

THE CITY OF
GREATER GEELONG

PROCUREMENT POLICY

VERSION: 1

Approval Date: 14 December 2021

Approved by: COUNCIL

Review Date: 31 December 2025

Responsible Officer: Manager Property, Procurement and
Assets

Authorising Officer: CEO

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Definitions and Abbreviations

This section defines the key terms used in this policy.

TERM	DEFINITION
Act	<u>Local Government Act 2020</u>
City	The City of Greater Geelong organisation, led by the Chief Executive Officer (CEO).
Conflict of Interest	A general conflict of interest or a material conflict of interest within the meaning of sections 127 and 128 of the Act respectively.
Contract Risk Framework	A framework that outlines the City's appetite for contractual risk that is prepared by the City's Legal Services Unit and approved by the City's Executive Leadership Team from time to time.
Councillor	A person who has been elected to the office of Councillor of Council with the City of Greater Geelong.
GROW	G21 Region Opportunities for Work Program which is aimed at changing the way the City buys and employs locally, to support local businesses and help create equitable and sustainable jobs.
Probity	Undertaking Procurement in a way that ensures: <ul style="list-style-type: none">a) compliance with legal obligations;b) fairness, impartiality and accountability;c) appropriate management of any Conflicts of Interest;d) transparency, subject to any confidentiality obligations, ande) ability to withstand internal and external scrutiny.
Procedure	The procedures manual and contract management guideline that implement this policy.
Procurement	The process of acquiring of goods and services, including for the carrying out of works.
Public Market Approach	A competitive process that tests the market for the supply of goods or services, which may include calling for tenders or seeking quotations.
Staff	Includes permanent and temporary employees of the City.
City Representative	The person nominated by the City in the contract to exercise powers and duties associated with the administration of a contract.
Supplier	Any supplier or potential supplier of goods or services to the City.
Sustainability	Acting in a way that meets the needs of the present without compromising the ability of future generations to meet their needs.
Value for Money	A measure of the benefits the City obtains for its expenditure, taking into account both cost and non-cost factors including:

TERM	DEFINITION
	<ul style="list-style-type: none"> a) advancement of the City's corporate strategies and priorities, including the Council Plan, Social Procurement and other policies; b) non-cost factors, including fitness for purpose, quality, service and support; and c) 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. <p>Lowest price is not the sole determinant of Value for Money.</p>

POLICY

1. PURPOSE

- 1.1 The City of Greater Geelong is Victoria's largest regional city. With a population of 259,000 as at June 2020, the City spent \$243.9m in the 2020/2021 financial year. When undertaking a Procurement, the City is committed in ensuring that:
 - (i) Public funds are spent responsibly;
 - (ii) It has regard to relevant Council approved frameworks (social procurement, equity and diversity and Sustainability);
 - (iii) Rules and process are clear, are transparent, assign accountability and deliver procurements with the standards of probity expected by a local government authority in the eyes of its community;
 - (iv) The incidence of illegal activity (including fraud and corruption) and other behaviours that may bring disrepute to the City are minimised by the establishment of appropriate controls; and
 - (v) Best Value for Money and open and fair competition are promoted.
- 1.2 In recognition of the above considerations, the purpose of this policy is to provide the guidelines and rules regarding all Procurement activity conducted by the City.
- 1.3 This policy is made in accordance with section 108 of the Act with regard to the governance principles in section 9, particularly:
 - making Council decisions in accordance with relevant law;
 - achieving the best outcomes for the municipal community (including future generations);
 - promoting economic, social and environmental sustainability of the municipal district, including mitigating and planning for climate change risks;
 - pursuing innovation and continuous improvement;
 - seeking collaboration with other Councils, Governments and statutory bodies; and
 - ensuring the ongoing financial viability of the Council.

2. SCOPE

This policy applies to all Procurement at the City, and to Councillors and Staff involved in any Procurement.

3. COMPLIANCE

- 3.1 Councillors and Staff involved in any Procurement must comply with this policy.
- 3.2 Failure to comply with this policy may lead to disciplinary action in accordance with the City's Employee Code of Conduct, other relevant policies and legislation.

4. ROLES AND RESPONSIBILITIES

Councillors

Councillors must:

- 4.1 comply with the Councillors' Code of Conduct insofar as it relates to Procurement, including:
 - 4.1.1 avoiding a conflict between their public duties as a Councillor and their personal interests and obligations and, where a conflict exists, disclosing and managing that conflict in accordance with the Councillors' Code of Conduct and the Procedures;
 - 4.1.2 not misusing their position by making improper use of information acquired as a result of their position, disclosing confidential information or failing to disclose a Conflict of Interest; or
 - 4.1.3 not accepting any gifts or hospitality related to Procurement;

4.2 not engage in any discussions with potential suppliers throughout the lifecycle of a Procurement; and

4.3 support the CEO to discharge the CEO's role and responsibilities under 4.4 below.

The CEO

The CEO will:

4.4 oversee the establishment and maintenance of procurement controls, including:

- 4.4.1 more than one person be involved in every stage of authorising and managing a transaction, especially paying a supplier;
- 4.4.2 Public Market Approach processes be managed centrally to ensure transparency in Procurement;
- 4.4.3 Procurement activities be clearly documented for audit purposes;
- 4.4.4 appropriate delegations be documented and maintained;
- 4.4.5 monitoring and performance measurement systems be implemented;
- 4.4.6 implementing a process for escalating procurement matters where appropriate (including procedural non-compliance) to the Executive Leadership Team, the Audit and Risk Committee and Council;
- 4.4.7 the Procedures, including a Contract Management Manual and any other documentation relevant to ensure compliance with this policy;
- 4.4.8 processes and controls that are continually improved with a focus on mitigating risk of fraud, corruption and inappropriate behaviour;
- 4.4.9 implementing a process for reviewing complaints from any person about Procurement; and
- 4.4.10 providing Procurement training and promoting Procurement awareness amongst Staff.

Procurement Services Unit

The Procurement Services Unit will:

- 4.5 for processes the Procurement Services Unit manages, be the City's representative to Suppliers and be the single source of communication during the Public Market Approach, evaluation and negotiation stages;
- 4.6 lead the City's Procurement function, including Public Market Approach processes;
- 4.7 prepare and oversee the Procurement Plan in accordance with this policy;
- 4.8 comply with the Procedures;
- 4.9 assign each Procurement to a category under paragraph 5.11;
- 4.10 conduct Procurement in accordance with best practice and with the Act, other laws and Council and management policy; and
- 4.11 monitor compliance with this policy, and record and report breaches in accordance with this Policy.

Staff

Staff must:

4.12 comply with the Employee Code of Conduct insofar as it relates to Procurement including:

- 4.12.1 behaving ethically and taking action to prevent unethical practices (for example, using their position to obtain personal gain in Procurement);
- 4.12.2 maintaining confidentiality of City information which a reasonable person would consider to be confidential;
- 4.12.3 reporting fraud or corrupt conduct to appropriate internal or external authorities;
- 4.12.4 refraining from acting in any way that would harm or potentially harm the reputation of the City (for example, endorsing products, services, providers or individuals without the permission of the City);
- 4.12.5 acting with honesty and integrity, and not allowing any external, personal, or financial interests or duties to compromise their obligations, responsibilities, and duties to the City;
- 4.12.6 where a conflict of interest exists, disclosing and managing that conflict in accordance with the Employee Code of Conduct and the Procedures; and

4.12.7 not accepting any gifts or hospitality related to a Procurement; and

4.13 other than those within the Procurement Services Unit accountable for a Procurement, not engage in any discussions with potential suppliers throughout the lifecycle of a Procurement process (excepting contract management); and

4.14 not acting outside their delegated authority.

Suppliers

4.15 Suppliers are encouraged to report misconduct, unethical behaviour or suspected corruption in accordance with this policy.

The Community

4.16 The community is encouraged to report misconduct in accordance with this policy.

5. THE PROCUREMENT FUNCTION

Procurement Principles

The City will undertake Procurement in accordance with the following principles:

Fair and honest dealing

5.1 All Suppliers must be treated impartially and afforded an equal opportunity to tender or submit a quotation.

Achieving Value for Money

5.2 The City will carry out Procurement with a view to achieving best Value for Money.

Whole of life considerations

5.3 The City will consider the whole life of the goods or services when undertaking Procurement.

Probity, accountability and transparency

5.4 Staff must be able to account for all Procurement decisions and must ensure that all Procurement activities are clearly documented for monitoring and reporting purposes.

Social Procurement Framework

5.5 The City will develop a Social Procurement Framework, including targets and key performance indicators, and will report on it annually. The Framework will include, at a minimum, targets for social, environmental and economic outcomes (which may include GROW initiatives). The City will publish its targets and key performance indicators.

5.6 The City commits to actively pursuing and raising the profile of social outcomes through Procurement, including:

5.6.1 considering the Social Procurement Framework in planning all Procurement activities; and

5.6.2 using the Social Procurement Framework and its key performance indicators as criteria where the City considers it suitable in each Procurement. The City may, from time to time, use the Social Procurement Framework as the determining factor in selecting a supplier.

5.7 The City commits to applying the principles of Sustainability to its decision-making and activities. The City will promote a clear understanding of Sustainability and how it applies to daily tasks amongst Staff.

5.8 The City will demonstrate sustainable Procurement by:

- considering the City's impacts on society, the economy and the environment, including the impacts of its supply chain;
- examining anticipated organisational, project and/or community needs;
- continually improving Sustainability specifications, practices and outcomes; and
- planning and undertaking Sustainability evaluations as part of Procurement.

Collaborative procurement

5.9 The City will seek to collaborate with councils and other public bodies in Procurement where it would enable the City to:

- take advantage of economies of scale; or
- achieve significant social outcomes.

Aggregation

5.10 During the planning phase of a Procurement, the City will consider the likely total value of current and foreseeable future Procurement of similar goods or services to identify any benefits (including economies of scale) in aggregating the Procurements.

How the City will procure – standard approach

5.11 The City will undertake Procurement by obtaining quotations or calling for tenders in accordance with the amounts set out in the following table:

Category	Description	Amount (excl. GST)	Procurement process (minimum)
All		Up to \$25,000	One written quotation
Transactional	Low value, low supply risk due to the number of suppliers in the market (for example, stationery and catering)	\$25,000 to \$250,000	Three written quotes sought
Leveraged	Higher value, low supply risk due to the number of suppliers in the market (for example, panel contracts, architectural services and cleaning services)	\$25,000 to \$300,000	Three written quotes sought
Focused	Low value, unique or targeted Procurements in a limited supplier market (for example, valuation services, utility providers, IT hardware or software)	\$25,000 to \$300,000	Three written quotes sought
Strategic	High value and/or high business criticality with significant business or community impacts (for example, major construction and strategic waste projects)	\$25,000 to \$300,000	Three written quotes sought
Leveraged	Higher value, low supply risk due to the number of suppliers in the market (for example, panel contracts, architectural services and cleaning services)	\$300,000 to \$500,000	Five written quotes sought
All		Exceeding any threshold specified above	Open market tender

How the City will procure – exemptions

5.12 The City may use a method of Procurement other than the minimum process specified in paragraph 5.11 if:

5.12.1 the Procurement falls into a category listed in paragraph 5.14; and

5.12.2 the alternative is approved in accordance with paragraph 5.15.

5.13 The City must decide on any exemption before a Public Market Approach.

5.14 The circumstances in which an exemption may be granted are as follows:

Exemption Categories	Explanation
1. A contract made because of Emergency	<p>An emergency due to the actual or imminent occurrence of an event that endangers or threatens to endanger the safety or health of any person in Victoria or that destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including (but not limited to):</p> <ul style="list-style-type: none"> a) an earthquake, flood, windstorm or other natural event; b) a fire; c) an explosion; d) a road accident or any other accident; e) a plague or an epidemic or contamination; f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; g) a hi-jack, siege, or riot; and h) a disruption to an essential service.
2. Purchases from another government or government-owned entity, or through a government contract	<p>Engagements:</p> <ul style="list-style-type: none"> (a) with another government entity or government-owned entity. For example, Federal, State or Local Government or an entity owned by the Federal, State or Local Government; or (b) that have been entered into by the above entities for the benefit of local government authorities (including panel contracts established by the government entity or other quasi-government entities such as Procurement Australia and the Municipal Association of Victoria).
3. Extension of contracts while the City is at market	<p>The City may extend an existing contract where the procurement process to replace the contract has commenced but will not be complete before the expiry of the existing contract. The City may extend the contract only:</p> <ul style="list-style-type: none"> a) where the City considers that establishing an interim arrangement with an alternative supplier is not in the public interest (including if it would be cost prohibitive or present a transition or other risk in the delivery of critical public services); and b) where the existing Supplier's performance has been satisfactory; and c) for no more than three months.

Exemption Categories	Explanation
4. Professional services unsuitable for tendering	Including, but not limited to, Legal Services, Insurances.
5. Information technology resellers and software developers	Allows the City to renew existing software licenses and maintenance and support, or upgrade existing systems, where there is only one supplier of the software who holds the intellectual property rights to the software.
6. Regional waste and resource recovery groups	Situations where a Regional Waste and Resource Recovery Group constituted under the <i>Environment Protection Act 1970</i> had already conducted a public tender for and on behalf of its member councils.
7. Statutory compulsory monopoly insurance schemes	TAC WorkCover
8. Traditional Owners	Engagement of Traditional Owners where the primary purpose of the procurement activity is to gather information relating to Aboriginal culturally sensitive issues, including land management considerations pursuant to the <i>Aboriginal Heritage Act 2006 (Vic)</i> .
9. Infrastructure owners	Engagement of owners of infrastructure that needs to be changed or maintained where only one party can assist at our cost. e.g. utilities, telecommunication.
10. Sole or select sourcing	The City may engage with one supplier or a restricted group of suppliers where it is in the public interest and: <ul style="list-style-type: none"> (i) there is one or a limited number of available Suppliers; or (ii) the City is party to a joint agreement where it jointly owns the intellectual property with a third-party provider.

5.15 The following delegates have authority to approve exemptions in accordance with 5.12 where they reasonably consider that:

5.15.1 an alternative method of Procurement is better suited to the circumstances of that Procurement; and

5.15.2 the community's best interests will be served and best Value for Money will be achieved by an alternative method of Procurement.

Amount (excl. GST)	Delegated Authority
Up to \$500,000	Director Corporate and Customer Services with the Manager Procurement
\$500,000 to \$1,000,000	CEO with the Director Corporate and Customer Services and Manager Procurement
Over \$1,000,000	Council resolution upon recommendation from CEO, Director Corporate and Customer Services and Manager Procurement

Other Procurement considerations

Procurement for Innovation

- 5.16 From time to time the City may utilise a procurement for innovation process to identify Suppliers to deliver innovative goods or services. The Procurement Services Unit will determine when it is appropriate to utilise this process. Procurement for Innovation will be categorised as a Strategic Procurement.

Unsolicited proposals

- 5.17 The City generally will not consider an unsolicited proposal unless it claims a high level of innovation or demonstrates cost savings or productivity improvements.
- 5.18 Where the City elects to consider an unsolicited proposal, it must carry out Procurement in accordance with this policy.

Cumulative Spend and contract splitting

- 5.19 In determining what Procurement process this policy requires, the Staff involved in the Procurement must take into account the entire cost of the Procurement (including whole of life costs and any contract options exercisable by either the City or the Supplier).
- 5.20 Staff must not attempt to avoid the requirements of this policy by splitting what is essentially a single Procurement into more than one part.
- 5.21 The Staff responsible for managing expenditure with a certain Supplier or for a certain product category must ensure that the cumulative expenditure without a tender does not exceed the quotation thresholds in any 12 month period.

The Procurement Plan

- 5.22 The Procurement Services Unit will produce a rolling Procurement Plan, which provides a 12-month overview of the City's planned Procurement activity.
- 5.23 At a minimum, the Procurement Plan must include the following information:
- project name and quarter that the Procurement is planned to commence, including approved budget amount for the entire project;
 - the Procurement's category under paragraph **Error! Reference source not found.**;
 - the planned Public Market Approach;
 - reasonable timelines to be adhered to during the entire Procurement lifecycle;
 - the source of funds for the Procurement;
 - how the Procurement will deliver best Value for Money;
 - how the Procurement addresses the Social Procurement Framework and the key performance indicators, and if not, why not;
 - the consideration given to efficiency measures, including collaborative procurement and aggregation; and
 - any other matter the Council or the City's Audit and Risk Committee consider relevant.
- 5.24 At the time of publishing the budget, the Procurement Plan must also identify which contracts will require a Council resolution.

Council resolutions

- 5.25 A Strategic or Focused Procurement over the value of \$2,000,000 must not be awarded without Council approval unless, at the time of approving the budget, the Council determines that it is an operational matter and delegates approval to the CEO.

- 5.26 A Leveraged or Transactional Procurement of any value may be awarded without Council approval if it is included in the Procurement Plan at the time the Council approves the budget. If a Leveraged or Transactional Procurement over the value of \$2,000,000 is not included in the Procurement Plan at the time the Council approves the budget, it must not be awarded without Council approval.
- 5.27 The Council may call in any Procurement for its approval if it involves matters of strategic or community interest.

Prior to Market Approach

Probity

- 5.28 The City may appoint an external probity advisor where the Manager Procurement or the CEO consider a proposed Procurement to be particularly complex, high risk, or controversial and requiring a high level of public confidence.
- 5.29 The Manager Procurement will consider each Procurement valued at over \$2,000,000 to determine whether a probity advisor is required.
- 5.30 The Manager Procurement, the CEO or the Internal Ombudsman may appoint a probity auditor to review a Procurement where they believe or suspect that Probity has been compromised.

Specifications

- 5.31 The project manager responsible for a Procurement must ensure that the specifications prepared in a Procurement are clear and fully describe the City's needs.
- 5.32 When the City is unable to produce a suitable specification, the City may look to undertake a procurement for innovation process to seek a partner to assist in the delivery of the project.
- 5.33 The Procurement specifications must be approved by the Procurement Services Unit before contract preparation under paragraph 5.34.

Contract preparation

- 5.34 The Procurement Services Unit will seek legal advice from the internal Legal Services Unit regarding a suitable contract for each Procurement it oversees.
- 5.35 Each contract used in a Procurement must comply with the City's Contract Risk Framework.
- 5.36 The Contract Risk Framework must be either published in or incorporated by the Procedures and updated as required.

Public Tenders

- 5.37 The City will publish all public tenders via the City's tendering portal and may also advertise them in the media.
- 5.38 The City will publish information regarding current tenders and awarded tenders on its website.
- 5.39 The tender evaluation process, evaluation criteria and Social Procurement objectives will be determined in consultation with the Procurement Services Unit and will be included in the tender documentation.

Evaluation and Negotiation

- 5.40 The Procurement Services Unit and the project team will determine a panel responsible for the evaluation of quotations and tenders.
- 5.41 Before scoring any submissions, each panel member must declare any Conflict of Interest.
- 5.42 The Procurement Services Unit will oversee the evaluation processes for quotes and tenders as a non-scoring chair to ensure impartiality in the process.
- 5.43 The City may consider a Supplier's performance in prior engagements with the City in evaluating its quotation or tender.
- 5.44 Any contract departures must be negotiated in accordance with the Contract Risk Framework and legal advice.

Shortlisting and Negotiation

5.45 The City may shortlist potential Suppliers during tender and quotation processes.

5.46 The City must ensure Probity in all negotiations.

Contract execution

5.47 The Procurement Services Unit will seek advice from and work with the Legal Services Unit to ensure that:

- the City documents the engagement in an appropriate contract(s) with the selected Supplier (including by amending the draft contract proposed in the Public Market Approach to reflect any later negotiations with the Supplier, and preparing a contract specification that fully describes the goods or services the Supplier has offered to provide);
- ensure that the City's contracts include key performance indicators which are measurable and reportable; and
- the contract and any other arrangements are approved by City Staff with the necessary delegated authority.

Post Contract Matters

Variations

5.48 The City must keep a centralised record of any request for, consideration of and award of a contract variation.

5.49 Any contract or scope variation must be approved in accordance with the CEO to Staff Delegations – Power to Approve Contract Variations. Staff must not approve a variation unless there is available budget in the project.

5.50 The following City officers may approve contract variations up to the amounts set out in the following table.

Delegate	Approval amount (excl. GST)
Coordinator or City Representative	Aggregate of all contract variations is up to 10% of the original contract value or \$30,000, whichever is less
Manager	Aggregate of all contract variations is up to 20% of the original contract value or \$200,000, whichever is less
Director	Aggregate of all contract variations is up to 30% of the original contract value or \$500,000, whichever is less

5.51 All variations to a contract must be captured under a single purchase order and approved before being issued to the Supplier.

Contract Management

5.52 The City will evaluate and seek to improve on all aspects of procurement and contract management.

5.53 The Procurement Services Unit will provide contract management oversight all contracts entered by the City.

5.54 If a Supplier fails to comply with a City contract or performs poorly, and the City has communicated its concerns to the Supplier, the City may opt not to engage with a Supplier for a certain period depending on the seriousness of the breach or poor performance.

Supplier engagement and development plan

5.55 The City will develop a Supplier engagement and development plan to ensure the continued development of Suppliers within the region to provide the goods and services the City requires.

6. AUDIT AND REPORTING

- 6.1 The CEO will ensure the implementation of a program which seeks to identify breaches of this policy. The program will include an investigation of no less than 5% of all Procurement (determined by number of Procurements) in a particular financial year.
- 6.2 The City will report quarterly to the Council and the Audit and Risk Committee through the Council's Quarterly Financial Report on:
- any identified breach of this policy;
 - opportunities to aggregate Procurements to achieve economies of scale;
 - summary of findings through the 5% audit program;
 - any major Procurement that was not captured in the Procurement Plan at time of publishing the budget;
 - any other matter that the Council or the Audit and Risk Committee consider appropriate; and
 - any serious breach that appears to involve fraud, corruption or non-compliance with paragraph 5.11 of this policy.

7. COMPLAINTS HANDLING

- 7.1 Complaints relating to any stage of the procurement process are to be reported to and investigated by the Manager Procurement.
- 7.2 Where a complaint alleges fraud or corruption, or an investigation identifies or raises a reasonable suspicion of fraud or corruption, the matter must be referred to the Internal Ombudsman for further investigation.

8. PROCEDURES

The City must develop Procedures that operationalise and do not exceed the framework established by this Policy.

9. POLICY REVIEW PROCESS

In accordance with the Act, the City will review this policy at least once during each 4-year term of the Council.

10. POLICY KEY LINKAGES

This Policy has clear linkages to a range of codes, charters, legislation, and City documents, including:

Local Government Act 2020 (Vic).

Management Procedure – Procurement Guidelines.

Codes of Conduct and associated policies.

Management Procedure – Contract management guidelines.

Council Plan 2021-2025.

Management Procedure – Project Management Framework.

The City of Greater Geelong - Environment Strategy 2020–30.

Other relevant legislative requirements include compliance with:

Competition and Consumer Act 2010 (Cth);

Goods Act 1958 (Vic);

Fair Work Act 2009 (Cth);

Worker Screening Act 2020 (Vic);

Worker Screening Regulations 2021 (Vic);

Environment Protection Act 1970 (Vic) and Environment Protection Act 2017 (Vic);

Modern Slavery Act 2018 (Cth);

Financial Management Act 1994 (Vic);

and other relevant Australian Standards as deemed appropriate for each purchase.