documented.
- promoting awareness of and monitoring compliance with this Policy and all relevant legislation and reporting breaches and corrective actions in a timely manner;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- authorisations are obtained in line with delegated authority and documented; and
- systems are in place for appropriate monitoring and performance measurement.

5.11 Risk Management

Risk Management is to be appropriately applied at all stages of procurement activities. This includes properly planning, documenting, assessing and executing in a manner that will protect and enhance the council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

5.12 Achieving Value for Money

The council's procurement activities will be carried out on the basis of obtaining best Value for Money.

This means taking into account all the relevant costs and benefits of each proposal throughout the entire procurement cycle. This includes minimising the total cost of ownership (TCO) over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. As a result, the lowest price is not the sole determinate of value for money. The reasons and / or comments regarding the specific selection of supplier(s) must be recorded for auditing purposes.

Council's Procurement will pursue best money and value objectives by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the procurement lifecycle;
- effective use of competition;
- using aggregated contracts and supply panels where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient procurement processes
- being responsible for providing Council with professional procurement services, sourcing advice and management of reporting.

- working with suppliers to create relationships that are professional and productive and are appropriate to the value and importance of the goods, services and works being acquired.

5.13 Environmental and Sustainable considerations

The council will give favourable consideration to the purchase of environmentally responsible and sustainable products and services provided they meet project specifications, satisfactory performance and are competitively priced.

Council is committed to achieving sustainability and ensuring it monitors and reports on council activities and programs that have an impact on or contribute to the environment including but not limited to the following:

- waste management,
- recycling,
- energy management,
- emission management,
- water conservation,
- green building design,
- sustainable and social procurement – leverage strategies and community value,
- green supply chain – encourage suppliers to adopt environmental practices

5.14 Support of Local Business

Council is committed to buying from local business where such purchases may be justified on basis of Value for Money, with identifiable and reasonable benefits. All other factors being equal, Council may give preference to local economic benefit when sourcing products and/or services.

Council will encourage local suppliers to tender for the provision of works and services to Council by the promotion of available contracts to all businesses listed in Council's business register. This will be promoted through Council's Business Connect newsletter circulated to all such businesses within the Shire.

Where practicable, Council will encourage the use of local sub-contractors in all major construction contracts awarded.

5.15 Diversity

Promoting equality through procurement can improve competition, value for money, the quality of public services, satisfaction among users, and community relations. It should be a consideration in every procurement project and reflect corporate commitment to diversity and equal opportunities wherever possible.

6 Compliance

Procurement activities are subject to regular review internally and externally. Any exemptions from Procurement Policy must be appropriately recorded (electronic Form B) and submitted by the General Manager, to the Procurement Consultant and CEO for subsequent approval. Non-compliances will be reported quarterly to the Senior Leadership Team (SLT)

7 Administrative updates

This Procurement Policy replaces the earlier Procurement Policy adopted by Council on 23 October 2019. The council is committed to continuous improvement and will review the procurement policy at least annually, to ensure that it continues to meet its wider strategic objectives as well as compliance with section 186A of the Act.

A copy of the current Procurement Policy is also available for inspection by the public at the Council Office and on the Council's Internet website. <https://www.cardinia.vic.gov.au>

8 Glossary of terms

- **Best Value for Money** will be obtained by applying a formula for supplier evaluation based on a set qualitative criterion. The lowest price will not necessarily represent the best value.
- **Council** - means Cardinia Shire Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989.
- **Councillors** - means the individuals holding the office of a member of Cardinia Shire Council.
- **Goods** - A physical product that is supplied that can be used or consumed.
- **Local Supplier** – A supplier based and registered within Cardinia Shire boundaries.
- **Probity** - the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.
- **Procurement** – means the whole process of acquisition of external goods, services and work.
- **Services** – An intangible product that is supplied such as maintenance or repair work, provision of expertise or knowledge, cleaning etc.
- **Works** – Building or engineering works that result in a permanent physical product that is classified as an asset e.g. Buildings and roads.