



Procurement Policy and Guidelines

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DAREBIN CITY COUNCIL PROCUREMENT POLICY AND GUIDELINES SEPTEMBER 2009

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Executive Summary

The purpose of this document is to set out the key policies and principles forming the framework for procurement at Darebin. The policies and principles aim to ensure that procurements:

- are undertaken in a consistent and robust manner;
- are consistent with Council objectives;
- comply with all applicable legislation;
- are undertaken in a way that demonstrates accountability to rate payers; and
- meet the expected standards of probity.

To deliver Council's corporate strategies, aims and objectives all purchases must be aligned to the Council Plan and approved in the annual budget.

The following table sets out the approved purchasing methods adopted by Council and to be followed based on the value of the purchase.

Value of purchase (Inc GST)	Method of purchasing / selection of supplier
Under \$10,000 All expenditure	<ul style="list-style-type: none"> • Up to 3 quotations (verbal or written) • Officers are able to determine the most appropriate quotation process to use based on a judgment of what will achieve best value for Council.
Between \$10,000 - \$100,000 All expenditure	<ul style="list-style-type: none"> • Minimum 3 written quotations will be sought • May be publicly advertised • Formal contract agreement should be implemented if the purchase involves high risk for Council
Between \$100,000-\$150,000 Goods & Services	<ul style="list-style-type: none"> • Formal quotation process. • Minimum 3 written formal quotations will be sought • May be publicly advertised • Public Tender may be used depending on risk, complexity or where project estimates are close to \$150,000/\$200,000 threshold.
\$100,000 - \$200,000 Works	
\$150,000 and over Goods & Services	<ul style="list-style-type: none"> • Public Tender is required where the value exceeds thresholds. • Option to Tender, or conduct Expression of Interest (EOI) followed by a Tender, as defined in Local Government Act S.186. • Contracts that are exempt from tendering are: <ul style="list-style-type: none"> ○ Contracts entered into because of an emergency, ○ Councils acting as the agent for a group of Councils, and the Council has otherwise complied with the Act. Eg. Strategic Purchasing / MAV Procurement Scheme ○ Contracts entered into in accordance with arrangements approved by the Minister. Eg. State Government and Whole of Government contracts.
\$200,000 and over Works	

Strategic Purchasing, MAV Procurement or State Government and Whole of Government Contracts may be utilised for purchases less than \$150,000 (Goods & Services) or \$200,000 (Works), replacing the requirement to obtain quotations. These agencies may also be used for tendering purchases over \$150,000/\$200,000 provided written authorisation through Council has been obtained to enter into a contract with the preferred supplier.

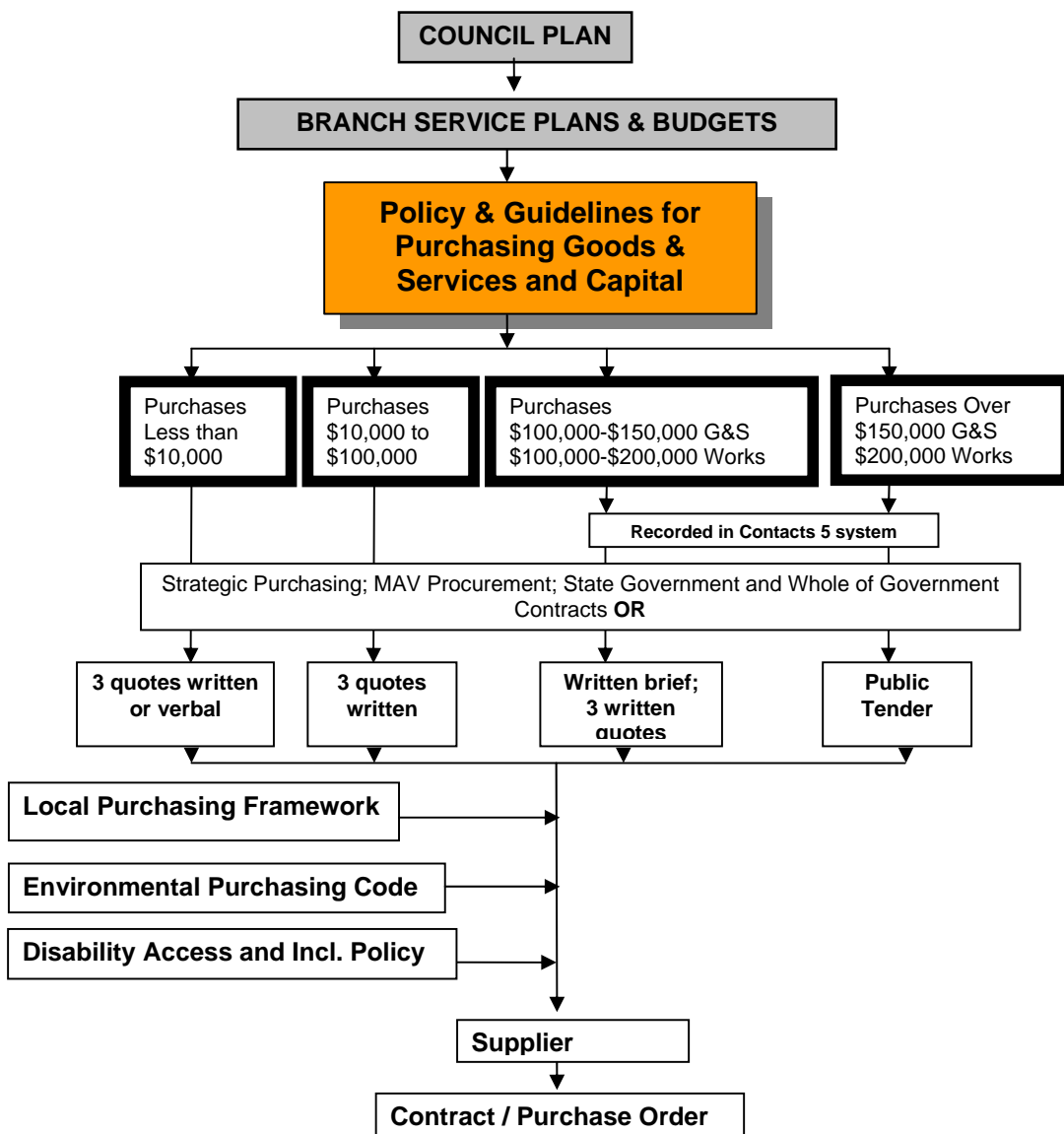
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The Local Purchasing Framework, Environmental Purchasing Code and Disability Access and Inclusion Policy must be considered in assessing suppliers.

Once the supplier has been determined, a formal contract is required for all purchases over \$100 000 or when purchases involve a high risk for Council.

All purchases (with the exception of utilities) require a purchase order to be forwarded to suppliers to commit Council expenditure in advance of the goods or services being received, or works being commenced.

The following diagram summaries the procurement policy and procedures.



1 Principles and overall framework

This section sets out the key policies and principles forming the framework for procurement at Darebin City Council ("Council").

1.1 Background

Darebin City Council spends a significant amount of its budget each year on the procurement of goods and services acquired through external parties. It is critical that Council's purchasing practices are undertaken in a consistent and appropriate manner.

Council recognises that:

- Developing a procurement strategy and adopting appropriate best practice procurement principles, policies and procedures for all goods, services and works by Council, will enhance the achievement of council objectives set out in the 2009-2013 Council Plan.
- The elements of best practice applicable to local government procurement incorporate:
 - principles covering ethics, value for money, Council policy commitments, responsibilities and accountabilities;
 - guidelines giving effect to those principles;
 - a system of delegations (i.e. the authorisation of officers to approve a range of functions in the procurement process);
 - procurement processes, with appropriate procedures covering minor simple procurement to high value complex procurement; and
 - a professional approach to all major procurements.

Council requires purchasing activities that:

- support the Council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, economic development and corporate social responsibility;
- consider the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or end of service contract;
- achieve value for money and quality in the acquisition of goods, services and works by the Council;
- can demonstrate that public money has been spent in the best interests of the community;
- are conducted, and are seen to be conducted, in an impartial, fair and ethical manner;
- seek continual improvement including the embrace of innovative and technological initiatives such as electronic tendering processes to reduce activity cost; and
- generate and support business in the local and wider community.

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1.2 Scope

This Procurement Policy is made under Section 186A of the *Local Government Act 1989* ("the Act"). 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 applies to all procurement and contracting activities at Council and is binding upon Council Officers, contractors and consultants whilst engaged by and/or representing the Council. Whilst extensive, this document does not however contain all possible situations that may occur with regard to purchasing. Any questions regarding the purchasing process should be referred to Council's Procurement & Contracting Unit.

1.3 Purpose

The purpose of this document is to set out the key policies and principles forming the framework for procurement at Darebin. The policies and principles aim to ensure that procurements:

- are undertaken in a consistent and robust manner;
- are consistent with Council objectives;
- comply with all applicable legislation;
- are undertaken in a way that demonstrates accountability to rate payers; and
- meet the expected standards of probity.

1.4 Organisational and statutory framework

There are a number of organisational and legislative directives that help set the framework for purchasing decisions made by Council.

1.4.1 Organisational – Council Plan

The Council Plan 2009-2013 sets out the Council's promise to the community and includes goals and strategies to achieve that promise. Strategies that relate to the need for sound and consistently applied procurement processes include:

- We will govern the municipality in a transparent and accountable manner and provide regular and accurate reporting to the community
- We will place the protection and improvement of the environment at the heart of our decision making in policy, service delivery and regulatory design
- We will undertake robust long term financial planning to ensure our investment and budget decisions are responsible and position Council to continue the provision of quality programs and services
- We will assist Darebin's business sector through support to industry groups and employer organizations to encourage local employment and economic activity.

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1.4.2 Organisational – Other policies and framework

In addition to the requirements of the Act, procurement decisions must also give consideration to other principles, Council policies, guidelines and philosophies, including:

Local Purchasing Framework

Council recognises it has a role in the economic development of the community and is committed to assisting local industry to do business with Council. Council will support the local business community and introduce and conduct targeted programs and procedures. Refer to section 2.7 for further details.

Environmental Purchasing Code

This code provides a purchasing framework that will advance the sustainable use of resources and reduce impacts on the environment and human health. Council will demonstrate to the community our purchasing decisions can enhance ecological sustainability, be resource responsible and improve markets for environmentally preferred products. Council will purchase local recycled and environmentally preferred products when they perform satisfactorily and represent value for money. Refer to section 2.8 for further details.

Disability Access and Inclusion Policy

Council seeks to improve access and inclusion for people with a disability. Council is committed to being a leader in the development of policies, projects and initiatives to improve disability practice as well as continually strive for best practice in the integration of disability access planning into the delivery of all Council's programs and services. Officers undertaking procurements, particularly relating to labour services, should consider how disability access and inclusion can be promoted through the process.

Purchase order policy

Notwithstanding the process used to select suppliers (verbal or written quote, or tender), purchases orders are to be raised and forwarded to suppliers to commit Council expenditure in advance of the goods or services being received, or works being commenced, in accordance with Council's Financial Policies and Procedures.

Officer Financial Delegation

Section 98 of the Act defines the process for a Council delegating its powers, duties and functions to a member of its staff. Darebin City Council has by an Instrument of Delegation delegated powers and responsibilities to the Chief Executive Officer ("CEO"). In turn the CEO has delegated powers, responsibilities and financial purchasing limits to officers as appropriate to perform their duties.

Council officers are to be mindful of their role and financial responsibilities and must ensure that all procurements made by them are within their delegated authority. Where purchases exceed their authority the intended procurement should be referred to a Council officer with the appropriate delegated levels, or to Council itself for a decision.

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1.4.3 Statutory - Local Government Act

s.186 Competitive Process

Section 186 of the Local Government Act 1989 (“the Act”) requires Councils to undertake a competitive public tender process to test the market before entering into contracts for the purchase of goods and services with a value of \$150,000 or more , or for the carrying out of works with a value of \$200,000 or more.

These amounts are inclusive of goods and services tax (GST)

Contract Value: The value refers to the expected value over the life of the contract which may extend beyond one financial year.

Contract Term: Contracts commonly allow for an initial period and then a further extension period. Where an extension period is agreed to by Council and the Supplier/s, officers may need to re-consider the value of the extension as the law views the extension as a new contract which may then warrant approval by either officer delegation or Council adoption.

s.208 Best Value Principles

Section 208 of the Act sets out the Best Value Principles through which Councils are required to determine the most effective means of providing a service to the community. The Act also sets out a number of factors which may be taken into account when applying the principles, for example:

- The need to review services against the best on offer in both the public and private sectors
- An assessment of value for money in service delivery
- Community expectations and values
- The balance of affordability and accessibility of services to the community
- Opportunities for local employment growth or retention
- The value of potential partnerships with other governments (local, State, Commonwealth)
- Potential environmental advantages for the municipal district.

These principles apply to the delivery of services as a whole and should be applied by officers when making purchasing decisions on behalf of Council.

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1.5 Type of Procurement Methods

There are a number of different methods through which goods and services can be purchased, however not all methods are appropriate to all circumstances. The critical factors in determining the most appropriate method to procure goods or services are the value of the purchase, the extent of risk associated with the purchase and any other complexities involved in the purchase decision.

The following table sets out the approved purchasing methods adopted by Council and to be followed based on the value of the purchase.

Value of purchase (Inc GST)	Method of purchasing / selection of supplier
Under \$10,000 All expenditure	<ul style="list-style-type: none"> • Up to 3 quotations (verbal or written) • Officers are able to determine the most appropriate quotation process to use based on a judgment of what will achieve best value for Council. • Use of agency contracts (Strategic Purchasing / MAV Procurement Scheme or Ministerial approved State Government and Whole of Government contracts) may be considered.
Between \$10,000 - \$100,000 All expenditure	<ul style="list-style-type: none"> • Minimum 3 written quotations will be sought • May be publicly advertised • Formal contract agreement should be implemented if the purchase involves high risk for Council • Use of agency contracts (Strategic Purchasing / MAV Procurement Scheme or Ministerial approved State Government and Whole of Government contracts) may be considered
\$100,000 to \$150,000 Goods & Services \$100,000 to \$200,000 Works	<ul style="list-style-type: none"> • Formal quotation process. • Minimum 3 written formal quotations will be sought • Public Tender may be used depending on risk, complexity or where project estimates are close to the \$150,000/\$200,000 thresholds. • Use of agency contracts (Strategic Purchasing / MAV Procurement Scheme or Ministerial approved State Government and Whole of Government contracts) may be considered
\$150,000 and over Goods & Services \$200,000 and over Works	<ul style="list-style-type: none"> • Public Tender is required where the value exceeds thresholds. • Option to Tender, or conduct Expression of Interest (EOI) followed by a Tender, as defined in Local Government Act S.186. • Contracts that are exempt from tendering are: <ul style="list-style-type: none"> ○ Contracts entered into because of an emergency, ○ Councils acting as the agent for a group of Councils, and the Council has otherwise complied with the Act. Eg. Strategic Purchasing / MAV Procurement Scheme ○ Contracts entered into in accordance with arrangements approved by the Minister. Eg. State Government and Whole of Government contracts and Legal services

1.6 Probity

Probity encompasses concepts of honesty, proper and ethical conduct by Council in dealings, and is often used in a general sense to mean good process.

Council's procurement processes must be undertaken in a way which meets the expected standards of probity. This includes consistent application of clear and established procedures, compliance with policies and legislation, consideration of the

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suppliers involved in any tendering or quotation process, and clear and transparent decision making. Specific processes are included in section 3.

1.7 Treatment of GST

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

1.8 Definitions and Abbreviations

In this policy, the following words, phrases have the meanings set out below:

Term	Definition
Act	<i>Local Government Act 1989.</i>
Annual Supply	A contract that sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services
Commercial in Confidence	Maintaining supplier information in a secure manner (e.g prices, discounts, rebates, profits, methodologies and process information) and not made available for viewing or discussion by other staff or other competitors or information re-used in the development of specifications
Contract Management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff/ Council Officer	Includes permanent full time and part-time council officers, and temporary employees engaged by the Council.
Contractors, Consultants	External persons or organisations given approval by a duly authorized Council officer to represent Council on specific matters.
CT Folders	Electronic records and files in which all correspondence, reports, contracts documentation and other forms of information used or collected throughout the Tender process is to be kept and stored for future reference
<i>Contracts5</i>	<i>Contracts5</i> is a specific software system that provides tools and maintains information allowing Council to best manage life-cycle of contractual agreements by supporting officers through the tendering, awarding and contract management phases. It further allows for increased compliance, reduced contractual risks and by integration with other core systems, maintains financial information
Contract Custodian	The person responsible for the procurement of goods or services through a formal tender process
Delegated Officer	The Council Officer who is ultimately responsible for the procurement and has the appropriate financial delegation to approve the purchase. Council Officers are provided with financial delegation to enter into purchases on behalf of Council up to nominated levels. It is the responsibility of Officers to determine operational requirements and undertake purchasing of goods and services accordingly. This responsibility includes compliance with the processes set out in these guidelines
Expression of Interest (EOI)	Public request for organisations to register their interest in the supply of goods or services but without providing details of pricing, conducted in accordance with section 186(2) of the Act.
Evaluation panel	Normally consists of two or more Council Officers and may involve an external consultant with expertise in the project; the role of a panel is to evaluate a Tender or EOI and form a recommendation for the awarding of a contract.
Goods and Services	All expenditure that relates to the day to day operations of a program. This includes expenditure for such items as stationery, plants, hardware's or vehicle operating costs. It also includes expenditure for a one-off non-capital project. Services are the engagement of "labour" or "labour and materials" to carry out specific

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Term	Definition
	tasks. They could be temporary staff support, the cleaning of offices, through to major services like collection of garbage or a consultant to provide professional advice.
Objective	Objective is the corporate electronic document management system. It is used for the management of all corporate-value documents
Probity	The dictionary definition of probity refers to uprightness, honesty, proper and ethical conduct and propriety in dealings. Within Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Procurement & Contracting Unit	The service unit within the Financial Services Branch whose role is to provide support and advice in all procurement matters. The Procurement & Contracting Unit is responsible for providing assistance and guidance to Council Officers responsible for procuring goods and services. This can include assistance in determining the most appropriate procurement process to follow and other general purchasing advice. For tender processes, the Procurement & Contracting Unit can provide specific assistance with regard to the preparation of Tender documentation and the processes involved, including required Probity aspects.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.
Probity Officer	An Officer either internal or externally appointed whose role is to oversee the procurement process and ensure it has been conducted according to these guidelines.
Purchasing Officer	Staff within the Procurement & Contracting Unit.
Strategic Purchasing (SP) / MAV Procurement	An external contracting organisation which acts on behalf of all Victorian Local Governments and establishes various supply and service contracts at tendered rates.
State Government Contracts/ Whole of Government Contracts	The Minister for Local Government, acting under the provisions of s186 has approved state and whole of government arrangements to allow Local Governments access to selected contracts to procure goods, services and works.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tender Process/ Request for Tender	Public request for organisations to submit a bid for the supply of goods or services, including pricing and other relevant information which demonstrates their ability to meet the specification and address the relevant selection criteria.
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: <ul style="list-style-type: none"> • contribution to the advancement of the Council's priorities; • non-cost factors such as fitness for purpose, quality, service and support; and • 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.
Works (Capital Works)	All expenditure of a "capital" nature i.e. The acquisition or creation of an asset.

2 Policy Compliance and General Requirements

This section provides a number of general requirements that are applicable to purchasing decisions regardless of the value of the purchase or the particular method selected to procure goods or services.

2.1 Ensure the purchase is consistent with Council objectives

When considering procurements, Officers should ensure that the expenditure is consistent with the objectives of Council. Department and Branch Annual Service Plans contain activities that support the achievement of the overall Council Plan, and may include the requirement for specific procurements. Other purchases may not be separately identified in such Plans but should be consistent with the intent of the Plan objectives.

2.2 Estimate the cost

Costs must be carefully estimated before procurements are initiated. This can be relatively simple for straightforward purchases particularly of a small value, but can be more complex in the case of larger purchases and those which may be new to Council.

It may be beneficial to group purchasing requirements with those of other Departments if the ability exists for Council to achieve economies of scale on larger purchase volumes (eg. desktop stationery).

Officers should discuss purchasing requirements with their direct Managers, and the Procurement & Contracting Unit can provide advice and assistance with regard to estimated cost. Potential suppliers may also be contacted to obtain an initial cost estimate before proceeding.

2.3 Ensure funding is available

Once the likely quantity and cost of the purchase has been estimated, Officers must ensure there are sufficient budget funds available for the purchase. If funds are not available, then Officers must discuss their requirements and available options with their immediate Manager prior to making any purchase commitments.

2.4 Consider risk

The provision of goods, services and works by contract potentially exposes the Council to risk. Risks associated with the procurement of goods or services should be considered in advance of the procurement process commencing. There may be risks associated with the goods or services to be procured and risks related to the procurement process itself.

Council will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- requiring security deposits where appropriate;
- referring specifications to relevant experts;
- requiring contractual agreement before allowing the commencement of work;
- use of or reference to relevant Australian Standards (or equivalent); and
- effectively managing the contract including monitoring and enforcing performance.

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Further support and templates to assist in risk assessment are available on Council's intranet and from Council's Risk Services Branch.

2.5 Insurances

Insurances are required for contractual arrangements to protect Council from actions or events a contractor may cause in relation to the goods or services they have been contracted to supply. Insurances must be considered for all procurements initiated by Tender for which a formal contract will exist, but may also be relevant for smaller value purchases depending on the nature and risk of the procurement. The Risk Services Branch can provide advice on what insurances are required and the appropriate level of cover for different circumstances and is advisable to have documentation reviewed before releasing to the public. Likewise the Organisation Development Branch can advise on the requirements of Workcover obligations

The main types of insurance cover that are relevant to procurement arrangements are public liability and professional indemnity insurance and Workcover compensation. Other insurances may also be relevant depending on the particular procurement arrangement.

Council Officers must ensure a Certificate of Currency is received for each of the required insurances before the commencement of a contract for provision of goods or services and prior to the expiry date of each insurance policy, for the duration of the contract. These Certificates provide evidence that the supplier has insurance coverage, and Council must retain a copy on file of the Certificate/s applicable for the period/s of contract.

2.6 Documentation

Documentation relating to procurements is to be stored and maintained in a consistent manner across the organization. All key documentation which is created and collected relating to the procurement of a good or service must be recorded in the *Objective* electronic document management system.

For purchases with a value less than \$100,000 and not conducted through a formal Tender process, Officers must create their own electronic folders in the *Objective* system and record all relevant information concerning the procurement. Officers should maintain records including the specification, all quotations received (scanned hardcopy, faxes or e-mails), and any additional information collected which relates to the decision process and the awarded outcome.

For purchases over \$100,000, including higher valued quotations and formal tender processes, the *Contracts5* system will allocate a contract number and establish a contract file for Officers to access subject to relevant system security levels. All Tender information is to be stored and recorded in this system including electronic link to the *Objective* systems for all documentation. Information which must be retained includes copies of all working documents, correspondence, emails and as a minimum:

- All public advertisements requesting Expressions of Interest or Tenders;
- A copy of the Request for Tender or Quotation document relating to the service (including the Specification);
- All submissions received;
- Copies of all notification letters;

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- Signed Tender/quotation documents; and
- Recommendations for approval and Council reports (if required).

Detailed guidelines regarding documentation are available through the Records Management (Objective EDMS system) and Procurement & Contracting Units (Contracts5 system). Section 3.5 contains details regarding the security of documentation as a key Probity requirement.

2.7 Local business framework

Council recognises it has a role in the economic development of the community and is committed to assisting local industry to do business with Council. Local business in this context means suppliers based within Darebin and the immediate neighbouring municipalities. (the “Darebin Plus” area)

Council will support the local business community, introduce and conduct programmes and procedures that:

- Enhance the capability of local business to respond to Council's procurement requirements through encouragement and education of the local business community;
- Provide feedback to local suppliers to help improve their competitiveness;
- Ensure that buying practices, procedures and procurement specifications do not disadvantage local suppliers and ensure transparency in all procurement and contract management activities;
- Promote a “buy local” philosophy, where it is competitive, represents value for money and fulfils other policy objectives of the Council; and
- Ensure that the community's interests are Council's highest priority.

Council will undertake the following processes to encourage local businesses to supply goods and services to Darebin:

- Local businesses to be contacted when relevant tenders/contracts are being advertised, through use of the local business database that is maintained by the Economic Development branch;
- Business education on how to respond to tenders/contracts through the business breakfast that are held bi-monthly or through specific training forums conducted for local businesses;
- Procurement activities not publicly tendered (eg. quotations) are to include a local supplier where possible;
- A guide on how to tender for Council services to be developed and made available to local businesses;
- Feedback to be provided to local suppliers where they have been unsuccessful in tendering;
- A “local business assessment” schedule be adopted into all purchasing activities undertaken by Council, including publicly advertised tenders and Requests for Quotation in order to broaden and maximise Councils sourcing of local businesses where possible;
- Where a weighted criteria is used for local business assessment then a minimum 5% be set for evaluation.

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A form is available on the intranet to assist Officers in considering aspects relating to local businesses. This form can be included in Tender or quotation documentation and asks suppliers to demonstrate their local support with employees, use of other local suppliers and sub-contractors.

2.8 Environmental purchasing

The Council is committed to adopting a Green Procurement approach within the context of purchasing on a value for money basis.

Value for money purchasing decisions made by the Council consider both cost and non cost factors. When undertaking procurements, officers should consider whether a specific criteria (weighted percentage) for environmental considerations should be included, depending on the nature of the purchase.

Darebin has in place an Environmental Purchasing Code which provides a purchasing framework to advance the sustainable use of resources and avoid waste and pollution. The Code sets out a number of principles and activities to be undertaken by the Environmental Strategy Branch and the organisation as a whole to promote and enhance the ability to purchase in an environmentally sustainable manner. Officers should review the Code for relevant principles and ensure they address the relevant goals set out in the Code. Environmental Strategy staff can be contacted for further guidance and assistance.

A copy of the Environmental Purchasing Code is included in Attachment 1

2.9 Splitting of Engagements

This policy requires that procurements exceeding \$150,000 for goods and services and \$200,000 for works must be publicly advertised and tendered. Multiple engagements, quotations and purchase orders to the same supplier for a project for the purposes of falling under the thresholds are not permissible.

2.10 Delegation of Authority

Delegations for awarding and entering into a contract on behalf of Council, which includes the engagement of services or the ordering of goods, are documented formally using a Council Instrument of Delegation. This authorisation details the financial dollar level Delegated to the position and the types of transactions the Officer can enter into on behalf of Council.

Procurement delegations ensure accountability and provide confidence to Council and the public that purchasing activities are dealt with at the appropriate level.

Contracts in excess of either \$150,000 for goods and services or \$200,000 for works must be formally decided by Council. Contracts below these values have been delegated to the Chief Executive Officer and/or General Managers for awarding. Other officers also have delegated authorisation which vary in value and is dependant on the position responsibilities. Those officers can enter into contracts up to the value as detailed in their Instrument of Delegation approved by the Chief Executive Officer. (**Note:** the Delegation is based on the anticipated total value over the contract period).

Further information regarding Council delegations can be obtained from the Customer & Civic Services Branch.

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2.11 Contract Terms

All contractual relationships must be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be sought from by a duly authorized Council officer. A request for such an approval should be supported with procurement and legal advice as relevant.

To protect the best interests of the Council, terms and conditions must be settled in advance of any commitment being made with a supplier. Any exceptions to doing this expose the Council to risk and must be authorised by a Council officer with the appropriate delegation.

2.12 Dispute/Grievance Resolution

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to enable any disputes to be addressed through a documented process including an agreed time frame.

A complaint received relating to a procurement will be in the first instance directed to the Officer (Contract Custodian) to resolve. The officer will promptly handle the matter with utmost professionalism and confidentiality. All communications relating to the matter should be documented. The officer should initially outline the proposed steps and timeframe needed to be taken by Council in order to review the matter under dispute.

Where the officer has made all reasonable attempts to resolve the dispute without resolution, then the dispute will be referred to the Procurement and Contracting Unit to manage. The officer will release all documentation, notes, correspondence and all other information relating to the matter to the P&C Unit for investigation. Disputes not resolved at this point may then be further escalated to senior management and may involve external mediation.

2.13 Contract Management

The purpose of contract management is to ensure that the 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 reinforcing the performance of both parties' responsibilities and obligations under the contract; and
- providing a means for the early recognition of issues and performance problems and the identification of solutions.

All Council contracts are to include contract management requirements. Furthermore, contracts are to proactively managed by Council officer staff responsible for the delivery of the contracted goods, services or works and ensure the Council receives Value for Money.

To support staff with the management of contracts, Council has invested in a database system (*Contracts5*) which allows for the storage all relevant information concerning the contracted arrangement, storing information from the initial tender request, awarding,

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values, variations, supplier information, contract notes, milestones and key reminder dates.

Detailed Contract Management practices are not covered in this policy but will be supported by other Council guidelines and officer training.

2.14 Agency Engagement and State Government Contracts

Strategic Purchasing (SP) and the MAV Procurement (MAV) are external contracting organisations which act on behalf of Victorian Local Governments by aggregating similar goods or services into one single tender in order to achieve efficiencies in the tendering phase and to achieve cost efficiencies through aggregation.

SP and the MAV have a large database of active contracts separately accessible by Council to acquire goods and services without the need to seek quotations or tenders. These contracts are also compliant with s186 Local Government Act. Example of contracts such as fuel purchases, electricity supply and stationery supplies achieve greater cost savings through aggregation rather than individual council contracts.

In order to meet the requirements of the Act, Council must formally appoint SP or MAV as its agent to undertake the tendering process on its behalf. Council also retains the responsibility of ensuring the tendering processes are appropriately undertaken and the decision to award the contract to the supplier.

State Contracts and Whole of Government Contracts (WoG) are selective contracts which the Minister for Local Government, acting under the provisions of s186, has deemed accessible to Local Governments to procure goods, services or works without the need for a separate tender process. These contracts may only be accessed under strict guidelines set out by the Minister. The Procurement and Contracting Unit can provide information and advice on contracts which are available to Council as an alternative option when seeking goods or services.

3 Ethics and Probity

Probity is fundamental to the procurement of goods and services. This section sets out specific processes required to:

- Identify any actual or perceived conflict of interest throughout a procurement process;
- Ensure a secure and confidential environment is maintained; and
- Evidence appropriate transparencies and accountabilities throughout the procurement process.

These processes are mandatory for all formal Tender processes and may also be applied to lower purchases.

3.1 Conduct of Council Officers

Council officers 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;
- 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 officers responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising.

3.2 Members of Professional Bodies

Council Staff belonging to professional organisations shall, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body.

3.3 Conflict of Interest

One of the key requirements of Probity is to identify and address potential conflicts of interest of any person who will be involved in the Tender process.

Conflicts of interest were redefined in the Local Government Act 1989 ('the Act') in December 2008 and the new legislative provisions impose statutory obligations on Councillors, members of special (and audit) committees, members of Council staff and contractors engaged to provide advice or services to the Council.

Under the Act, a conflict of interest arises if a 'relevant person' has a 'direct interest' (as defined in the Act) or an 'indirect interest' (as defined in the Act) in a matter.

A person has a 'direct interest' in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly

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altered if the matter is decided in a particular way. This includes where there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms or that there is a reasonable likelihood that the residential amenity of the person will be directly affected, if the matter is decided in a particular way.

A person has an 'indirect interest' in a matter if the person has:

- An indirect interest by **close association** – this is where a 'family member' of the person has a direct or indirect interest, or a 'relative' has a direct interest, or a member of the person's household has a direct interest in the matter.
- An **indirect financial interest** – this is where a benefit or loss to another person or company with an interest in the matter would be likely to result in a financial gain or loss to the person (includes shares owned and money owed).
- An indirect interest because of **conflicting duties** – this is where the person has a duty to another person or body that has a direct interest in the matter. This could be because the person:
 - Is an office bearer or manager of a company or body;
 - Is a partner, consultant, contractor, agent or employee of a person, company or body;
 - Is a trustee for a person; or
 - Was an office bearer or manager of a company or body, and in that position dealt with the matter.
- An indirect interest because the person has received an **applicable gift** from a person or representative of a person who has a direct interest in the matter. An applicable gift means a gift or gifts (including election donations and/or hospitality) to the total value of \$200 received during the previous 5 years.
- An indirect interest because the person has become an **interested party** by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.

The full legislative definitions of 'direct interest' and the five types of 'indirect interest' are available to officers on the intranet.

The conflict of interest provisions and obligations will apply to any member of Council staff who is the 'Contract Custodian' as defined in this policy and to a member of Council staff who is a '*Delegated Officer*' as defined in this policy. They will also apply to a member of Council staff and contractor (consultant) participating in, or providing advice to, a tender 'evaluation panel' as defined in this policy.

A member of Council staff who is nominated as the 'Delegated Officer' for a tender or procurement process must not exercise his/her delegated power or discharge his/her duty or function if he/she has a conflict of interest in the matter. As soon as the 'Delegated Officer' becomes aware of the conflict of interest, he/she must disclose the type and nature of the interest to the Chief Executive Officer using the disclosure form available on the Council Intranet. The Chief Executive Officer will then arrange for another member of Council staff with relevant delegated authority to exercise the power, duty or function related to the tender or procurement process.

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Any other member of Council staff or other person engaged under a contract to participate in a tender or procurement process (including evaluation, technical or strategic advice, negotiation or recommendation) will be required to sign a 'Conflicts and Confidentiality Declaration' before the Tender evaluation process commences (that is once the Tender box is opened and the Tenderers are known).

The onus is on the member of Council staff or contractor involved being alert to and promptly declaring a direct or indirect interest in the matter.

The signed 'Conflicts and Confidentiality Declarations' are to be filed in the CT File and then registered into *Objective* (document management system) when the completed file is returned for scanning and filing to the Procurement and Contracting Unit.

If a direct or indirect interest is identified, the matter must be referred to the Contract Custodian for discussion with the Delegated Officer. Depending on the type and nature of the direct or indirect interest, the Contract Custodian and Delegated Officer will determine whether the member of Council staff or contractor can participate in the tender or procurement process.

If it is determined the member of Council staff or contractor can participate in the tender or procurement process, then the person/s with the interest must disclose the type and nature of the interest to the Chief Executive Officer using the disclosure form available on the Council Intranet.

Advice should be sought from the Manager Customer and Civic Services or the Procurement & Contracting Unit (and/or the Probity auditor and/or legal counsel, as applicable) when addressing conflict of interest issues.

3.4 Confidentiality

A duty of confidentiality exists to protect information provided by tenderers. The duty exists whenever information, such as trade secrets or sensitive commercial in confidence information, is provided in confidence, such as in a tender. The duty of confidentiality may arise expressly or by implication. Where a tender project requires Council to demonstrate a confidentiality process is in place, all evaluation team members will be required to sign a Confidentiality Declaration before the Tender evaluation process commences. The signed declarations should be filed and registered into *Objective*.

All Officers are therefore required to keep as confidential all matters concerning a Tender process. This is consistent with confidentiality requirements for all staff outlined in the employee code of conduct.

Council Staff are to protect confidentiality 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; and
- pre-contract information including but not limited to information provided in quotes and tenders or subsequently provided in pre-contract negotiations.

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Council Staff are to avoid references to current or proposed contracts in discussion with acquaintances or outside interests.

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. At no stage should any discussion be entered into which could have potential contractual implications prior to the contract approval process being finalised.

Where an Officer is unsure about their responsibilities, they should discuss the matter with their direct Manager or an Officer from the Procurement & Contracting Unit.

3.5 Security of documentation

All reasonable measures must be taken by Officers to ensure the security of documentation relating to the tender process, including the tender submissions.

The following principles should be followed to help ensure security of documentation:

- Information pertaining to tenders, expressions of interest and formal quotations containing commercially sensitive information must be stored in secure conditions at all times;
- Such information, whether in hard copy or stored electronically on the Objective system, must only be available to Officers on a 'need to know' basis; and
- Minimum numbers (only for evaluation team members) of hard-copies of tender-related documents should be produced

Once the tender has been awarded, all submissions must be returned to the Procurement & Contracting Office for safe storage. All documentation which details the Tendering process and recommendation must be recorded in the Objective system.

3.6 Probity review

Where the risk associated with a procurement process is considered high or the procurement is of a high value, the appointment of a Probity Officer may be considered to provide advice in relation to Probity issues and/or an independent assessment with regard to Probity requirements at one or more designated stages of the process.

As a guide, the appointment of an external Probity auditor should be considered for procurements of a high value, of a significant public interest or are complex, contentious, and/or where there is a likelihood of bidder grievances.

The Procurement & Contracting Unit can provide advice in relation to the appointment of Probity advisors.

3.7 Access to Information

Victorian legislation allows for certain contract information obtained by the Council through a tender or procurement process to be accessed by the public. Therefore due care must be taken to ensure all information is maintained in a confidential manner.

Where a request for access to contract information is received by Council, the Contract Custodian should consult the Procurement and Contracting Unit for advice.

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If a formal request under the Freedom of Information Act is received the request is to be immediately referred to Council's Freedom of Information Officer for response.

3.8 Fair and Honest Dealing

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

Impartiality must be maintained in selecting contractors and suppliers so that no action is taken that could evoke criticism of the Council.

3.9 Accountability and Transparency

Accountability in procurement means being able to explain and evidence what has happened. The test of accountability is that an independent third party must be able to see clearly that a process has been followed and that the process is fair and reasonable. Therefore the processes by which all procurement activities are conducted will be in accordance with the Council's Procurement policies and procedures as set out in this policy and related Council policies and procedures.

Additionally:

- all Council Staff must be able to account for all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council and provide feedback on them;
- all procurement activities are to leave an audit trail for monitoring and reporting purposes; and
- all decisions and reasoning which support the justification of the decision are to be clearly explained and articulated whether the procurement is decided under delegation or by Council itself.

3.10 Gifts and Hospitality

No member of Council staff shall, either directly or indirectly solicit or accept gifts from any member of the public who is involved, either directly or indirectly, with any matter that is connected with the duties of the officer, or in which the Council is interested.

As outlined in section 3.3 of this policy, one of the types of 'indirect interest' under the conflict of interest legislation relates to 'applicable gifts'. An 'applicable gift' under the legislation means one or more gifts with a total value of \$200 or more received during the previous five years.

A member of Council staff or other person engaged under contract to provide advice or services to the Council (a contractor) who has received an 'applicable gift' from a person or body with a direct interest in a matter will have a conflict of interest in that matter.

The obligations of members of Council staff and contractors participating in a tender or procurement process are outlined in section 3.3.

4 Procurements \$0-\$10,000

4.1 Quotation requirements

For purchases up to \$10,000, it is recommended that Officers:

1. Seek up to 3 quotes (written, email or verbal) from suppliers;
2. Access Strategic Purchasing or MAV Purchasing aggregated contracts; or
3. Access selected ministerial approved State or Whole of Government contracts

Officers are able to determine the most appropriate quotation process to use based on a judgment of what will achieve best value for Council.

It is the Officer's responsibility to maintain and record all relevant information in order to demonstrate how the supply was awarded.

4.2 Preparation of specification

Generally purchases of this size will be relatively straightforward and will often constitute an 'off the shelf' type product where the description of the goods or services is known by the Officer and prospective supplier.

Nevertheless, it is still important that the specification is clearly articulated to ensure no misunderstanding with regard to the purchase. This may include reference to a description within a product catalogue, user guide or technical publication that both parties are familiar with. Alternatively, a short written brief could be prepared.

4.3 Evaluation and Selection

The evaluation of any procurement undertaken by Council should be conducted in a fair and transparent process where it can be demonstrated that all submissions have been evaluated equally.

With most purchases of this value, price is usually the primary factor, so the evaluation will be relatively easy to perform. However, depending on the nature of purchase, a more detailed evaluation which includes consideration of factors other than price may be required to ensure Council achieves the best outcome possible.

The Request for Quotation document is included on the Procurement & Contracting Unit intranet site.

4.4 Insufficient quotations

The situation may arise where insufficient quotations are received to satisfy the above requirements. Eg. Requests were sent to 3 or more suppliers and only 1 or 2 responses received by the due date and time.

This may occasionally occur where there are few suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the contacted suppliers should be documented and an appropriate comment recorded. Other alternatives to consider could be to terminate the original request and commence a new request and invite a larger group of suppliers.

5 Procurements \$10,000 - \$100,000

5.1 Quotation requirements

For purchases between \$10,000 and \$100,000:

1. Up to 3 quotations (written or email) must be sought where the purchase is not complex and the risk exposure to Council is low;
2. Access Strategic Purchasing or MAV Purchasing aggregated contracts; or
3. Access selected Ministerial approved State or Whole of Government contracts

Some procurements in this price category may also benefit from a Tender process to ensure Council receives the best value product/service.

A Tender process could help to:

- ensure there is transparency in the procurement process;
- manage high risk projects;
- allow for a wider market exposure which could provide better competitive pricing; and
- reduce the risk of inappropriate procurement methods.

Consideration should be given when renewing continuing service or supply agreements and where those agreements are able to be market tested. Whilst agreements may be renewed for a 12 month term, if the renewal is continued over several terms and the aggregated values of those terms is expected to exceed \$100,000, then a formal quotation or tendering process should be considered for those agreements.

Advice should be sought from the Procurement & Contracting Unit to determine the best procurement process.

Where three written quotations have been sought but not received, Officers should consider sourcing other potential suppliers to ensure a competitive process. If there are no other suppliers available to provide the goods or services and further quotes are not sourced, then the reasons for such must be documented on file.

It is recognised there may be purchases where the process to source quotations is not practical due to the nature or urgency of the procurement or there may be difficulties in obtaining a response from suppliers. In such cases, Officers should discuss the procurement process with the Procurement & Contracting Unit, who can provide advice or recommend alternative options. This may include identifying other suppliers such as local businesses, agency suppliers or applicable State Government contracts.

A pro-forma "Request for Quotation" template document is available to use and is included on the Procurement & Contracting Unit intranet site. This template includes a closing date for the quotations and provides general conditions and a specification pro-forma. It states that quotes should be lodged through the Tender Box located at the Preston Customer Service Centre or alternatively responses can be forwarded to the Procurement & Contracting Unit's secure facsimile or directly to the responsible officer.

5.2 Preparation of specification

The specification for a purchase of this size needs to clearly state the outcome of the procurement that is required, whether it be for goods, services or works. For example, a specification for consultancy services may state that “the consultancy service must deliver key outputs including milestone reports by predetermined dates”.

The specification should:

- State in writing the goods or services required, including relevant definitions and sufficient background and details to enable prospective suppliers to respond clearly;
- Include details of any insurance requirements to be met;
- Ask the supplier to respond with their proposals to meet the requirements;
- State when the quote is to be submitted by, and how to be delivered; and
- Include any other details relevant to the procurement.

Specifications should be carefully worded as the response will form part of the contractually binding agreement between Council and the supplier. A guide included on the intranet exists to assist Officers in preparing a specification.

5.3 Evaluation and Selection

The evaluation of any procurement must be conducted through a fair and transparent process where it can be demonstrated that all submissions have been evaluated equally.

For some purchases in this value range, particularly at the lower end, price would be expected to be the primary factor. However consideration should also be given to other factors that are relevant to the supply being sought. Typical examples of other factors to be considered as evaluation criteria are financial cost, capacity to deliver the service, experience, quality systems, occupational health and safety systems, risk management systems, local business and environmental considerations.

For purchases in the higher value range and/or with a moderate degree of risk, an evaluation team should be formed, consisting of the Officer responsible for the procurement and their immediate Manager and/or an Officer from the Procurement & Contracting Unit. Where weighted evaluation criteria are to be used, the criteria should be clearly defined and formally signed-off by the evaluation team members in advance of the quotations being reviewed.

As a general rule the evaluation criteria are made available to prospective suppliers, but not the actual weightings themselves.

5.4 Insufficient quotations.

The situation may arise where insufficient quotations are received to satisfy the above requirements. Eg. Requests were sent to 3 or more suppliers and only 1 or 2 received by the due date and time.

This may occasionally occur where there are few suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the contacted suppliers should be documented and an appropriate comment recorded. Other alternatives to consider could be to terminate the original request and commence a new request and invite a larger group of suppliers.

6 Procurements \$100,000 - \$150,000 (goods and services) and \$200,000 (works)

6.1 Quotation requirements

For purchases between \$100,000 - \$150,000 (for goods and services) and \$200,000 (for works):

1. Seek a minimum of 3 written quotations through a formal and documented process;
2. Access Strategic Purchasing or MAV Purchasing aggregated contracts; or
3. Access selected Ministerial approved State or Whole of Government contracts

It is recognised there may be purchases where the process to source quotations is not practical due to the nature or urgency of the procurement or there may be difficulties in obtaining a response from suppliers. In such cases, Officers should discuss the procurement process with the Procurement & Contracting Unit, who can provide advice or recommend alternative options. This may include identifying other suppliers such as local businesses, agency suppliers or applicable State Government contracts. Some procurements in this price category may benefit from a Tender process to ensure Council receives the best value product/service.

6.2 Preparation of specification

The specification for a purchase of this size needs to clearly state the outcome of the procurement that is required, whether it be for goods, services or works. For example, a specification for consultancy services may state that "the consultancy service must deliver key outputs including milestone reports by predetermined dates".

The specification should:

- State in writing the goods, services or works required, including relevant definitions and sufficient background and details to enable prospective suppliers to respond clearly;
- Include details of insurance requirements to be met;
- Ask the supplier to respond with their proposals to meet the requirements;
- State when the quote is to be submitted by, and how to be delivered; and
- Include any other details relevant to the procurement.

Specifications should be carefully worded as the response will form part of the contractually binding agreement between Council and the supplier.

A guide exists to assist Officers in preparing a specification and is included on the intranet site.

6.3 Evaluation and Selection

The evaluation of any procurement of this size must be conducted through a fair and transparent process where it can be demonstrated that all submissions have been evaluated equally.

For all purchases in this value range consideration should be given to factors that are relevant to the supply being sought. Typical examples to be considered as evaluation

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criteria are financial cost, capacity to deliver the service, experience, quality systems, occupational health and safety systems, risk management systems, local business and environmental considerations.

Weighted evaluation criteria should be used and the criteria should be clearly defined and formally signed-off by the evaluation team members in advance of the quotations. As a general rule the evaluation criteria are made available to prospective suppliers, but not the actual weightings themselves.

6.4 Overview of Quotation documents

Where the engagement to be entered into is for minor uncomplicated goods, services or works, it is appropriate to use a Short Form Contract. Short Form contracts contain all legal clauses required to protect Council but are relatively limited in detail and less complicated to understand. The short form may be suitable for procurements such as support services, the purchase of a single piece of machinery, or small service contracts.

For construction, design and building type engagements it is appropriate to use Australian Standards type documentation.

Section 10 contains details of documentation that can be used for different types of contracts

6.5 Requesting Quotations

Quotations in this range should generally be open for a minimum of 5 working days or greater depending on the level of information requested and time needed by the supplier to adequately respond to the request.

6.6 Receiving and recording Quotations

All quotations are to be lodged in Council's "Tender Box" located at the Customer Service counter, Municipal Offices, 274 Gower Street, Preston. Council has a common closing date of "Thursday 4.00pm" and this date and time must be noted on all documentation.

At the opening of the Tender box, a minimum of two Officers must be present to witness the opening and recording of submissions. Where possible, the Officers should be independent of the Evaluation panel and consideration also to include a representative from the Procurement & Contracting Unit.

Each submission must be opened and recorded in the Registration Form, noting the name and address of the submission. The form is to be signed by both Officers present at the Tender box opening.

The responsible officer will take possession of all submissions and be responsible for the safe keeping and ensuring all submissions are maintained in a confidential manner.

6.7 Non-conforming Quotations

Non-conforming submissions

A non-conforming submission is a submission that is not consistent with the specification requested by Council. Council's standard documentation contains a clause alerting that submissions received by Council that do not address the specification will be regarded as non-conforming and will not be evaluated.

Quotations received after the closing Time/Date

Any quotation submission received after the nominated closing time will be considered to be "non-conforming" and therefore will not be admitted into consideration under any circumstances. The submission will be not opened and will be returned by the Procurement & Contracting Unit, together with a letter explaining the reason for not accepting the submission. A submission will only be opened by the Procurement & Contracting Unit to view the name and address where it is not visible on the outside of the envelope.

6.8 Communicating

Throughout the evaluation process there may be instances where clarification is needed, both prior to and after the closure of the open request period. It is important that any communication is transparent and fair and potential suppliers are treated equally.

E-mails can be used for the distribution and request of information and must be recorded and copied into the Objective contract file. All information sourced by Council additional to the original documentation must be recorded and maintained in the contract file to be considered as part of the evaluation and the additional information will form part of the final contract.

The following principles apply to communication:

- Discussions and communication should be documented, including minutes recording the key points raised in meetings and telephone conversations;
- The Contract Custodian is to review and authorise draft correspondence in order to send consistent and internally agreed correspondence; and
- All information concerning Council's requirements and information about process must be made available in the same form and at the same time.

6.9 Evaluation process

An Evaluation panel must be formed to evaluate responses. The Panel must consist of, as a minimum, the Officer (Contract Custodian), other Council officers with relevant expertise, and consider an Officer from the Procurement & Contracting Unit. It is important that due consideration be given to the experience required on the panel, particularly for high value or high risk procurements within this value range.

The composition of the Panel is a matter of judgment and depends ultimately on the level of skill and experience required to evaluate the procurement. An external expert may be included where a person outside of Council can bring a level of technical or other experience that cannot be obtained within Council itself and which is considered

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necessary to fully evaluate the procurement. Where used, external experts will be required to comply with Council policies and be required to sign a Conflict of Interest and Confidentiality declaration.

The assessments must be conducted in accordance with the evaluation criteria and in accordance with specific weightings agreed in advance of the evaluation commencing.

The allocation of weightings should clearly outline how the points-scale used relates to the assessment criteria to be applied for each of the criteria.

Prior to assessment several critical items need to be considered:

- Does all pricing and totals add up correctly?
- Have all priced all items?
- Are there any non-conforming issues in submission?
- Has all required information been provided?

The Evaluation panel will review each as a group to:

- Allocate overall scores awarded for each submission against each of the selection criteria;
- Check on references; and
- Review any other information provided which is critical to the evaluation.

A copy of the evaluation matrix used to record the evaluation scores should be signed-off by all members of the Evaluation panel.

Throughout this process evaluation team members must be mindful of the sensitivity of the information. Thus the handling, copying and distribution of all materials must be controlled to ensure the security of such information.

6.10 Selection and recommendation

Upon concluding the overall evaluation process and once agreement has been reached to select and award, the responsible officer is to provide the recommendation report to their immediate Manager to formally approve..

The recommendation should outline each phase of the quotation process, concluding with the recommendation and the process for contract formation.

A typical recommendation report would include the following sections:

Section	Information to include
Summary	<ul style="list-style-type: none">• Author of the report• Summary of the requirement• Consultation and who was part of the Evaluation panel
Recommendation	<ul style="list-style-type: none">• What and who is to be recommended• Authorisation of relevant GM to execute contract documentation
Background	<ul style="list-style-type: none">• Detail why Council needed this procurement

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Section	Information to include
Core issues	<ul style="list-style-type: none">• Planning phase• Formation of the Evaluation panel• Documentation used and ,how evaluated,
Conclusion	<ul style="list-style-type: none">• What is the outcome and why award this contract• Any transitional issues to be addressed
Future actions	<ul style="list-style-type: none">• What may be needed to do over the term of the contract, extensions, reviews, etc
Attachments	<ul style="list-style-type: none">• Attach copies of documentation, literature, submissions and evaluation reports

Further information and advice relating to the report can be provided by the Procurement & Contracting Unit.

Once the recommendation has been finalised and accepted, letters must be sent to all advising of the result of the quotation.

6.11 *Insufficient Quotations.*

The situation may arise where insufficient quotations are received to satisfy the above requirements. Eg. Requests were sent to 3 or more suppliers and only 1 or 2 received by the due date and time.

This may occasionally occur where there are few suppliers for the goods, services or works being sought or the work is highly specialised. In this case, the details of the contacted suppliers should be documented and an appropriate comment recorded. Other alternatives to consider could be to terminate the original request and commence a new request and invite a larger group of suppliers.

7 Procurements over \$150,000 (goods and services) and \$200,000 (works)

7.1 Local Government Act Requirements

General requirement

Section 186 of the Local Government Act 1989 (“the Act”) requires Councils to undertake a competitive process (public tender) to test the market before entering into contracts for the purchase of goods and services with a value of \$150,000 or more or for the carrying out of works with a value of \$200,000 or more during the period of supply.

Section 186(1) requires Councils to conduct a public Tender before entering into such contracts. Section 186(2) allows Councils to conduct an ‘Expression of Interest’ (EOI) process as a precursor to a public Tender.

This Council policy requires a tender process for all procurements over the prescribed limits.

Exemption to publicly Tender

Section 186(5) provides for specific exemptions from the need for a public Tender process:

- Where Council has resolved the a contract must be entered into because of an emergency;
- Where Council is acting as the agent for a group of Councils, and the Council has otherwise complied with the Act;
- Where the contract is entered into in accordance with arrangements approved by the Minister; and
- Where the contract is a type of contract that has been exempted from this section by the regulations.

7.2 Expression of Interest or Public Tender

Tendering for either goods or services generally follows the same patterns and processes. For this reason, only where differences apply will the terms for goods or services be applied specifically and different methods be articulated.

There are only two methods of Tendering permitted by the Local Government Act:

- Public (or Open) Tendering - This requires a public notice calling for Tenders and consideration of all Tenders received, which would include pricing; or
- Expression of Interest then Tender - Under this process Council call for an Expression of Interest by public notice and registers those who respond without requesting pricing. Council then evaluates the submissions received and invites some or all of those who registered to submit Tenders.

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Market analysis

Prior to developing the Tendering and contract documentation, it is important to consider the extent of the market for the goods or services to be purchased. This will help determine whether a Public Tender should be invited (with potentially a high response rate to evaluate) or whether an Expressions of Interest (EOI) process should firstly be undertaken, which seeks basic information about each supplier and their range of products but not actual pricing. The EOI responses can be evaluated against designated criteria, short-listed and then actual Tender prices sought from a smaller number of Tenderers (say 5 – 6 suppliers).

Some of the factors that may indicate an EOI process would be useful are:

- the requirement is complex, difficult to define, unknown or unclear,
- the requirement is capable of several technical solutions,
- the Council wishes to consider ahead of formal tender processes such issues as whether those tendering possess the necessary technical, managerial and financial resources to successfully complete the project,
- tendering costs are likely to be high and Council seeks to ensure that companies incapable of supplying the requirement don't incur unnecessary expense,
- it is necessary to pre-qualify suppliers and goods to meet defined standards, and
- the requirement is generally known but there is still considerable analysis, evaluation and clarification required (both of the objective and the solution).

Further information relating to the EOI process is included in section 7. Information on Tendering is included in section 8.

8 Expression of Interest (EOI)

8.1 Background

The aim of an Expression of Interest (EOI) is not to elicit detailed Tenders or prices, but rather to assess the capability of the respondents to undertake the work or project and to refine the specifications. EOIs are also an important mechanism used to limit the number of Tenderers for any particular contract, and can be used to eliminate applicants whose financial and other circumstances present an unacceptable risk to Council.

Primarily, an EOI asks interested parties to provide a capability statement which is then assessed by an Evaluation panel who decide which respondents are to be short-listed and issued invitations to Tender. After these Tenders close, the same Tendering and contracting processes are followed as for public Tendering (see tender process section).

Key elements of a normal Tender process that are not generally relevant to an EOI are:

- The evaluation criteria in an EOI does not include cost; and
- Contract negotiation procedures are not relevant.

8.2 EOI brief

Primarily, EOIs should outline the scope of the services required. This should include an overview of what is required as well as some general details of the goods or services being sought. Other information contained with an EOI brief includes:

- Information relating to lodging of registrations – eg. closing time, date, Tender box location, number of copies required
- An outline of the Selection Criteria – eg. financial capacity, service level capacity, reliability, quality/safety/OHS systems
- Any forms or Schedules required to be returned with the EOI – eg. registration form, banking/financial information, an outline of personnel, plant and organisational structure, previous experience

Further information / examples can be provided by the Procurement & Contracting Unit.

8.3 EOI evaluations

A formal evaluation and short-listing of EOIs must take place. The evaluation of an EOI should follow the same processes as for a Tender process, as set out in tender process section.

Records should be kept outlining the reasons a submission was either accepted or rejected. Letters must be sent to all registrants advising them of whether their submission has been accepted or not. Copies of such letters should be placed on file.

9 Tender process

9.1 Background

Council requires that a formal Tender process be undertaken for procurements in excess of \$150,000 for goods and services or \$200,000 for works. In addition, purchases of a smaller value or in aggregation either by period of financial year/s or agreed terms may be sought through a public Tender process if the proposed purchase is considered complex, contains a high degree of risk, or if it is considered beneficial to more widely test the market.

This section discusses the processes to be followed where a Tender is undertaken.

9.2 Preparation of specifications

The specification forms part of a public Tender document and must contain sufficient detail to allow prospective Tenderers to submit proposals that comply fully with the intent of the goods and services requested. The specification does not usually prescribe how the services or works must be performed.

A separate guide is available which provides detailed guidance on the contents of a specification. In the first instance, Officers should discuss their procurement requirements with the Procurement & Contracting Unit who can provide advice with regard to the specification part of the Tender document.

Contract duration, commonly termed the "Contract Term", must also be considered in the development phase. There is no stated minimum or maximum contract term either in the Local Government Act or otherwise as a legal requirement. Therefore in deciding the length of the term, officers should consider the value, benefit and risk associated with the goods or services over the stated period. Equal of importance, is to be flexible and not to preclude Council from accessing advancements in technologies, cost savings and service levels.

It is often advisable to allow for an initial contract term and an option for further extension term. Eg. A contract term could be 3 years with an option to extend the contract for a further 2 years. This would allow the opportunity for Council to add or reduce service needs, review costs and make the decision to either extend the contract or to conclude and market test the goods or services again for a new period.

9.3 Overview of Tender documents

A Tender document should contain the following:

Part (A) Tender Information and Conditions of Tendering

This is a standard document with schedules to be completed by the Contract Custodian including:

- An introduction stating background of what is required
- A timeline of the Tendering process
- An overview or scope of the service required
- Details of the type of submission required
- The Tender selection process including selection criteria.
- Time and place for Tender lodgement
- Name of Council Contact Officer

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- The Tender Form
- Schedules relating to information required as part of the submitted Tender

Part (B) - Specification

Specification relating to the service including:

- definitions relating to the specification;
- objectives/outputs of the specifications;
- scope of requirements detailed in the specifications;
- performance standards to be met;
- environmental schedules; and
- any additional information or appendices which may be supplied (eg. site *MAPS*, plans)

Part (C) - General Conditions of Contract

This is a standard document with schedules to be completed by the Contract Custodian and a range of generic information relevant to the contract.

A schedule for Tenderers to provide details of their pricing will usually be included within the Tender documents. The format of the pricing schedule should be carefully considered during preparation of the Tender documents to ensure it will capture all required pricing information and to facilitate clear and consistent completion by all Tenderers. Capturing all required information once will help enable a consistent evaluation of the Tendered prices.

Section 9 contains further details of the Tender documents to be used for different types of contracts.

9.4 Advertising and calling for Tenders

Tenders should generally be open for a minimum of 18 days following the Tender advertisement notice. Advertisements are usually placed in "The Age" newspaper on a Saturday. Officers seeking a wider coverage (including local papers) should discuss their requirements with the Procurement & Contracting Unit. Tender lodgment guidelines and details of current Darebin Tenders are also included on Council's intranet site under the 'jobs and Tenders / Tenders on-line' section.

All advertisements for an EOI or Tender are to be written by the Contract Custodian and forwarded to the Procurement & Contracting Unit. An account allocation number must also be forwarded for charging the cost of the advertisement back to the correct budget account.

Advertisements must incorporate a number of items including:

- The CT Number
- A brief description of the service or goods required
- The closing time and date for the Tender/EOI
- Details of how to obtain the Tender documentation
- Contact details should the Tenderer require further information

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An example of a typical advertisement is shown below:-


<p>PROVISION OF COMPUTER TRAINING SERVICES ANNUAL SUPPLY CONTRACT CT 5000</p> <p>Darebin City Council is seeking Tenders from organisations with a proven ability for the provision of Computer Training Services. Training is required for a range of computer software applications including Microsoft Word, Excel, Powerpoint and Access.</p> <p>Training is to be carried out on site utilising Council's training computer training room.</p> <p>Tender documents can be obtained by telephoning John Smith (03) 9230 0000. A non-refundable fee of \$20 will be charged for this document.</p> <p>Further details or information in relation to the Tender can be obtained by phoning Jane Smith on (03) 8470 8888. or download at www.darebin.vic.gov.au/Tenders Tenders must be lodged by 4 pm on Thursday, 16 May, 2009.</p>

Following requests by prospective Tenderers, the Contract Custodian should arrange for Tender documents to be issued accordingly and collect any non-refundable fee that is applied. A list of parties that have collected the Tender documentation should be maintained.

9.5 Pre-Tender briefings

Pre-Tender briefings may be given to interested parties for a major purchase or where the requirement is complex, unusual or sensitive, strategic to a Department's core business, or where the requirement may provide the opportunity to foster local industry. Where a pre-Tender briefing is held, all potential Tenderers (those who have sought the detailed Tender documents) should be invited to attend. The same information must be supplied to all parties and be retained on file.

9.6 Receiving and recording Tenders

All Tenders are to be lodged in Council's Tender Box located at the Customer Service counter, Municipal Offices, 274 Gower Street, Preston. **Council has a common Tender closing date of Thursday 4.00pm** and this date and time must be noted on all EOI or Tender documents.

At the opening of the Tender box, a minimum of two Officers must be present to witness the opening and recording of submissions. Where possible, the Officers should be independent of the Tender Evaluation panel and in any case should include a representative from the Procurement & Contracting Unit.

All submissions are to be removed from the Tender box and sorted into relevant Tenders, where there is more than one Tender closing on the same day.

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Each submission must be opened and recorded in the Tender Registration Form, noting the name and address of the Tenderer. The form is to be signed by both Officers present at the Tender box opening.

The Contract Custodian will then take possession of all submissions and be responsible for the safe keeping and ensuring all submissions are maintained in a confidential manner. Letters acknowledging receipt of the submissions are to be sent to all parties by the Contract Custodian, acknowledging receipt of the submission and anticipated timing of the outcome of the evaluation. This is of particular importance where the evaluation and final recommendation may take considerably longer and tenderers seeking status reports of the evaluation. A copy of the letters is to be included in the Tender file.

9.7 Non-conforming Tenders

Non-conforming Tender submissions

A non-conforming Tender is a submission that is not consistent with the specification requested by Council. Council's standard Tender documentation contains a clause alerting Tenderers that submissions received by Council that do not address the specification will be regarded as non-conforming and will not be evaluated.

Notwithstanding the above, there are times when Council may seek innovative approaches for the delivery of goods, services or works and may welcome alternatives to the stated specification. If Council is prepared to accept alternatives, the Tender documents must clearly set out the approach it will take to assessing what constitutes a conforming bid and to the consideration of non-conforming submissions.

Tenders received after the closing Time/Date

Any EOI/Tender submission received after the nominated closing time will be considered to be "non-conforming" and therefore will not be admitted into consideration under any circumstances. The submission will not be opened and will be returned to the tenderer by the Procurement & Contracting Unit, together with a letter explaining the reason for not accepting the submission. A submission will only be opened by the Procurement & Contracting Unit to view the name and address of the tenderer where it is not visible on the outside of the envelope.

9.8 Communicating with Tenderers

Throughout the tender and evaluation process there may be instances where clarification is needed, both prior to and after the closure of the open Tender period. It is important that any communication to tenderers is transparent and fair and that all tenderers are treated equally.

Where additional information is to be made available to Tenderers within the open Tender period, then such information must be provided in writing in the form of an "Addendum". The information must be provided uniformly (the same) to all Tenderers and recorded.

Any requests by Council or by Tenderers for clarification on matters relating to the Tender submission must be made in writing.

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The use of e-mails for the distribution and request of information is allowable, and must be recorded and copied into the Objective folder contract file. All information sourced by Council additional to the original documentation must be recorded and maintained in the contract file to be considered as part of the Tender for the evaluation and the additional information will form part of the final contract.

The following principles apply to communication with Tenderers:

- A limited number of Officers should be nominated to deal directly with Tenderers;
- Discussions and communication with Tenderers should be documented, including minutes recording the key points raised in meetings and telephone conversations;
- The Contract Custodian should be designated to review and authorise draft correspondence with Tenderers in order to send consistent and internally agreed correspondence; and
- All information concerning Council's requirements and information about the Tender process must be made available to all Tenderers in the same form and at the same time.

9.9 Evaluation process

An Evaluation panel must be formed to evaluate responses to EOI's and Public Tenders. The Panel must consist of, as a minimum, the Officer (Contract Custodian), other Council officers with relevant expertise, and consider an Officer from the Procurement & Contracting Unit. It is important that due consideration be given to the experience required on the panel, particularly for high value or high risk procurements.

The composition of the Panel is a matter of judgment and depends ultimately on the level of skill and experience required to evaluate the procurement. An external expert may be included where a person outside of Council can bring a level of technical or other experience that cannot be obtained within Council itself and which is considered necessary to fully evaluate the procurement. Where used, external experts will be required to comply with Council policies and be required to sign a Conflict of Interest and Confidentiality declaration for the Tender.

The Tender assessments must be conducted in accordance with the evaluation criteria stated in the EOI and/or Tender documents, and in accordance with specific weightings agreed in advance of the evaluation commencing. A "Selection Criteria endorsement" form is used to document the agreed weighted evaluation criteria and the Evaluation panel must formally sign-off this form. This should be performed in advance of the Tenders being received.

The allocation of weightings should clearly outline how the points-scale used relates to the assessment criteria to be applied for each of the criteria.

Prior to assessment of the Tenders several critical items need to be considered:

- Does all Tender pricing and totals add up correctly?
- Have all Tenderers priced all items?
- Are there any non-conforming issues in Tender submission?
- Has all required information been provided by Tenderers?

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The Evaluation panel will review each EOI and/or Tender as a group to:

- Allocate overall scores awarded for each Tender submission against each of the selection criteria;
- Check on Tender references; and
- Review any other information provided by the Tenderer which is critical to the evaluation.

It may be necessary for the Evaluation panel to meet numerous times, and to seek presentations from the short-listed Tenderers to clarify any queries regarding their proposal or to expand on details that may not be fully explained in the Tender submission. Where presentations and Tenderer interviews are conducted, specific questions should be documented in advance of those meetings and responses to the questions provided by the Tenderers should be noted and retained on file. Minutes from meetings of the Panel should be taken and retained on the Tender file.

The scores awarded for each Tender submission must be recorded in writing, with comments made to explain the scores awarded where scores vary between the different Tender submissions. Scores relating to pricing should be allocated in accordance with a pre-determined methodology based on the pricing schedules submitted by Tenderers. As a guide, the documentation should allow an independent person to review the overall results and clearly understand the basis on which scores were allocated across the different criteria.

The method of allocating scores on a weighted basis is to be used as a tool in reaching a decision regarding the procurement and, as a tool, may be adjusted to suit changes in circumstances during the process. Ultimately the evaluation involves subjective as well as a quantitative analysis, requiring skill, experience and value judgement. The Tender assessment needs to consider outcome and not process alone. A check must be made towards the end of the process for any inconsistencies and errors, to ensure relativities have been maintained during the evaluation.

A copy of the evaluation matrix used to record the evaluation scores should be signed-off by all members of the Evaluation panel.

Once agreement has been reached on the recommendation, the Contract Custodian should record all relevant information from the Tender evaluation meetings and compile the Tender Evaluation Report/Recommendation. All members of the Evaluation panel are to endorse the Tender Evaluation Report/Recommendation prior to it being forwarded to the Delegated Officer for formal approval.

Throughout this process evaluation team members must be mindful of the sensitivity of the information from Tenderers as well all internal notes. Thus the handling, copying and distribution of all materials must be controlled to ensure the security of such information.

9.10 Selection and recommendation

Upon concluding the overall evaluation process and once agreement has been reached to select and award the Tender, the Contract Custodian is to provide the recommendation report to their immediate Manager who would arrange submission to the delegated officer or Council for consideration and approval, depending on the value of the contract and the level of delegations.

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The recommendation should outline each phase of the Tender process, concluding with the recommendation and the process for contract formation.

A typical recommendation report would include the following sections:

Section	Information to include
Summary	<ul style="list-style-type: none"> • Author of the report • Summary of the Tender requirement • Consultation and who was part of the Evaluation panel
Recommendation	<ul style="list-style-type: none"> • What and who is to be recommended • Council endorsement • Authorisation of relevant GM, CEO and Council to execute contract documentation
Background	<ul style="list-style-type: none"> • Detail why Council needed to Tender for this procurement
Core issues	<ul style="list-style-type: none"> • Planning phase • Formation of the Evaluation panel • EOI phase (if used) and how the process was conducted, outcomes and recommendation • Tender phase, documentation used, how evaluated, interview/presentation outcomes and selection criteria weightings
Conclusion	<ul style="list-style-type: none"> • What is the outcome of the Tender and why award this contract • Any transitional issues to be addressed
Future actions	<ul style="list-style-type: none"> • What may be needed to do over the term of the contract, extensions, reviews, etc
Attachments	<ul style="list-style-type: none"> • Attach copies of Tender documentation, literature, submissions and evaluation reports

Further information and advice relating to the report can be provided by the Procurement & Contracting Unit.

Once the recommendation has been finalised and accepted, letters must be sent to all Tenderers advising of the result of the Tender.

10 Tender and contract documentation

10.1 Standard documentation

Council has in place a number of standard sets of Tender and contract documentation that have been reviewed externally by Council's legal advisors. This documentation focuses on the contract General Conditions and describes the parameters around the purchasing arrangement.

The standard documentation is compiled together with the contract-specific specification that describes the specific nature of the work, service or products relevant to the contract.

The choice of standard documentation is determined by the nature of the contractual arrangement. Because of the range of agreements that Council enters into, there are a number of different forms of contract Conditions to suit. The activities primarily fall into the classifications of:

- Construction/Engineering Works (eg. building a road, renovating a building, etc); and
- Supply of Goods and/or Services (eg. specific contracts for project or facility management, meals on wheels, etc; annual arrangements for asphaltting, stationery, consultancy etc).

The following sections discuss the different types of contracts available and their suitability for different uses. The Procurement & Contracting Unit can provide advice in relation to which contract documents to use for specific situations.

10.2 Construction/Engineering Works Contracts

The documentation to be used for Construction/Engineering works is the Standards Australia General Conditions of Contract AS 2124-1992¹.

With these contracts, only the Annexure of the Conditions of Contract is issued to Tenderers, but it will be stated in the Conditions of Tendering that a copy is available for perusal by prospective Tenderers at the point of collection of other Tender documents.

10.3 Contracts for Supply of Goods and/or Services

There are a range of different forms of contract documents that may be used for the provision of goods and/or services. These are:

- a) General Services Contract;
- b) Short Form of Contract;
- c) Annual Supply Contract; and
- d) Consultancy Contract.

a) General Services Contract

The General Services Contract documents are suitable for calling Tenders for the supply of goods or services to Council. General Services contracts can vary in nature and

¹ Standards Australia has issued a document called *Handbook 57-The plain English guide to AS 2124-1992* which is available from Standard Australia.

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could cover a whole area of Council's activity such as Meals Production or could be restricted to one aspect such as tree lopping or maintaining vehicles.

The table below shows the various individual documents making up the general services contract and the relevant filenames:

Document Name	Filename.doc
Tender Information and Conditions of Tendering	TICT.DOC
Services General Conditions	SGC.DOC
Services Specification	SPEC.DOC
Form of Agreement	FOA.DOC

b) Short Form of Contract

Where contractual arrangements are entered into for uncomplicated works, services or supplies and of relatively small value, it may be appropriate to use a Short Form of Contract. Short Form contracts contain all legal clauses required to protect Council but have been reduced in detail and are less complicated to understand than the longer form (general services) version. The short form may be suitable for procurements such as support services, the purchase of a single piece of machinery, or small service contracts.

The table below shows the various individual documents making up the short form contract and the relevant filenames:

Document Name	Filename.doc
Tender Information and Conditions of Tendering	SHORTTICT.DOC
Services General Conditions - Short Form	SHORTSGC.DOC
Form of Agreement - Short Form	SHORTFOA.DOC

c) Annual Supply Contracts

Contracts for the ongoing ordering of goods and/or services generally take the form of annual supply contracts. An annual supply contract applies when Council wants to access goods or services on a continuing or repeating basis during the year on an agreed hourly rate or fixed discount structure.

Annual supply contracts may cover a wide range of activities. Examples include the ongoing supply of motor vehicles, supply of bitumen for road maintenance use, soil for parks and gardens, and renewal of computer hardware. The use of such contracts can be effective in aggregating supply arrangements and minimizing administrative costs.

A peculiarity of Annual Supply Contracts is the absence of consideration (payment), as contractors are simply put 'on a list' of suppliers. In the case of all Annual Supply Contracts, a Form of Agreement is necessary to evidence the contract between parties.

The table below shows the various individual documents making up the general services contract and the relevant filenames:

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Document Name	Filename.doc
Tender Information and Conditions of Tendering	ASTICT.DOC
Services General Conditions	ASSGC.DOC
Specifications	ASSPEC.DOC
Form of Agreement	ASFOA.DOC

d) Consultancy Contracts

Consultancy agreements are suitable whenever Council is engaging external specialised service providers to provide professional advice to Council. A generic agreement has been developed for Council to use when engaging consultants based on Australian Standards agreement AS4122.

The table below shows the various individual documents making up the general services contract and the relevant filenames:

Document Name	Filename.doc
Formal Instrument of Agreement for Consultancy Services	CONSULTANCYAGREEMENT.DOC

The standard contract documents are available on the Procurement & Contracting Unit's Intranet site in the form of partially annotated soft copy files, or from the Procurement & Contracting Unit in hard-copy form.

10.4 Completing and changing standard form contracts

The Council's Contract Custodian and/or the Tenderer must fill in certain parts of the standard form documents. The Contract Custodian should normally make necessary changes on a soft version of the contract. There are two types of standard changes that may be made:

- Completing specific information, such as on the cover sheet of each document. Areas that must be filled in by Council prior to printing a document are marked with the “#” sign or highlighted. These range from the general description and contract number on the front of the contract to dates and the Tender closing date.
- Deletions. Certain clauses are marked with asterisks “*” or highlighted — The legal advisors who prepared the standard form contracts note that these clauses may be deleted without need to seek further legal advice. Deletions are usually on the basis that aspects of a contract are not applicable in particular circumstances (eg, references to a contractor's plant). Some such clauses indicate other changes that must be made if they are deleted (such as cross-references to particular sections).

Deletions in the standard form contracts should be made by striking through the unwanted text and not by simply removing it (eg. ~~striketrough~~ text)

Changes to a standard form contract may be made if the preferred Tenderer has not accepted some of the clauses however, before any changes are agreed to, the Procurement & Contracting Unit or Council's legal counsel should first examine proposed changes to ensure they will not result in a detrimental impact to Council.

11 Communication and Training

External communication is very important in ensuring a healthy interest from potential suppliers and partners to the Council. The external website will be updated and provide:

- Information about Council and how to become an approved supplier;
- A list of existing and forthcoming contract opportunities, projected over a number of years;
- Guidelines for doing business with Council;
- Standard documentation used in the procurement process; and
- Links to other relevant sites.

Internal communication is very important in ensuring all delegated officers who have budgetary and purchasing responsibilities are trained and provided with relevant and up to date information.

Council will:

- Conduct one to one training for delegated and other new officers commencing at Council;
- Provide a copy of this policy and guidelines to new officers;
- Conduct refresher training for all delegated and responsible officers throughout each financial year; and
- Communicate from time to time or (minimum) annually by email and Councils intranet all new and updated all forms, templates, standards and documentation.

12 Continual Improvement

The Council is committed to continuous improvement and will review the procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

13 Checklists

Checklists have been prepared to assist Officers ensure that all procurement processes in relation to a Tender, or EOI and Tender process have been undertaken. The checklists must be completed by the Contract Custodian in all such procurement arrangements and may be subject to internal and external review.

For further information or clarifications on tender checklists and procedures, contact the Procurement & Contracting Unit.

14 Policy Owner and Contact Details

David Cecala Procurement & Contracting Coordinator, Darebin City Council is the designated owner of this policy.

For further information on the policy, please contact via email: purchase@darebin.vic.gov.au or telephone (03)8470 8888.

Attachment 1 – Environmental Purchasing Code

1. Purpose

The purpose of this code is to provide a purchasing framework that will advance the sustainable use of resources and reduce impacts on the environment and human health. The City of Darebin will demonstrate to the community our purchasing decisions can enhance ecological sustainability, be resource responsible and improve markets for environmentally preferred products. The City of Darebin will purchase local recycled and environmentally preferred products when they perform satisfactorily and represent value for money.

2. Guiding Principles

In selecting goods and services, the City of Darebin has chosen to define guiding principles of the highest environmental standards – that is principles that strive for zero environmental damage described in 2.2 below. The City of Darebin acknowledges that zero damage will be difficult to achieve (especially in the short-term) but in setting guiding principles that act as 'stretch goals' we seek to:

- emphasise our serious commitment to sustainability and a healthy environment
- encourage continual improvement in our operations and
- achieve the best possible environmental outcomes.

2.1. The Council Plan

Environmental Sustainability is one of the six key strategic objectives identified in the current City of Darebin *Council Plan (2009-2013)*. Under these key objectives there are a number of specific commitments relevant to environmental purchasing:

- We will be innovative in our leadership, and ensure through formal structures, policies and practices that our promise to the community is honoured, and our goals can be achieved.
- We will place the protection and improvement of the environment at the heart of our decision making in policy, service delivery and regulatory design.
- We will reduce the environmental impact of our own operations through a reduction in energy use and greenhouse gas emissions, water consumption and waste generation and
- We will undertake long term planning to ensure our municipality continues to function effectively in the face of the impacts of climate change and peak oil.

2.2. The Environment Policy & Key Environmental Strategies

Darebin's Environment Policy states that Darebin Council will aim for its own operations to be ecologically, socially and economically sustainable and that it will be a sustainability promoting organisation within the Darebin community and further a field.

The Policy identifies a number of Stretch Goals that provide the guiding framework for more immediate targets, management and action:

- zero pollution

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- zero waste
- zero habitat destruction
- zero climate damage
- zero soil degradation

Immediate environmental targets and management actions are developed in the following key Darebin strategies which are relevant to procurement:

- Climate Change Action Plan (both corporate and community) which require the purchase of GreenPower for council managed facilities and that new Council buildings are designed for zero net emissions.
- Draft Climate Change and Peak Oil Adaptation Plan which looks to increase Council's resilience around these issues and reduce reliance on oil and energy intensive products.
- Sustainable Water Strategy and its components: including the Stormwater Management Plan and Sustainable Water Use Plan which look to reduce potable water use by Council and improve water quality outcomes.
- Waste Management Strategy which looks to reduce consumption and waste to landfill, increase recycling and sets a target to increase Council spending on goods assessed as having environmental benefit.
- Darebin ESD Requirements, sustainable design for council buildings, which includes checklists, mandatory equipment performance measures and materials for different building processes.
- Biodiversity baseline report and draft Weed Management Strategy which look to improve biodiversity outcomes.
- Transport Strategy (and components) which looks to promote sustainable travel options and
- Draft Sustainable Public Lighting Plan.

2.3. The Procurement Policy

This Code is referenced in the Darebin City Council Procurement Policy and Guidelines which sets out the key policies and principles forming the framework for procurement at Darebin.

3. Role of the Environmental Purchasing Code

Within the above policy context, the role of this Environmental Purchasing Code is to:

1. Complement existing policy, such as the Procurement Policy, and clarify the purpose, principles, objectives, responsibilities and necessary programs in order to facilitate the purchasing of environmentally preferable goods and services.
2. Ensure that the intent of this code is observed across all of Council's purchasing activities. This code seeks to ensure that all staff who make purchasing decisions have access to information that ensures environmental considerations can be easily incorporated into the decision-making process.

4. Environmental Purchasing Goals

By use of this code Council aims to:

- Eliminate unnecessary purchasing
- Reduce its impact on the environment
- Protect and improve the environment
- Reduce its impact on human health and
- Contribute to progress towards sustainability

Our goals include:

Minimum Unnecessary Purchasing

Purchases shall only be made once it has been determined that the product or service is necessary.

Minimum waste

Purchasing decisions shall be made in the context of the waste hierarchy to avoid, reduce, reuse and recycle.

Avoid

- Identifying ways of carrying out a function or task without using materials that generate waste. An example is sending information electronically instead of on paper.

Reduce

- Purchases that reduce the use of materials will be favoured, for example bulk purchases that reduce packaging or printers that print double sided.
- Improved planning to ensure that goods purchased match the requirements of Council and avoid excessive amounts of materials or goods poorly matched to requirements.

Reuse

- Using the same item more than once and extending the useful life of products and equipment through appropriate maintenance and repairs rather than replacing an item.
- Ensure purchases are durable, have a long service life and are easy to maintain and upgrade.

Recycle

- Purchase products that are recycled or re-manufactured or contain recycled materials (eg: concrete, paper notepads, office chairs)
- Purchase products that can be recycled or re-manufactured at end of life (eg: paper, office furniture, electrical appliances).
- Purchase products from companies who actively and support recycling of their products – especially via active participation in a recycling scheme (eg: computer and electronic manufacturers)

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Minimum Climate Damage

- Purchase energy efficient products and materials by checking that the energy rating and efficiency features, consider life cycle costs.
- In addition to operational energy performance, consider the energy requirements of a product during its production, transportation and eventual disposal.
- Purchase materials and products that are free of toxic or polluting materials.
- Reduce reliance on fossil fuels and fossil fuel dependent products eg: asphalt, plastics; and purchase renewable energy.
- Purchase goods that have not been transported long distances.

Maximum Water Efficiency

- Purchase products that conserve water or use water in the most efficient way (eg: highest WELS (water efficient labelling system) rating for appliances and fittings).
- Ensure products have no polluting impact on waterways or groundwater (eg: nutrient run off of fertilisers, cleaning fluids for graffiti removal)
- Consider the water requirements of a product during its production or its life cycle – purchase products with lower water footprints
- Consider the potential to use non-potable water sources with the product
- Consider the potential to re-use water with product (eg: water recirculation, greywater reuse)

Minimum Habitat Destruction

- Purchase paper and wood products obtained from recycled, sustainably managed plantations, salvaged or renewable sources.
- Avoid the purchase of products that threaten the preservation of biodiversity.

Minimum Pollution

- Purchase products and materials that will not release toxic substances that can pollute water, land or air at any stage of their life cycle.

Minimum Soil Degradation

- Purchase products, materials and services that will not degrade or pollute the soil, or result in erosion through their use.

5. Value for Money

Purchasing decisions will be made on the basis of value for money, rather than just the cheapest up-front purchase price. It is recognised that in some cases the selection of environmentally preferable products and materials may be less competitive but may

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represent the best value for money when environmental impacts and/or the operational costs of a purchase are taken into consideration.

Publicly tendered projects which use weighted criteria should consider specific environmental criteria where relevant, although in many cases mandatory environmental requirements will be included in specifications.

The lifecycle costs of water and energy using appliances should also be considered when assessing costs. Upfront costs may be offset by energy/water/maintenance costs over its lifetime.

Any extra costs which would also be incurred throughout the lifetime of a product (eg: increased disposal costs for non-recyclable) should be considered in the cost assessment.

6. Implementation

In order to achieve the goals of this code the City of Darebin will:

- A. Review quality, environment and purchasing criteria on a yearly basis.
- B. Review the capital works application process for compliance.
- C. Continue a staff education program for the implementation of this code.
- D. Require its contractors and consultants to comply with this code.
- E. Ensure that staff have access to information on environmentally preferred products.
- F. Conduct monitoring and reporting on the implementation of this code through participation in EcoBuy.
- G. Progressively ensure that all purchasing specifications, tender documentation and consultants briefs and contracts comply with this code.
- H. Actively promote environmental purchasing to the community.

7. Responsibilities

The Environmental Strategy Unit will be responsible for coordinating and supporting the implementation of this code. To do so the Environmental Strategy Unit will collaborate closely with the Financial Services Branch in order to:

- A. Co-ordinate an Environmental Purchasing Team (EPT) to develop systems and training that support the effective implementation of this code.
- B. Share information and seek input from the Environmental Action Team.
- C. Prepare an annual Action Plan for the development and implementation of the Sustainable Purchasing Policy and ECO-Buy program
- D. Include green specifications in all tender documentation, consultants briefs and contract review
- E. Develop in consultation with the EPT, monitoring and reporting procedures that measure the level of compliance with this code and investment in recycled and environmentally preferable products.

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- F. Further develop systems to track and record all purchasing of environmentally preferred products
- G. Inform departments of their responsibilities under this code and provide departments with information about environmentally preferable products and specifications within one year.
- H. Provide an annual report to Council on sustainable purchasing and sustainable purchasing initiatives

8. Encouragement of Local Business and Consideration of the Environment

- The Procurement Policy and the Environmental Purchasing Code ensure that environmentally preferable products that are locally sourced and represent value for money will be highly regarded by purchasing decision makers.
- Buying locally produced goods and services often has a significant environmental benefit due to the reduction of energy required for transport.
- Council staff will communicate effectively with suppliers, contractors and consultants regarding the intent of this code and provide feedback to local suppliers to encourage improvement in terms of the environmental impact of their products/services and/or their company track record.

9. Responsible Corporate Citizenship

The City of Darebin acknowledges that the environmental impacts of purchasing decisions are not limited to the particular product or service in question. The current practices of supplier companies will therefore be taken into consideration when making purchasing decisions.

The City of Darebin will seek to purchase materials, products and services from companies whose practices do not directly conflict with the principles of ecologically sustainable development. For example, companies or wholly owned subsidiaries who do not engage in:

- The clearfelling or woodchipping of Australian native forests or
- The clearfelling of vulnerable forest habitats of other nations (eg tropical rainforests).

Products, services and materials that are sourced from companies that demonstrate commitment to sustainability and quality will be highly regarded. Suppliers may demonstrate commitment to sustainability and quality by:

- Having an accredited environmental management system
- Having a documented waste reduction strategy and/or greenhouse reduction plan.
- Participating in a recognised industry or other recycling program
- Meeting the relevant quality standards for a particular product or service.

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- Being listed in Sustainability Victoria's Waste Wise Shopping Guide or the EcoBuy Green Products and Suppliers list
- Having a good track record for quality and environmental performance
- Being licensed under an independent eco-labelling system
- Participating in accredited carbon offsetting program.

10. Acknowledgements

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Department of the Environment, Transport and the Regions Energy, Environment and Waste Directorate, United Kingdom
City of Darebin, Environmental Action Team
City of Darebin, Environmental Purchasing Team
The Wilderness Society

11. Definitions

Carbon Neutral means emitting no net greenhouse gases. After reducing energy use as much as possible, using energy as efficiently as possible and then switching to renewables any residual emissions are then offset.

Energy efficient products or facilities use less energy than typical products or facilities to provide a given energy service or level of activity.

Environmentally Preferable Products are products that have less of a negative impact on human health and the environment than competing products and services that serve the same purpose. This comparison may consider the source of raw materials, production, manufacturing, packaging, distribution, potential for reuse and recycling, operation, maintenance or disposal of the product.

Greenhouse effect is the rise in temperature that the Earth experiences because certain gases in the atmosphere (greenhouse gases) trap energy from the sun. Without these gases, Earth's average temperature would not be warm enough for humans to live. Global warming and climate change are the result of a buildup of greenhouse gases in the atmosphere, and could result in serious environmental damage. Greenhouse gases are produced from the burning of fossil fuels, land clearing, emissions from landfills and other sources, including the manufacture, use and disposal of products.

Greenhouse friendly products are products that create less greenhouse gas emissions at one or more stages of their life cycle than competing products and services that serve the same purpose.

Post-consumer is material generated by households or by commercial, industrial and institutional facilities in their role as end users of the product, which can no longer be used for its intended purpose. This includes returns of material from the distribution chain.

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Pre-consumer is material diverted from the waste stream during the manufacturing process. Excluded is re-utilisation of materials such as rework, regrind or scrap generated in a process and capable of being reclaimed within the same process that generated it.

Recycled Materials are materials that have been reprocessed from recovered material by means of a manufacturing process and made into a final product or into a component for incorporation into a product.

Recycled Products are made from materials that have been recovered, processed and used as a raw material for the manufacture of a useful new product through a commercial process. These products will contain a specified percentage of material that would otherwise have been disposed of as waste.

Re-manufactured means to renew or restore a used product into its original form or into a useful new product through a commercial process.

Value for Money is the identification and inclusion of all direct and indirect costs associated with a particular product or material in relation to quality and capacity to meet the required needs. This includes the initial cost of purchase, length of warranty, cost of operating the product, anticipated maintenance and repair, and the direct and indirect costs associated with disposal or removal of the product at the end of its useful life.

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