

Moira Shire

ENRICHING LIFE ON THE MURRAY

Moira Shire Council Procurement Policy

20 June 2011



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1. Strategy

Council's strategy is to achieve the aims contained within the Council Plan by ensuring sustainable and socially responsible procurement outcomes, value for money, supporting the local economy, achieving innovation and better services for communities. These outcomes will be facilitated by the formulation of a Procurement Policy and Procurement Guide.

2. Policy Principles

2.1 Background

Moira Shire Council:

- Recognises that:
 - Developing a procurement strategy and adopting appropriate best practice contracting and procurement principles, policies, processes and procedures for all goods, services and works by council, will enhance achievement of council objectives such as sustainable and socially responsible procurement; bottom-line cost savings, supporting local economies; achieving innovation; and better services for communities.
 - The elements of best practice applicable to local government procurement incorporate:
 - broad principles covering ethics, value for money, responsibilities and accountabilities;
 - guidelines giving effect to those principles;
 - a system of delegations (i.e. the authorisation of officers to approve and undertake a range of functions in the procurement process);
 - procurement processes, with appropriate procedures covering minor, simple procurement to high value, more complex procurement; and
 - a professional approach.
- Requires that council's contracting, purchasing and contract management activities:
 - support the council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate social responsibility;
 - span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract;
 - achieve value for money and quality in the acquisition of goods, services and works by the council;
 - can demonstrate that public money has been well spent;
 - 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 community.

2.2 Purpose

The purpose of this policy is to:

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

2.3 Scope

This Procurement Policy is made under section 186a of the *Local Government Act 1989* ("the Act") and applies to all contracting and procurement activities at Moira Shire Council and is binding upon councilors, council officers, temporary employees, contractors and consultants while engaged by Council.

2.4 Principles

Council will comply with section 186(6) of the Act by whenever practicable, giving effective and substantial preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand. Council will be guided by the best principles for procurement contained in the *Local Government Procurement Best Practice Guideline*.

Value for Money

Council will seek to obtain the best quality and value for price, ensuring that the quality of the goods, services or works meets any set criteria and cost constraints. Obtaining value for money does not mean Council is obliged to accept the lowest price.

Open and Fair Competition

All prospective suppliers and vendors will be treated equally and fairly in an open and transparent manner, without bias or perception of bias. The same access to information about proposed procurement will be provided to all prospective suppliers and vendors to enable quotations and tenders to be submitted on the same basis.

Accountability

A consistent approach to procurement will be achieved through compliance with procurement principles, processes and procedures. The 'procurement framework' will be robust and nominate the relevant officers and their responsibilities, and provide clear lines of responsibility and accountability. All transactions will be adequately documented to enable and facilitate audit.

Risk Management

Council recognises that all procurement carries some risk and as a result will adopt pro-active and ongoing management strategies to minimise risk.

Probity and Transparency

Council will conduct their business in a fair, honest and open manner, demonstrating the highest levels of integrity consistent with the public interest.

Additional principles guiding Council's procurement are:

Support of Local Business

Council is committed to buying from local business where such purchases may be justified on value for money grounds.

Sustainability

Council is committed to adopting a Green Procurement approach by supporting the principles of sustainable procurement within the context of purchasing on a value for money basis, where whole-of-life cost and non-price factors such as sustainability objectives are considered. Consideration will be given in the first instance to avoiding procurement where possible.

During the procurement life cycle Council will commit to reducing resources, consumption and minimising waste, including:

- Encouraging and preferring Eco-friendly products which are more power efficient;
- Selecting energy, fuel and water efficient products;
- Preferring to purchase from a source which is less polluting or uses clean technology;
- Considering the provision of re-usable products and recycling as part of the project planning process, including the consideration of whole-life costs and disposal considerations;
- Buying recycled or part recycled products to optimise consumption and stimulate demand for recycled products;
- Encouraging suppliers to adopt good environmental practices.

2.5 References

- Moira Shire Council, *Procurement Guide*
- Moira Shire Council Instruments of Delegation
- *Local Government Procurement Strategy*, Department of Planning and Community Development (“DPCD”), September 2008
- *Local Government Procurement Best Practice Guideline*, DPCD, August 2008
- State Government National Competition Policy and Local Government Statement
- Competition Principles Agreements (*inter-governmental agreement that underpins the National Competition Policy*)

2.6 Treatment of GST

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

2.7 Definitions and Abbreviations

Term	Definition
Act	<i>Local Government Act 1989.</i>
Commercial in Confidence	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies and process information, etc.
Contract Management ¹	The process that ensures both parties to a contract that 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.

Term	Definition
Council Staff	Includes full-time, part-time and temporary council employees, and contractors and consultants while engaged by the council.
GST	Goods and Services Tax.
Probity ⁱⁱ	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.
Service Officer	Is a member of Moira Shire Council staff responsible for the initiation of a tender process and who will usually supervise a particular purchase or service on behalf of Council. The Service Officer will participate in tendering processes, including tender evaluation within their area of responsibility and may be the nominated Superintendent or the Superintendent's representative.
Standing Offer Arrangements (SOA)	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.
Sustainability ⁱⁱⁱ	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Procurement ^{iv}	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.
Tender Process	The process of inviting parties to submit a quotation by tender using public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
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.

3. Effective Legislative and Policy Compliance and Control

3.1 Ethics and Probity^v

3.1.1 Requirement

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

3.1.2 Conduct of Councillors and Council Staff

3.1.2.1 General

Councillors and council staff shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and *will*:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence information such as contract prices and other sensitive information;
- present the highest standards of professionalism and probity;
- deal with suppliers in an honest and impartial manner that does not allow conflicts of interest;
- provide all suppliers and tenderers with the same information and equal opportunity; and
- be able to account for all decisions and provide feedback on them.

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

3.1.2.2 Members of Professional Bodies

Councillors and 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.

3.1.3 Conduct of Tenderers

Tenderers are expected at all times to conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity and will present the highest standards of professionalism and probity.

3.1.4 Tender Processes

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

3.1.5 Conflict of Interest

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

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

The onus is on the councillor and the member of council staff involved being alert to and promptly declaring an actual or potential conflict of interest to the council.

3.1.6 Fair and Honest Dealing

Prospective contractors and suppliers will be afforded an equal opportunity to tender or quote in accordance with this policy.

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

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

3.1.7 Accountability and Transparency

Accountability in procurement means being able to explain and provide evidence on the process followed. 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, relevant council policies and procedures.

Additionally:

- 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; and
- all procurement activities are to provide for an audit trail for monitoring and reporting purposes.

3.1.8 Gifts and Hospitality

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

Councillors and council staff must exercise the utmost discretion in accepting hospitality from contractors or their representatives, or from organisations, firms or individuals with whom they have official dealings.

Offers of bribes, commissions or other irregular approaches from organisations or individuals (no matter how flimsy the evidence available), must be promptly brought to the attention of the CEO.

3.1.9 Disclosure of Information

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

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

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

Councillors and 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 other than authorised pre-contract negotiations.

3.1.10 Collusion

Attachment A details clauses which may be included in tender specification documents so as act to deter collusive behaviour.

3.2 Governance^{vi}

3.2.1 Structure

Council shall:

- establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all procurement decisions made over the lifecycle of all goods, services and works purchased by the council;
- ensure that the councils' procurement structure:
 - is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by council;
 - ensures that prospective contractors and suppliers are afforded an equal opportunity to tender/quote;
 - encourages competition; and
 - ensures that policies that impinge on the purchasing policies and practices are communicated and implemented.

3.2.2 Standards

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

- The *Local Government Act 1989*;
- Council's policies, CEO directives, guidelines and procedures;
- The council's *Employee Code of Conduct / Ethical Behaviour and the Councillor Code of Conduct*, and
- Other relevant legislative requirements such as but not limited to the *Trade Practices Act 1974 (Cth)*, *Goods Act 1958* and the *Environmental Protection Act 1970*.

3.2.3 Methods

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

- purchasing card;
- purchase order following a quotation process from suppliers for goods or services that represent best value for money under directed quotation thresholds;
- under contract following a tender process; or
- using aggregated purchasing arrangements with other councils, MAV Procurement, Victorian Government, or other bodies;

unless other arrangements authorised by the council or the CEO on a needs basis as required by abnormal circumstances such as emergencies.

The council may, at its discretion and based on the complexity and cost of the project, conduct one stage or multi-stage tenders.

Typically a multi-stage tender process will commence with a registration of interest stage followed by a tender process involving the organisations selected as a consequence of the registration of interest stage.

Registrations of Interest (ROI) may be appropriate where:

- 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).

Additionally, for highly complex projects the council may run sequential tenders, the first to solicit solutions, the second to compete to provide the solution selected by council. Such sequential tenders may or may not be preceded by the registration of interest phase as required by the council based on the actual needs of the project.

3.2.4 Responsible Financial Management

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

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

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

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

3.3 Procurement Thresholds and Competition

3.3.1 Requirement

The council will from time to time decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be decided by the council by analyzing the historical size and complexity of the procurement activity and of proposed procurement activities.

3.3.2 Minimum Spend Competition Thresholds

3.3.2.1 Tenders

In accordance with s 186 of the Act and any subsequent Order in Council made, purchase of all goods and services for which the estimated expenditure equals or exceeds \$150,000, and building and construction works for which the estimated expenditure equals or exceeds \$200,000, must be undertaken by public tender as per the thresholds contained in the Act, and are inclusive of GST.

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

\$ Value (inc GST)		Tendering Requirement
From	To	
\$0	\$2,000	Value for money
\$2,001	\$20,000	Minimum of 2 verbal quotes*
\$20,001	Below \$150,000 for the supply of Goods & Services; and Below \$200,000 for Works	Minimum of 3 written quotes*. A written brief and a written contract are required.
\$150,000 and above for Goods & Services and \$200,000 and above for Works		Advertised Public Tender

* Unless written exemption provided in accordance with Council's *Procurement Guide*.

The methods described above are the minimum requirements. Some works, for example, those of high risk, require a more comprehensive tender and contract document. Council staff who are responsible for a tender process (Service Officers) are required to conduct the most appropriate tendering method for the goods or services to be purchased.

3.3.2.2 Quotations

Purchase of goods, services having a total of less than \$150,000 and works having a total valuation of less than \$200,000 may be undertaken using the procurement by quotation method as described below. * All thresholds below are inclusive of GST:

Purchases less than \$2,000*

Council Officers should seek value for money in purchases less than \$2,000 however, seeking quotations is not necessary unless the officer believes Council is not receiving “best value”.

Reference can be made to Council’s Trade List for assistance in sourcing goods and services.

Purchases from \$2,001* to \$20,000*

It is necessary to obtain at least two verbal quotes from suitable suppliers. Where it is not possible to obtain two quotes, an explanation of the reasons why must be clearly documented on a file note.

The quotation offering the best value for money must be confirmed by the supplier and the order placed with that firm.

Details of the suppliers contacted and their quotations must be recorded on at least a simple spreadsheet or similar document in the councils’ Records system.

Obtaining two verbal quotes is a minimum requirement. Depending on the nature and complexity of the works or goods or services, the Service Officer should consider whether or not to seek written quotes (at least 2 required) or to advertise a public tender.

Purchases from \$20,001* to less than \$150,000* (goods & services) and \$200,000* works

It is necessary to obtain at least three written quotes from suitable suppliers by issuing a written description of the scope and standard of the work or product required. Where it is not possible to obtain 3 quotes, an explanation of the reasons why must be clearly documented and an exemption granted.

Quotations returned by the nominated closing date must be evaluated and a recommendation made in favour of the supplier offering the best value for money outcome.

The original supplier’s quotations must be maintained in councils’ records system.

Obtaining 3 written quotes is a minimum requirement. Depending on the nature and complexity of the works, goods or services, the Service Officer should consider whether or not to advertise a public tender.

- Public Advertising.
Quotations may be advertised at the council staff member’s discretion in addition to the methods above. This may occur when a field of potential tenderers hasn’t been established, or an innovative approach is required, or the project has broad appeal that may attract keen prices, etc.
- Insufficient quotations.
The situation may arise where insufficient quotations are received to satisfy the above requirements.

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 must be recorded on the spreadsheet or recommendation and an appropriate comment recorded.

3.4 Delegation of Authority^{vii}

3.4.1 Requirement

Delegations define the limitations within which council staff are permitted to work. Delegation of procurement authority allows specified council staff to approve certain purchases, quotation, tender and contractual processes without prior referral to the council. This enables the council to conduct procurement activities in an efficient and timely manner whilst maintaining transparency and integrity.

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

As such, the council has delegated responsibilities as detailed below relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for Contract Management activities.

3.4.2 Delegations

3.4.2.1 Council Staff

The council shall maintain financial delegations that identify council staff authorised to make procurement commitments in respect of goods, services and works on behalf of the council

- Acceptance of tenders
- Acceptance of quotes
- Contract term extensions (within authorised budget)
- Contract amendment (non-financial)
- Contract amendment (financial)
- Appointment to register of pre-qualified suppliers
- Credit Card purchases
- Procedural exceptions

3.4.2.2 Decisions Reserved for the Council

Commitments and processes which exceed the CEO's delegation and which must be approved by the council are:

- Signing and sealing of contract documents.
- Tender recommendations and contract approval for all expenditure which equals or exceeds the value of \$150,000 for purchase of goods and services and \$200,000 for carrying out of works, inclusive of GST. These thresholds are fixed by an Order in Council under section 186(1) of the *Local Government Act 1989*.
- Contract term extensions for contracts signed and sealed by Council.

3.5 Internal Controls

The council will install and maintain a framework of internal controls over procurement processes that will ensure:

- more than one person is involved in and responsible for a transaction end to end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

These internal controls are implemented in accordance with Council's *Procurement Guide*.

3.6 Commercial Information

Procurement activities will be carried out in a way that supports council staff in meeting their obligations - to ensure information of a commercially sensitive or confidential nature is obtained, stored, processed, published (where applicable) in an appropriate manner in accordance with the relevant council guidelines.

3.7 Risk Management

3.7.1 General

Risk Management is to be appropriately applied at all stages of procurement activities which will be properly planned and carried out in a manner that will protect and enhance the council's capability to prevent, withstand and recover from interruption to the supply of goods, services and works.

3.7.2 Supply by Contract

The provision of goods, services and works by contract potentially exposes the council to risk.

The council will seek to 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.

3.8 Contract Terms

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

Where this is not possible, approval must be obtained from the appropriate member of council staff listed in the council Delegations. 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 thus must be authorised by the appropriate member of council staff listed in the council Delegations.

3.9 Endorsement

Council staff must not endorse any products or services. Individual requests received for endorsement must be referred to Director level or above.

3.10 Dispute Resolution

All council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes getting out of hand and leading to legal action.

3.11 Contract Management^{viii}

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 monitoring and achieving the responsibilities and obligations of both parties' under the contract; and
- providing a means for the early recognition of issues and performance problems and the identification of solutions.
- adhering to Council's risk management framework and adhering to relevant Occupational Health and Safety contractor compliance procedures.

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

4. Demonstrate Sustained Value

4.1 Integration with Council Plan

The council procurement strategy shall support the aims and objectives of its Council Plan, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community such as:

- feeling safe,
- living in a clean and pleasant environment, and
- receiving good quality and well managed council services that are Value for Money.

4.2 Achieving Value for Money

4.2.1 Requirement

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

This means minimising the total cost of ownership or of the economic benefit over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations. Lowest price is not the sole determinate of value for money.

4.2.2 Approach

This will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout the lifecycle;
- effective use of competition;
- using aggregated contracts and SOA where appropriate;
- identifying and rectifying inefficiencies in procurement processes;
- developing cost efficient tender processes including appropriate use of e-solutions;
- council staff responsible for providing procurement services or assistance within the council providing competent advice in terms of available products and agreements; and
- working with suppliers to create relationships that are professional and productive, and are appropriate to the value and importance of the goods, services and works being acquired.; and
- and supported by the implementation of Council's *Procurement Guide*.

4.2.3 Role of Specifications

Specifications used in quotations, tenders and contracts are to support and contribute to the council's Value for Money objectives through being written in a manner that:

- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability;
- eliminates unnecessarily stringent requirements

4.3 Performance Measure and Continuous Improvement

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

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

The performance measurements developed will be used to:

- Highlight trend and exceptions where necessary to enhance performance.
- Improve the internal efficiency of the procurement process and where relevant the performance of suppliers
- Facilitate programmes to drive improvement in procurement to eliminate waste and inefficiencies across key spend categories.

4.4 Sustainability

4.4.1 General

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

- waste management,
- recycling,
- energy management,
- emission management,
- water conservation,
- green building design, and
- procurement.

4.4.2 Sustainable Procurement

The council is committed to adopting a Green Procurement approach by supporting the principles of sustainable procurement within the context of purchasing on a Value for Money basis. For further details refer to Appendix B.

Value for Money purchasing decisions made by the council are made on the basis of whole-of-life cost and non-price factors including contribution to the council's sustainability objectives

The council prefers to purchase environmentally preferred products whenever they achieve the same function and value for money outcomes.

The council will therefore consider the following environmental sustainability criteria:

- Reduce, Reuse, and Recycle

The council is committed to reduce resources, consumption and minimise waste during the procurement life cycle including:

- The council shall encourage and prefer Eco-friendly products which are more power efficient.
- Selecting energy, fuel and water efficient products (ideally Energy and Water Star Ratings of 4 Star and above, and the highest Green Vehicle Guide star rating)
- The council shall prefer to purchase from a source which is less polluting or uses clean technology
- The council's procurement projects should automatically consider the provision of re-usable products and recycling as part of the project planning process, including the consideration of whole-life costs and disposal considerations.

- Buy Recycled:

The council is committed to buy recycled/part recycled products to optimise consumption and stimulate demand for recycled products, promoting the collection and reprocessing of waste and working towards zero discharge to landfill.

- Green the Supply Chain:

The council shall encourage council suppliers to adopt good environmental practices.

The council will promote green procurement throughout its supply chain and ensure selection which has minimum environmental impact.

4.5 Diversity

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

4.6 Support of Local Business

Council is committed to buying from local business where such purchases may be justified on Value for Money grounds. For detail refer to Appendix C.

5. Apply a Consistent and Standard Approach

The council will provide effective and efficient commercial arrangements for the acquisition of goods and services. This is facilitated by the implementation of Council's *Procurement Guide*.

5.1 Standard Processes

The council will provide effective commercial arrangements covering standard products and provision of standard services across the council to enable employees to source requirements in an efficient manner.

This will be achieved via establishing the following:

- Pricing where relevant
- Processes, procedures and techniques
- Tools and business systems (e.g. implementing appropriate e-tendering, e-evaluation; e-catalogue or e-sourcing arrangements).
- Reporting requirements
- Application of standard contract terms and conditions.

5.2 Performance Indicators

A list of performance indicators will be developed to measure procurement performance. They will include criteria such as:

- The proportion of spend against corporate contracts
- User and supplier satisfaction levels
- Knowledge and skill of council employees in procurement process
- Level of compliance and understanding of council procurement policies
- Measuring the success of procurement initiatives eg. procurement cards.

5.3 Management Information

The council seeks to improve its' performance by capturing and analysing procurement management information in a variety of areas, including:

- Volume of spend
- Number of transactions per supplier

- Supplier performance
- User satisfaction
- Category management
- Green spend

The council will also use external sources of management information to assist with the procurement decision making process including:

- Benchmarking data
- Information from professional bodies such as the Chartered Institute of Purchasing and Supply Australia
- Supplier reports

6. Build and Maintain Supply Relationships

Council recognises that in order to achieve sustainable value, a strategic assessment of the appropriate 'channel to market' should be undertaken – whether to go to market on its own, participate in regional or sector aggregated projects or panels, access State Government panel agreements or other means. Council will consider supply arrangements that deliver the best value outcomes in terms of time, expertise, cost, value and outcome.

6.1 Developing and Managing Suppliers

Council recognises the importance of effective and open working relationships with its suppliers and is committed to the following:

- Managing existing suppliers, via the appropriate development programmes and performance measurements to ensure the benefits are delivered.
- Maintaining approved supplier lists
- Developing new suppliers and improving the capability of existing suppliers where appropriate.

6.2 Supply Market Development

A wide range of suppliers should be encouraged to compete for council work. The focus for new work need not always be with the larger more familiar businesses. Other types of organisations offering business diversity include:

- Local businesses
- Green suppliers
- Small to medium sized enterprises (SME's)
- Social enterprises
- Ethnic and minority business
- Voluntary and community organisations

6.3 Relationship Management

The council is committed to developing constructive long-term relationships with suppliers. It is important that the council identifies its key suppliers so that its efforts are focused to best effect. Such areas may include:

- Size of spend across the council
- Criticality of goods / services, to the delivery of the council's services
- Availability of substitutes
- Market share and strategic share of suppliers

6.4 Communication

External communication is very important in ensuring a healthy interest from potential suppliers and partners to the council. Council will endeavour to provide and update on its website:

- Information about council and how to become an approved supplier.
- A list of existing and forthcoming contract opportunities.
- Guidelines for doing business with council.
- Links to other relevant sites.

7. 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.

8. Policy Owner and Contact Details

Moira Shire Council's Manager Finance is the designated owner of this policy.

For further information on the policy, please contact via email: webmaster@moira.vic.gov.au phone 03 5871 9222.

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- i Ian McPhee, Auditor-General for Australia, "Contract Management in the Public Sector – an ANAO Better Practice. Perspective" Paper delivered at the Australian Government Procurement Conference,
 - ii Landell Consulting definition
 - iii Adapted from the definition attributed to the World Commission on Environment and Development
 - iv From MAV Procurement Policy Workshop slides – April 2009
 - v Draws from Procurement Policy information provided from several Victorian Councils, as well as comments received during the MAV Procurement Policy Workshops in April 09.
 - vi Based on MAV workshop slides – April 09 complemented from information provided from several Victorian Councils.
 - vii Based on Procurement Policy information received from several Victorian Councils
 - viii Landell Consulting, 2008, *CONTRACT MANAGEMENT PRINCIPLES*, page 5.

1. Attachment A

2. The Australian Competition and Consumer Commission's proposed anti-collusion tender clauses ^{viii}

The following clauses may be included in Council's tender documents. These clauses indicate that Council is alert to collusion and will go a long way to deterring such behaviour.

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Published by the ACCC 12/08

Tender Clause 1: Facilitating reporting to the ACCC

Option 1

The purchasing authority reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by tenderers to the appropriate regulatory authority and to provide that authority with any relevant tenderer information.

The purchasing authority's obligation to keep tenderer information confidential will not be breached if the information is disclosed by the purchasing authority to the appropriate regulatory authority because of suspected collusive or anti-competitive tendering behaviour.

Option 2

Tender Clause 2: Disclosure of subcontracting

Tenderers must indicate if they intend any person or organisation who is not an employee to perform work on the services, and must provide their details. The contract with the successful tenderer will require the purchasing authority's prior written approval for any changes to these arrangements, and any further sub-contracting.

Tender Clause 3: Warranty

The bidder warrants that their tender has not been prepared with any consultation, communication, contract, arrangement or understanding with any competitor, other than:

- Where certain joint venture arrangements exist between the bidder and a competitor

- Where the bidder and a competitor have an agreement that has been authorised by the ACCC
- Where the bidder has communicated with a competitor for the purpose of subcontracting a portion of the tender, and where the communication with that competitor is limited to the information required to facilitate that particular subcontract

In such a situation the bidder agrees to fully disclose the full nature and extent of any agreements with competitors to the tendering body.

In the event that no such disclosure is made, the bidder warrants that their bid has not been prepared with any consultation, communication, contract, arrangement or understanding with any competitor regarding:

- prices
- methods, factors or formulas used to calculate prices
- the intention or decision to submit, or not submit, a bid
- the submission of a bid which is non-conforming
- the quality, quantity, specifications or delivery particulars of the products or services to which this call for bids relates
- the terms of the bid

The bidder acknowledges that if the [department/agency etc] accepts the bidder's offer and completes any contract the [department/agency etc] will do so in reliance of this warranty.

Tender clause 4: Disclosure of prior anti-competitive conduct

Tenderers must indicate if they, or any corporation or person associated with their tender, including directors and senior management, are or have ever been subject to proceedings related to anti-competitive conduct in Australia or overseas. The information must include:

- The names of the parties to the proceedings
- The case number
- The general nature of the proceedings
- The outcome or current status of the proceedings

The [department/agency etc] reserves the right, at its discretion, to exclude any tenderer from the procurement process if the tenderer, or any corporation or person, including directors or senior managers associated with their tender, have ever contravened the anti-competitive provisions of the *Trade Practices Act 1974* or equivalent laws in Australia or overseas.

The [department/agency etc] reserves the right, at its discretion, to exclude any tenderer from the procurement process if full disclosure of any or all contraventions of the anti-competitive provisions of the Trade Practices Act or equivalent laws in Australia or overseas has not been made.

Attachment B

Green Procurement Initiatives^{viii}

Green Procurement initiatives implemented by Council may include:

- Benchmarking purchasing, sustainability and operational processes and goals for comparative purposes.
- development of a risk profile of relevant suppliers' products and services or utilise existing databases (e.g. ECO-Buy database);
- Specific Information Communication Technology (ICT) "green" initiatives, include:
 - server optimisation and network consolidation;
 - conversion of physical servers to virtual servers;
 - implementation of multi-tiered storage solutions;
 - combination of voice and data networks;
 - decommission inactive servers running in data centres;
 - replacement of printers with multi-function devices with green printing defaults;
 - replacement of high energy consuming cathode-ray tubes with new, low energy LCD monitors; and
- Council is committed to reducing resource use through minimizing unnecessary purchasing, reducing consumption, minimising waste, and purchasing more efficient products. To achieve this, Council will where possible encourage and prefer environmentally preferable products in purchasing decisions.
- Council will seek to select energy, fuel and water efficient products (ideally Energy and Water Star Ratings of 4 Star and above, and the highest Green Vehicle Guide star rating)
- Council will seek to purchase from a source which is less polluting or uses clean technology
- Council will consider the provision of re-use and recycling as part of the project planning process, including the consideration of whole-of-life costs and disposal considerations.
- Council will seek to purchase goods that
 - have not been transported long distances
 - minimise habitat destruction
 - are obtained from recycled, plantation, salvaged or renewable sources
 - that reduce or eliminate the use of toxic chemicals.
 - reduce or eliminate toxic or polluting materials,
 - minimise or eliminate the release of toxic substances that can affect human health and pollute water, land or air at any stage of their life cycle
 - products that conserve water or use water in an efficient way

Attachment C

Support of Local Business

Additional clauses for consideration to give additional emphasis could include the following:

- Council is committed to buying from local business where such purchases may be justified on Value for Money grounds.
- Open and effective competition is important to obtaining the best possible outcomes from dealings with suppliers.
- Competition implies pursuit of best value for money, the opportunity for potential suppliers to do business with Council, absence of bias or favouritism, accountability for results and transparency of process. The extent to which competition may be available and appropriate will vary from case to case, depending upon such things as the number of potential suppliers and the costs and benefits of promoting competition.
- Council may give preference to local economic benefit when sourcing products and services. When this criteria is nominated the benefit must be identifiable and reasonable and in compliance with the Trade Practices legislation.

These benefits may take the form of:

- increased local employment.
- increased activity and spend in the local economy with identifiable benefits.
- the level of local content in the goods, services and works.
- The application of local content shall have consideration of both: Best Value Principles of the *Local Government Act 1989*; and National Competition Policy (Trade Practices Act).