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**Title:** Procurement Policy

**Date Last Adopted:** 1 December 2023

**Approval Authority:** MAV Board

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## 1. Forward

The role of procurement is increasingly seen by both private and public sector organisations as a key component of achieving strategic business objectives. Each year, the councils collectively spend significant sums in procuring goods and services in a wide variety of expenditure areas.

MAV Procurement was established in 2009 focused on achieving better procurement outcomes for local government through aggregated procurement, professional development and policy support. MAV Procurement pursues these outcomes via a number of strategies, from supporting and developing procurement capability in the sector to providing guidance and resources to local government. A strategic procurement direction was adopted by the MAV Board in November 2021 and outlines the initiatives and actions that are being undertaken to support the sector, provide leadership in procurement and generate income for the MAV.

MAV Procurement provides better outcomes to local government by acting as an aggregator and developing contracts that councils can access. The benefits to the local government sector range from negating the need to run their own individual tender to establish a contract, saving time and money, to assist our clients to get better value for money through competitive advantages by aggregating sector volume.

In acting on behalf of the local government sector, MAV Procurement ensures that its own procurement framework is governed by appropriate policies and procedures that align with sector requirements; this Policy and the accompanying MAV Procurement Process Overview detail the procurement framework within which MAV Procurement conduct their procurement operations.

## 2. Purpose

The purpose of this Procurement Policy (the ‘Policy’) is to:

- Establish the procurement framework in which MAV Procurement conducts procurement activities, ensuring a consistent and controlled process is deployed every time,
- Establish an ethical procurement process by implementing a transparent and equitable procurement framework that focuses on probity considerations throughout,
- Establish a procurement framework designed to optimise outcomes from each and every process, leveraging best practice methodologies,
- Demonstrate accountability.

### 3. Scope

Whilst MAV Procurement is not obliged to comply with the Local Government Act 2020, this Procurement Policy is made recognising Sections 108 & 109 of the *Local Government Act 2020* and has been developed to comply, where applicable, with its requirements so that the local government sector may have confidence in MAV's procurement activities conducted on their behalf.

This Policy applies to all contracting and procurement activities conducted by MAV Procurement on behalf of the local government sector and is binding upon MAV Procurement, MAV staff, contractors, and consultants engaged by the MAV.

This Policy and its accompanying documents is the primary reference point for how all procurement should be performed by MAV Procurement when establishing contracts and supply arrangements for access by the local government sector.

### 4. Policy, provisions, and principles

#### 4.1 Guiding Principles

This policy is governed by the adherence to the following principles with due regard for the MAV's legislative, strategic and other compliance requirements:

- Probity, equity, transparency, and ethical behaviour
- Open and fair competition
- Best value
- Risk management
- Social and environmental impact
- Planning and strategy development
- Developing and managing suppliers
- Timely and accountable decision making
- Collaborative Procurement

Consistent with guiding MAV principles, MAV Procurement must always focus on procurement outcomes that benefit the local government sector. All activities undertaken on behalf of the sector by MAV procurement will maintain this and the other noted guiding principles.

#### 4.2 Probity, equity, transparency, and ethical behaviour

All MAV Procurement processes must be conducted in a fair, equitable, transparent, honest, and ethical manner, with the highest levels of integrity and in the public interest. See the Ethics and Probity in Procurement Guidelines 2023 for more information.

##### 4.2.1 Open and Fair Competition

Open and fair competition between suppliers supports MAV Procurement's commitment to obtaining best value for money and ensuring probity, equity, transparency, and ethical behaviour.

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

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, intellectual property and product information.

MAV Procurement will ensure that:

- the procurement strategy is appropriate for the specific procurement,
- potential suppliers are provided with consistent information and opportunity and are evaluated against defined criteria and in a consistent manner as documented in the approved evaluation plan,
- specifications and tender documentation will not be prepared to favour or disadvantage particular suppliers provided that MAV Procurement and participating clients' strategic and business requirements are met.

#### **4.2.2 Best Value**

The benefits of the purchase are weighted against the costs necessary for the optimum result for the councils and their local communities. MAV Procurement is not required to accept the lowest price. Instead, MAV Procurement is required to take into account issues of quality, cost, the accessibility of the service and other factors relevant to the overall objectives of the *Local Government Act 2020*.

Best value is often mistaken for meaning the lowest price, however, in terms of the contracting process, best value requires a balance between quality and price with as much transparency as is reasonably achievable. In this context price should take into account the whole life cost of the provision as far as is practicable. It follows that the delivery of best value is dependent upon MAV Procurement / clients' priorities.

Achieving best value also requires challenging the need for the procurement and the way in which the service may be reconfigured to achieve improvements in service delivery, comparing service provision options against all those available, consulting with key stakeholders and ensuring competition in the open market.

The MAV Procurement process will be undertaken on the basis of ensuring our clients achieve Best Value from the resultant contract.

#### **4.2.3 Risk Management**

Strategies for managing risks associated with all procurement processes are in place and consistent. Risk Management is a primary consideration in MAV Procurement processes, potential risks will be identified, analysed, evaluated, treated, and monitored across all stages of procurement activity with reference to both MAV's Risk Management Policy and the client's interests and appetite for risk.

## 4.2.4 Social and environmental impact

### 4.2.4.1 Corporate Social Responsibility (CSR)

Corporate Social Responsibility (CSR) is about taking positive action to demonstrate the MAV and councils' commitment to the local community and environment on which it impacts.

MAV Procurement integrates CSR into its organisational policies and practices through social procurement, sustainability, and diversity to ensure clients maximise the benefits of the services they provide across the community and minimise the negative aspects of their activities.

### 4.2.4.2 Social Procurement

Social Procurement generates positive outcomes by building on initiatives already undertaken by MAV Procurement in enhancing sustainable and strategic procurement practice, further enabling procurement to effectively contribute towards building stronger communities and meeting the social objectives of the MAV and the local government sector.

MAV Procurement is committed to Social Procurement by:

- Ensuring all procurement practices are sustainable and strategically aligned with the wider MAV Strategic Plan and our clients' objectives.
- Achieving greater value for money for our clients across the community, through the use of effective procurement.
- Ensuring all businesses have the same opportunity to tender for MAV Procurement contracts.
- Enhancing client partnerships, suppliers, and community stakeholders
- Building and maintaining a strong community by exploring ways to generate local employment (particularly among marginalised groups and disadvantaged residents) and further strengthening the local economy.
- Purchasing ethical and fair-trade goods to support equitable, local, national, and international trade.

### 4.2.4.3 Sustainable Procurement

MAV Procurement recognises that our clients have an implicit role in furthering sustainable development, through the procurement of goods, and services and works.

In addition, MAV Procurement recognises the potential impact this spend has on the environment and where possible will integrate sustainability, environmental and social issues into the procurement process.

MAV Procurement aims to achieve this by:

- Considering the need to minimise carbon dioxide and other greenhouse gas emissions and reduce the negative impacts of transportation when procuring goods and services.

- Considering the environmental performance of all suppliers and contractors and encouraging them to conduct their operations in an environmentally sensitive manner.
- Considering the basic life cycle analysis of products to minimise the adverse effects on the environment resulting directly or indirectly from product use including recycling opportunities and disposal at end of product life.
- Inclusion of reusable and recycled product categories as ongoing and viable options for the procurement of goods.
- Selecting products / services that have minimal effect on the depletion of natural resources and biodiversity.
- Giving a preference to fair-trade, or equivalent, and ethically sourced and produced goods and services.
- Working more effectively with our clients and their local suppliers to ensure they are encouraged to bid for MAV Procurement business in line with this Policy.
- Ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured.
- Complying with all relevant Australian regulations and legislation and encouraging suppliers do the same.

#### **4.2.5 Planning and strategy development**

In line with recognised best practice, MAV Procurement will, prior to commencing any procurement activities, develop and obtain approval for a comprehensive business case/procurement plan document. This document will demonstrate applied critical thinking essential for the successful execution of the planned procurement.

MAV Procurement will take a long-term strategic view of the sectors procurement needs while continually assessing, reviewing, and auditing its procedures, strategy, and objectives.

Each business case/procurement plan will be authorised by the Manager MAV Procurement.

#### **4.2.6 Developing and managing suppliers**

Developing and managing suppliers is essential to achieving a competitive market capable of delivering clients' services and works requirements through MAV Procurement contracts.

MAV Procurement will interact with the market and suppliers to understand their views and what enables and encourages diverse parts of the market to bid for work with our clients and MAV Procurement. At the same time, MAV Procurement will ensure that any relationship with strategic suppliers is mutually productive and that goals are shared.

MAV Procurement's aim is to develop relationships with suppliers that create mutually advantageous, flexible, and long-term relations based on the quality of performance and financial savings to clients.

#### 4.2.7 Timely and transparent decision making

MAV Procurement maintains consistency in the approach to procurement across the range of contracts provided through coherent frameworks, policies, and procedures. Transparency in procurement means being able to explain and provide evidence on the process followed. The test of transparency 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 this Policy and related MAV and MAV Procurement policies and procedures.

Additionally:

- all MAV Procurement staff must be able to account for all procurement decisions made over the lifecycle of all MAV Procurement contracts and provide feedback on them; and
- all procurement activities are to provide an audit trail for monitoring and reporting purposes.

#### 4.3 Standards

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

- The *Local Government Act 2020 (Vic.)*, where applicable
- Other relevant legislative requirements such as but not limited to the *Competition and Consumer Act 2010 (Cth.)*, the *Goods Act 1958 (Vic.)* and the *Environmental Protection Act 2017 (Vic.)*
- MAV policies and procedures
- Local Government Victoria Procurement Best Practice Guidelines (currently being updated by MAV)
- Agreed Audit recommendations.

#### 4.4 Conduct of MAV Staff

MAV 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.

#### 4.5 Conflict of Interest

MAV staff must at all times avoid situations in which private interest's conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their MAV duties.

MAV staff involved in the procurement process, in particular those involved in preparing tender documentation, including drafting tender specifications, participating in tender opening, and serving on tender evaluation panels, are required to declare the absence of any conflict of interest. If they identify a conflict or potential conflict, they must promptly notify the appropriate senior MAV officer.

Where conflicts arise, MAV staff must inform their manager and the chairperson of the relevant tender evaluation panel, who shall decide whether the officer should continue to be involved in the specific procurement exercise.

All MAV staff must comply with the duties and responsibilities as set out in their position description, the MAV Staff Code of Conduct, Conflict of Interest Policy and Gifts, Benefits and Hospitality Policy.

#### 4.6 Internal Controls

MAV Procurement 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,
- systems are in place for appropriate monitoring and performance measurement; and
- Procurement activities shall be performed with integrity and in a manner able to withstand the closest possible audit scrutiny.

### 5. Procurement Process

#### 5.1 5.1 Legislative Framework (Background)

MAV Procurement has provided aggregated procurement services to councils under a Ministerial Approval granted under Section 186(5)(c) of the *Local Government Act (1989)* on May 7<sup>th</sup>, 2014. Whilst the Local Government Act requirements for Procurement have changed with sections 108 & 109 of the new Act, the role that MAV Procurement undertakes remains the same as follows:

- MAV Procurement will undertake a competitive tender process in relation to each of its proposed contracts for goods, services or works available to our clients,

- The contract entered into with or through MAV Procurement will provide greater cost savings to our clients through economies of scale and aggregating expenditure.

## 5.2 Procurement and Tender Processes

Further detail with regards to the procurement process undertaken by MAV Procurement is contained in the MAV Procurement Process Overview. Together with this Policy, the MAV Procurement Process Overview provides the complete procurement framework applicable to all MAV Procurement activities.

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

## 5.3 National Procurement Network

MAV Procurement is a member of the National Procurement Network (NPN). The NPN connects procurement services offered by local government associations in all States and Territories to provide national programs where it is beneficial to combine the purchasing power of councils Australia-wide.

Where benefits can be provided to our clients (such as economies of scale), MAV will from time to time participate in tender processes conducted by the NPN, either as lead agent managing the tender process or as a participant in tenders lead by other members of the NPN.

In participating in NPN tenders, all of the principles outlined in this Policy still apply, acknowledging that a number of key steps such as business case development, tender documentation and the tender evaluation process may be managed and developed by another member of the NPN. MAV Procurement will retain key documentation on file in relation to NPN contracts (tender documents, tender evaluation report, etc.), noting that the lead agency for each contract will maintain and manage the entire suite of documents related to the process, which may include contracts.

## 5.4 Overview of Process Steps

Procedural guidance on how MAV Procurement conducts procurement activities is detailed in the accompanying document to this Policy, the MAV Procurement Process Overview. The MAV Procurement Process Overview also provides guidance on other considerations and requirements within the broader procurement policy framework that governs MAV Procurement operations.

Procurement processes conducted by MAV Procurement are undertaken adhering to the following principles and requirements:

- Strategy development and procurement plan
  - Relevant critical thinking, encompassing needs identification, market analysis, risk management, and stakeholder engagement, informs the development of procurement strategies documented in a detailed procurement plan. The plan is subject to review and approval by the designated delegated authority before project progression. The procurement plan details a procurement strategy for the project team to follow. Project teams with appropriate stakeholder representation (typically client representatives) are formed to facilitate access to pertinent stakeholder input.
- Document Development

- Appropriate approach to market documentation is developed encapsulating the approved procurement plan detail and accompanying procurement strategies.
- Release to market
  - All competitive market processes are administered utilising MAV Procurement’s chosen e-procurement solutions.
- Receipt and evaluation of responses
  - Evaluation of responses received is in line with the detailed Evaluation Plan that is developed and approved prior to the release of the tender to the market. The Evaluation Plan provides for a comprehensive governance and process framework for the appropriate evaluation process specific to the tender. At the conclusion of the evaluation process a recommendation with regards to the results of the evaluation are documented in the Tender Evaluation Report.
- Contract Management
  - MAV Procurement will manage all contracts that are developed by the MAV on behalf of our clients.

The procurement process undertaken by MAV Procurement at all times, ensures appropriate best practice and probity considerations are at the forefront, and that processes are able to withstand robust review and are fully acceptable to the local government sector and our clients’ compliance requirements.

## 6. Definitions and Abbreviations

Unless stated or implied otherwise, the following terms used in this Policy are defined as follows:

<b>The Act</b>	<i>Local Government Act 2020</i>
<b>Best Value</b>	Best value 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"> <li>• contribution to the advancement of Council priorities,</li> <li>• non-cost factors such as fitness for purpose, quality, service and support, and</li> <li>• 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.</li> </ul>
<b>Commercial in Confidence</b>	Information that, if released, may prejudice the business dealings of a party e.g., prices, discounts, rebates, profits, methodologies, and process information.
<b>Contract Management</b>	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.

<b>Corporate Social Responsibility (CSR)</b>	Corporate Social Responsibility (CSR) is about taking positive action to demonstrate commitment to the community and environment on which it impacts.
<b>Expression of Interest (EOI)</b>	A request for proposal is generally sent to the supplier market, designed to capture commercial information and pricing. Allows MAV to assess suitability and evaluate responses against a set of pre-defined requirements
<b>MAV Procurement</b>	Is a service unit established by the MAV to focus on achieving better procurement outcomes for local government sector through aggregated procurement, professional development and policy support.
<b>MAV Staff</b>	Includes full-time and part-time MAV Staff, and temporary employees, contractors, and consultants while engaged by the MAV.
<b>Probity</b>	Within Local 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 MAV's policies and relevant 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.
<b>Procurement</b>	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.
<b>Request for Proposal (RFP)</b>	A request for proposal is generally sent to the supplier market, designed to capture commercial information and pricing. Allows MAV to assess suitability and evaluate responses against a set of pre-defined requirements
<b>Sustainability</b>	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
<b>Social Procurement</b>	Social procurement uses procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.
<b>Tender Process</b>	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 or a panel of suppliers.

## 7. Policy Context

<b>Legislation, standards &amp; external guidelines</b>	<i>Local Government Act 2020 (Vic.)</i> <i>Competition and Consumer Act 2010 (Cth.)</i> <i>Goods Act 1958 (Vic.)</i>
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	<i>Environmental Protection Act 2017 (Vic.)</i>
<b>MAV Policies, procedures, and related documents</b>	Procurement Process Overview Ethics and Probity in Procurement Guideline Code of Conduct for Employees, Consultants and Contractors Conflict of Interest Policy for Staff, Contractors & Consultants Gifts, Benefits and Hospitality Policy Risk Management Policy Public Interest Disclosures Procedures Fraud and Corruption Control Policy Fraud and Corruption Control System Sponsorship Policy

## 8. Document Control

<b>Approval Authority</b>	MAV Board
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