



Collaborative Procurement Guidelines for Regional Waste and Resource Recovery Groups

2015

Authorised and published by
Sustainability Victoria,
Level 28, Urban Workshop
50 Lonsdale Street Melbourne
Victoria 3000 Australia

Collaborative Procurement Guidelines for Regional Waste
and Resource Recovery Groups

© Sustainability Victoria 2015 (RRR009)

Designed by Sustainability Victoria.
November 2015

Accessibility

This document is available in PDF
and Word format on the internet
at www.sustainability.vic.gov.au

Collaborative Procurement Guidelines for Regional Waste
and Resource Recovery Groups should be attributed to
Sustainability Victoria.

Collaborative Procurement Guidelines for Regional Waste and
Resource Recovery Groups (excludes all trademarks and logos) is
licensed under a Creative Commons Attribution 4.0 Australia licence.
In essence, you are free to copy, distribute and adapt the work, as
long as you attribute the work and abide by the other licence terms.
Go to <http://creativecommons.org/licenses/by/4.0/>
to view a copy of this licence.



Disclaimer

While all reasonable care has been taken in preparing this document, Sustainability Victoria gives no warranty regarding its accuracy, completeness, currency or suitability for any particular purpose. In particular, the document has been prepared as general information and without taking into account your particular needs or objectives. Accordingly any information, comments or statements made are not a recommendation that a particular course of action is suitable for you and should not be regarded as legal advice. Nothing relating to the provision of information shall be construed as creating a fiduciary, financial or other advisory relationship between Sustainability Victoria and you or any other third party. Sustainability Victoria recommends that you assess the relevance and accuracy of the information and obtain your own independent advice before acting on any information in this document. To the extent permitted by law, Sustainability Victoria does not accept any liability for loss or damages incurred as a result of reliance placed upon the content of this document.

Contents

Acronyms and abbreviations	iv	Collaborative procurement lifecycle	18
Introduction	1	Pre-procurement activities	20
Who these guidelines are for	1	Step 1: Review procurement opportunity	20
How to use these guidelines	1	Step 2: Options analysis and council commitment	21
About collaborative procurement	2	Procurement activities	23
What is collaborative procurement?	2	Step 3: Procurement planning and procurement documentation	24
Why collaborative procurement?	2	Step 4: ACCC authorisation	28
Advantages of collaborative procurement	3	Step 5: Initiate procurement process	29
Identifying collaborative procurement opportunities	4	Step 6: Evaluation	30
Challenges to collaborative procurement	4	Step 7: Contract negotiation and execution	32
Legislation, policy and planning	5	Step 8: Contract management	33
Legislative framework	5	Post-procurement review	34
Policy and planning framework	6	Step 9: Review procurement process	34
Roles and responsibilities	7	Glossary	35
Local government procurement	10	Appendix 1: Relevant legislative powers of WRRGs	38
Best practice principles	10	Appendix 2: Collaborative procurement matrix	39
Best Value Principles	10		
Sustainable and social procurement	10		
Minister-approved procurement arrangements	11		
Working together	12		
Strategies for collaborative procurement	12		
Contractual models for working together	13		
Choosing a contractual model	13		

Acronyms and abbreviations

ACCC	Australian Competition and Consumer Commission
CCA	Competition and Consumer Act 2010 (Cth)
CEO	Chief Executive Officer
CSR	Construction Supplier Register
DELWP	Department of Environment, Land, Water and Planning
EOI	Expression of Interest
EPA	Environment Protection Authority
EP Act	Environment Protection Act 1970 (Vic)
LG Act	Local Government Act 1989 (Vic)
LGV	Local Government Victoria
KPI	Key Performance Indicator
MAV	Municipal Association of Victoria
MWRRG	Metropolitan Waste and Resource Recovery Group
P&E Act	Planning and Environment Act 1987 (Vic)
RFP/I	Request for Proposal/Information
RFT	Request for Tender
SPC	State Purchase Contract
SV	Sustainability Victoria
WRRG	Waste and Resource Recovery Group
WoVG	Whole of Victorian Government
VGPB	Victorian Government Purchasing Board

Introduction

The *Collaborative Procurement Guidelines for Regional Waste and Resource Recovery Groups* (guidelines) form part of the Collaborative Procurement Framework developed by Sustainability Victoria on behalf of the Victorian Government.

The Collaborative Procurement Framework helps regional Waste and Resource Recovery Groups (WRRGs) to work with and encourage councils to:

- › aggregate and consolidate their volumes of waste and material streams
- › procure waste and resource recovery infrastructure and services in a way that delivers economic and environmental benefits to communities
- › work towards achieving the strategic directions of the [Statewide Waste and Resource Recovery Infrastructure Plan](#) (the state infrastructure plan) and the Regional Waste And Resource Recovery Implementation Plans (regional implementation plans).

The guidelines are designed to support good procurement practice and provide a structured and consistent approach to collaboratively procuring waste and resource recovery services and infrastructure by regional WRRGs and councils in Victoria.

Who these guidelines are for

Sustainability Victoria developed these guidelines to support regional WRRG personnel undertaking or facilitating a collaborative procurement activity. The guidelines are also useful for councils involved in collaborative procurements.

How to use these guidelines

The guidelines provide information on collaborative procurement, the legislative framework, roles and responsibilities in relation to waste and resource recovery, contractual requirements for working together and a step-by-step guide to carrying out a collaborative procurement process. The guidelines are supported by a suite of procurement templates. WRRGs can obtain these templates directly from Sustainability Victoria.

The guidelines are not intended as a 'one size fits all' approach. Each procurement will vary depending on the region, the councils involved and the nature of the services and infrastructure being procured.

The guidelines include references to sources of related information. Hyperlinks are included where appropriate and footnotes are used to reference legislative provisions and other relevant sources.

The legislative provisions referred to in these guidelines are binding on WRRGs and councils as described, unless otherwise indicated. However, this document is not a ministerial guideline and is not binding on WRRGs and councils. The guidelines provide guidance to WRRGs, but should not be regarded as legal advice.

Sustainability Victoria worked with Local Government Victoria and the Metropolitan Waste and Resource Recovery Group (**MWRRG**), and sought input from the non-metropolitan WRRGs, to develop these guidelines. These guidelines complement and should be used in tandem with the [Victorian Local Government Best Practice Procurement Guidelines 2013](#), which provide local government with a set of principles and practices to establish their procurement policies and undertake routine procurement activities.

Sustainability Victoria is keen to hear your feedback on the guidelines. Please share any areas for improvement or lessons learned by emailing WRRprocurement@sustainability.vic.gov.au or phone 03 8626 8708.

About collaborative procurement

What is collaborative procurement?

Collaborative procurement, for the purpose of these guidelines, is where two or more councils work together to procure waste and resource recovery services and/or infrastructure by consolidating waste materials or products to maximise environmental, social and economic outcomes.

Why collaborative procurement?

Victoria's waste and resource recovery system managed more than 12.1 million tonnes of solid waste and material streams in 2011–12.¹ Projections show that with Victoria's growing population, waste and resource recovery infrastructure may need to manage around 20.6 million tonnes of materials and waste by 2043.

Councils are responsible for providing and procuring residential waste services in their area. Working with other councils to procure joint waste and resource recovery services and/or infrastructure is one way to meet the increasing demands of the waste system but with the potential for cost savings, better services and environmental benefits.

Waste and resource recovery groups (WRRGs) have a statutory function to facilitate efficient procurement of waste and resource recovery services and infrastructure for their region through collective or 'collaborative' procurements in accordance with the *Environment Protection Act 1970* (Vic).

Now that the waste and resource recovery regional areas have been consolidated into seven larger groups (including MWRRG), there is even more scope to work with and encourage councils to take up collaborative procurement opportunities.

¹ Waste Management and Environment, *Inside Waste Industry Report 2011-12*, Gladesville, NSW, June 2011, p.90.

Advantages of collaborative procurement

Table 1 lists the advantages of collaborative procurement for councils.

TABLE 1: ADVANTAGES OF COLLABORATIVE PROCUREMENT

Advantage	Details
Economies of scale	<ul style="list-style-type: none"> › Cost savings from consolidating purchases, creating economies of scale and the benefits of discounted supplier pricing, allowing for savings to be used on other local initiatives › Multi-council contracts can deliver greater long term security, financial benefits and improved technology solutions › Councils can share the costs of potentially complex procurement processes
Specialist knowledge	<ul style="list-style-type: none"> › WRRGs have specialist knowledge of the waste and resource recovery sector. Sharing knowledge and resources with WRRGs and other councils can lead to better quality tenders, improving the quality of tender submissions and evaluation and negotiation capabilities › Councils can have increased confidence in decision making by drawing on the expertise and experience of WRRGs and other councils, alongside specialist procurement organisations and the Victorian Government Environment Portfolio › A WRRG can draw on its previous experience of conducting collaborative procurements (and the experience of other WRRGs) to reduce inefficiencies
Extending existing budgets	<ul style="list-style-type: none"> › As operating costs rise, councils need to find new ways to reduce procurement costs and extend the purchasing capacity of existing budgets › Standardising specifications can increase internal productivity and reduce duplication of effort through fewer procurements across councils
Reduced administrative overheads	<ul style="list-style-type: none"> › Fewer contracts means reduced transaction costs between suppliers and councils
High standard of supplier performance	<ul style="list-style-type: none"> › Accessing the expertise and experience of the WRRG and multiple councils can improve the quality of deliverables and supplier relationships, and performance. This in turn can lead to contract management efficiencies for participating councils and a greater return on investment for the community › Encouraging innovative resource recovery technologies and processes benefits the environment by reducing the amount of waste sent to landfill
Improved relationships with other councils in the region	<ul style="list-style-type: none"> › Closer relationships with neighbouring councils can lead to cooperative procurement planning in related areas, as well as increased sharing of information about suppliers and their performance history, improving overall local government service delivery
Improved competition with suppliers	<ul style="list-style-type: none"> › Large volume procurements can attract more competition and enable councils to access more favourable pricing as well as achieve improved environmental and social outcomes
Collaborative procurement benefits where a WRRG is involved	<ul style="list-style-type: none"> › Single point of coordination for facilitating the procurement › Centralised contract management function › Statewide communication and socialisation of the idea of collaborative procurements, resulting in improved awareness and exchange of knowledge and skill, and increased sharing of positive collaborative procurement experiences and outcomes › Arrangements supported by Victorian legislation › Increased opportunity to work with experienced third party organisations › A more consistent approach to procurement across Victoria

Identifying collaborative procurement opportunities

A collaborative procurement can be initiated by a WRRG or by a council/s. The Board of the WRRG (**WRRG Board**) must approve WRRG involvement in a collaborative procurement.

When initiated by a WRRG, all councils in the region should be given the opportunity to participate in the procurement process.

Collaborative procurement should be considered for new contract opportunities or where existing contracts have been procured individually.

The most common ways to identify opportunities for collaborative procurement are through the work of the WRRGs, the contract management process and council policy and planning as listed below.

Collaborative procurement activities can take a considerable amount of time to plan and execute. Do not underestimate the commitment required, especially when collaborating for the first time.

WRRGs

WRRGs can:

- › identify strategic collaborative procurement opportunities in each region's regional implementation plans
- › draw councils' attention to a service contract nearing expiry and the potential opportunities of a collaborative procurement and contract arrangement
- › review contract data and a statewide pipeline of procurement activity in conjunction with Sustainability Victoria to identify opportunities
- › identify opportunities through their local government forums or other related coordination and technical groups.

Examples of council services and waste related contracts

- › Municipal kerbside general waste collection
- › Municipal kerbside recycling collection
- › Organics collection and/or processing
- › Hard waste collection
- › Recycling receipt and sorting services
- › Street cleaning
- › Public place bin collection (litter and recycling bins)
- › Waste processing e.g. energy from waste
- › Waste transfer station operation
- › Waste transfer
- › Transfer of recyclables to processors
- › Landfill services
- › Resale centre operation
- › Product stewardship recycling programs
- › Commercial kerbside general waste collection

Contract management

Councils and/or WRRGs through their contract management process can:

- › review contracts tendered by individual councils to track contract expiration, allowing sufficient time to assess the requirements and opportunity to undertake collaborative procurements with other councils
- › consider opportunities presented by legacy contracts (contracts awarded under the former regional waste management groups) however these may present legacy issues that need to be considered
- › consult surrounding councils to examine the scope for collaborative contracting when setting up a new contract or when project characteristics are similar

Council policy and planning

Councils can:

- › proactively look for opportunities for jointly procured waste and resource recovery contracts wherever possible and contact their WRRG
- › establish their commitment to collaborative procurement by including it in their annual procurement policy and providing resources to support that commitment
- › identify and prioritise waste and resource recovery service needs and collaborate early on the services councils currently share (or may be able to share in the future) to allow sufficient time for the procurement process
- › share their proposed procurements to foster well-planned procurement activities across the region, including identifying potential collaborative procurement opportunities for delivering services
- › identify strategic collaborative procurement opportunities in councils' business plans.

Challenges to collaborative procurement

Collaborative activities can also present challenges for participating parties such as:

- › Planning and undertaking a collaborative procurement can take considerable effort upfront to establish agreed processes and principles, particularly when WRRGs and councils are working together for the first time.
- › Councils may find it difficult to agree on common needs and/or requirements and this can affect the development of specifications, evaluation criteria and other key documents.
- › A council/s might determine that the cost of participating in a collaborative procurement activity outweighs the benefits of achieving the objectives.
- › Increased volumes and advantageous contracts may narrow the market and create an environment for larger industry players to dominate.

Legislation, policy and planning

Local government and waste procurement operates within a broad legislative and policy framework as described below.

Legislative framework

Local Government Act

About	<ul style="list-style-type: none">› The <i>Local Government Act 1989 (Vic)</i> (LG Act) provides a framework for the establishment and operation of councils and is the main legislative instrument governing Victoria's 79 councils.› The LG Act establishes the powers and functions of local governments in Victoria and states that the primary objective of a council is to endeavour to achieve the best outcomes for the local community.
Impact on procurement	<ul style="list-style-type: none">› Under the LG Act, councils must ensure the most efficient and effective use of resources, and provide services in accordance with the Best Value Principles set out in Part 9, Division 3 of the LG Act.› The LG Act also imposes obligations that are binding on councils when they undertake procurement activities and establish a procurement policy (in particular, the requirements set out in sections 186 and 186A).› These principles and requirements must guide councils' decisions on local waste and resource recovery services and infrastructure, including any decision to opt into collaborative procurement of services or infrastructure.› Under the LG Act, a council can pass local laws that reinforce land-use planning and municipal waste and resource recovery strategies.

Competition and Consumer Act

About	<ul style="list-style-type: none">› The <i>Competition and Consumer Act 2010 (Cth)</i> (CCA) is enforced by the Australian Competition and Consumer Commission (ACCC), an independent Commonwealth statutory authority whose role is to achieve a number of objectives, including promoting competition in trade and commerce.› The CCA contains provisions prohibiting corporations from engaging in restrictive trade practices such as cartel conduct, exclusive dealing and entering into or giving effect to anti-competitive agreements.
Impact on procurement	<ul style="list-style-type: none">› Under the CCA, councils are considered to be competitors in the acquisition of waste and resource recovery services and infrastructure. Collaborative procurement of such services and infrastructure can, accordingly, contravene the CCA unless they fall within one of the exceptions or defences. As a result, councils may need to apply to the ACCC to obtain authorisation for a specified period to jointly procure, negotiate and contract for the supply of services.

Environment Protection Act

About	<ul style="list-style-type: none">› The <i>Environment Protection Act 1970 (Vic)</i> (EP Act) establishes the regulatory framework for environmental protection in Victoria. All waste and resource recovery facilities must comply with the EP Act.› The key aims of the EP Act include sustainable use and holistic management of the environment, ensuring consultative processes are adopted so that community input is a key driver of environment protection goals and programs and encouraging a cooperative approach to environment protection.
Impact on procurement	<ul style="list-style-type: none">› The EP Act establishes the powers and functions of the WRRGs and establishes the Victorian Waste and Resource Recovery Infrastructure Planning Framework, which includes the state infrastructure plan and regional implementation plans.

Planning and Environment Act

About	<ul style="list-style-type: none">› The <i>Planning and Environment Act 1987</i> (P&E Act) sets out a framework for integrating controls in land use, development planning and environment protection in Victoria.› The P&E Act sets out the objectives of planning in Victoria, which are integral to the Victorian Planning Provisions and reflected in local planning schemes. The Victorian planning policy framework seeks to ensure that all responsible authorities work to achieve the objectives of the P&E Act.
Impact on procurement	<ul style="list-style-type: none">› In carrying out its planning functions under the P&E Act, a council has two roles as the:<ul style="list-style-type: none">› planning authority: a council sets the strategic policy framework for the municipality and initiates changes to the provisions of the local planning scheme› responsible authority: a council administers the planning scheme for its municipality and makes decisions on individual applications for a planning permit.

Sustainability Victoria Act

About	<ul style="list-style-type: none">› The <i>Sustainability Victoria Act 2005</i> (Vic) sets out the objectives, functions and powers of Sustainability Victoria to facilitate and promote environmental sustainability in the use of resources.
-------	--

Policy and planning framework

National Waste Policy: Less Waste and More Resources

About	<ul style="list-style-type: none">› The National Waste Policy: Less Waste and More Resources is a collaborative national approach to managing waste across Australia.› The policy sets Australia's waste management and resource recovery direction to 2020 and was agreed to by all Australian governments.
-------	---

Statewide Waste and Resource Infrastructure Plan

About	<ul style="list-style-type: none">› The state infrastructure plan, developed by Sustainability Victoria on behalf of the Victorian Government, provides a statewide roadmap to ensure Victoria has the infrastructure to effectively manage the expected mix and volumes of waste for the next 30 years.› The state infrastructure plan will facilitate waste and resource recovery services essential to meet the needs of all Victorians being available, by:<ul style="list-style-type: none">› effectively managing the expected mix and volumes of waste› reducing the amount of valuable materials going to landfill and maximising resources recovered› supporting innovation and investment in better infrastructure to create jobs and bolster the economy› minimising community, environment and climate change and public health impacts while supporting a viable resource recovery industry.
-------	---

Regional Waste and Resource Recovery Implementation Plans

About	<ul style="list-style-type: none">› The seven WRRGs will develop regional implementation plans for their respective regions with support from Sustainability Victoria.› Regional implementation plans set out how the waste and resource recovery infrastructure needs of the relevant region will be met over 10 years.
-------	---

Roles and responsibilities

Local governments, WRRGs and government agencies plan for and manage most of Victoria's waste and resource recovery system. The following section outlines the roles and responsibilities of the main players in waste procurement.

The Victorian Government environment portfolio

The Victorian Government's environment portfolio is made up of the Department of Environment, Land, Water and Planning (**DELWP**), Sustainability Victoria, the Environment Protection Authority (EPA) Victoria and the WRRGs (see Figure 1). The portfolio provides policy advice, environmental regulation, programs to implement policies and reporting on the state of Victoria's environment.

FIGURE 1: THE VICTORIAN GOVERNMENT ENVIRONMENT PORTFOLIO



Department of Environment, Land, Water and Planning

DELWP provides policy planning, preparation of legislative amendments, leadership, coordination and oversight of the environment portfolio.

Local Government Victoria

Local Government Victoria (**LGV**) is a division of DELWP. LGV supports and provides policy advice and guidance to the Minister for Local Government and the Victorian local government sector and oversees administration of the LG Act. Part of its role is to provide advice and support to councils in relation to their roles and responsibilities under the LG Act. LGV achieves this by working in partnership with the local government sector to improve business and governance practices that maximise community value and accountability.

LGV works with councils across Victoria to facilitate collaborative procurement activities for a broad range of services.

Sustainability Victoria

Sustainability Victoria is a government statutory entity delivering programs on integrated waste management and resource efficiency and has obligations under the EP Act for statewide waste management strategy and planning.

Sustainability Victoria facilitates and promotes sustainable resource use by developing and delivering appropriate strategies and programs. Sustainability Victoria also has legislative responsibilities to develop the state infrastructure plan, support the WRRGs to develop their regional implementation plans and to work with the WRRGs to integrate regional and statewide plans.

Together with WRRGs, Sustainability Victoria is responsible for advising councils and businesses on best practices for waste and resource recovery systems, facilities and services.

Sustainability Victoria is responsible for implementing the Collaborative Procurement Framework, including these guidelines, to help and encourage WRRGs and councils to jointly procure waste and resource recovery services and infrastructure. As part of the Framework, Sustainability Victoria will:

- › regularly review the Framework materials (including these guidelines and associated templates) to keep them up to date
- › work with WRRGs and portfolio partners to facilitate networking opportunities
- › facilitate the roll-out of training and help deliver targeted sessions
- › work with WRRGs to identify opportunities for collaborative procurement activity
- › promote the advantages of collaborative procurement
- › provide procurement advice to WRRGs as required (this may involve helping to identify governance and process issues).

Environment Protection Authority Victoria

The EPA is Victoria's independent statutory authority responsible for:

- › controlling pollution by regulating businesses and industry to achieve clean air, healthy water, safe land and minimal disturbance by noise and odour. This includes setting and enforcing standards
- › regulating the waste and resource recovery industry through works approvals and licences as well as other regulatory tools
- › assessing works approvals in line with the EP Act, state environment protection policies, regulations, the state infrastructure plan and regional implementation plans
- › providing guidance documents related to specific technologies or statutory rules as required including the [Best Practice Environmental Management publication for landfills](#).

Local government

Local government is recognised under the *Victorian Constitution Act 1975* (Vic) as a discrete and essential tier of government consisting of democratically elected councils having the functions and power to ensure peace, order and good governance of each municipal district. Victoria has 79 local councils.

Councils play a critical role in the waste and resource recovery system by:

- › providing and procuring waste and recycling collections, transport, reprocessing and/or disposal to landfill services for their communities, either directly or through contractors
- › educating local communities on waste and resource recovery and litter
- › delivering a range of waste and resource recovery related projects on behalf of the Victorian Government
- › undertaking strategic land-use planning and assessing development applications, including applications for waste and resource recovery facilities, high-rise and multi-use developments and the associated waste infrastructure under their planning schemes
- › choosing to purchase goods made from recovered material streams.

Third party service providers

There are numerous commercial consultants and procurement practitioners who can help WRRGs and councils with collaborative procurement.

Municipal Association of Victoria Procurement

The Municipal Association of Victoria (MAV) is the peak body for Victoria's 79 councils and is governed by the *Municipal Association Act 1907* (Vic). MAV Procurement is a unit of MAV focused on helping the local government sector to achieve better procurement outcomes by providing aggregated procurement services to councils, professional development and training, and policy support.

MAV Procurement can also help individual councils or groups of councils to prepare and manage procurement processes via a consulting service where councils can benefit from aggregated contracting, contract management services and innovative tools that help simplify purchases.

For more information on MAV Procurement refer to their [website](#) or contact procurement@mav.asn.au.

Procurement Australia

Procurement Australia is one of the largest procurement solution companies in Australia that facilitates aggregated contracting and has established a number of standing offer contracts for its members.

Procurement Australia offers professional consulting services. For example, it was appointed by Northern Grampians Shire Council and Ararat Rural City Council to manage a combined Request for Tender for waste management services. As a result of this collaborative procurement, the total combined savings achieved on behalf of both councils was just under \$1 million over the five year principal period.

For more information on Procurement Australia refer to their [website](#) or contact marketing@palttd.com.au.

Commercial and procurement practitioners

Councils can access the Victorian Government's State Purchase Contract (**SPC**) – the [Commercial and Financial Advisory Services Panel for Infrastructure and Capital Asset Projects, and Commercial Transactions](#) to engage the following services:

- › strategic assessment and options analysis
- › business case and procurement strategy development
- › tendering of commercial projects (e.g. readiness for market phase)
- › commercial/project contract management
- › commercial project audit and post-project evaluation
- › strategic commercial and negotiations advice
- › project and stakeholder management advice.

For more information on councils engaging MAV Procurement or Procurement Australia, or accessing SPCs, refer to Minister-approved procurement arrangements.

Local government procurement

Councils' procurement activities are governed by a set of general principles. These principles are founded on the legislative obligations placed on councils and the notion that councils should seek to obtain optimum outcomes for their communities through their procurement processes.

Councils are bound by their statutory objective to 'ensure that resources are used efficiently and effectively and services are provided in accordance with Best Value Principles to best meet the needs of the local community' and 'to improve the overall quality of life of people in the local community'.²

Good procurement is achieved by applying both best practice and Best Value Principles and these principles should apply to all collaborative procurement activities.

For more information on best practice and Best Value Principles in procurement refer to the [Victorian Local Government Best Practice Procurement Guidelines 2013](#).

Best practice principles

The fundamental best practice principles that should be applied to every procurement, irrespective of the value and complexity of that procurement, are:

Value for money: Value for money takes into account both cost and non-cost factors and is not necessarily related to lowest price. Section 186(4) of the LG Act specifically provides that a council is not obliged to accept the lowest price.

Open and fair competition: All prospective suppliers must be treated (and be seen to be treated) fairly in an open and transparent manner. They must be provided with the same access to information about the procurement to enable them, as far as possible, to submit responses to procurement documentation on the same basis. Councils must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.

Accountability: Council staff are responsible for their actions and decisions in relation to procurement and for the resulting outcomes. Staff are answerable for such activities through established lines of accountability and delegation, and ultimately to their chief executive officer (CEO). Staff must also provide adequate and reliable advice to the elected councillors to allow them to make sound decisions on procurement matters.

Risk management: All procurement carries some level of risk. It is important for councils to recognise the risks that may arise in the course of each collaborative procurement and under any resulting contract entered into with a successful respondent, and to develop appropriate strategies to identify and manage those risks.

Probity and transparency: In all commercial dealings, the highest standards of honesty must be observed. Councils must conduct their business in a fair, honest and open manner, demonstrating the highest levels of integrity consistent with the public interest.

Best Value Principles

Best Value Principles require, among other matters, that:

- › all services provided by a council must meet the quality and costs standards of the LG Act
- › a council must achieve continuous improvement in the provision of services for its community.

The Best Value Principles recognise that good procurement practice is essential for local government to obtain real improvements in service cost and quality. Councils must be able to demonstrate and report to its community that it effectively applies Best Value Principles.

- › The LG Act sets out a number of factors which councils may take into account when applying the Best Value Principles:
- › the need to review services against the best on offer in both the public and private sectors
- › an assessment of value for money in service delivery
- › community expectations and values
- › the balance of affordability and accessibility of services to the community
- › opportunities for local employment growth or retention
- › the value of potential partnerships with other councils and state and federal governments
- › potential environmental advantages for the municipality.

Sustainable and social procurement

To achieve triple-bottom line outcomes, councils should also consider environmental, economic and social factors. Sustainable and social procurement offers councils a way to generate positive sustainable and social impacts as part of broader council objectives.

Sustainable procurement

The [Victorian Local Government Best Practice Procurement Guidelines 2013](#) (p. 15) defines sustainable procurement as:

'...a process whereby organisations meet their needs for goods, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, while minimising damage to the environment.'

Sustainable procurement incorporates other cost considerations into decisions alongside the conventional procurement criteria of price and quality, although in practice the sustainable impacts of a potential supplier's approach are often assessed as a form of quality.

It is important when undertaking sustainable procurement that a council properly articulates the benefits to the community, including financial benefits.

² Section 3C(2)(b) and (c) of the Local Government Act 1989 (Vic).

Social procurement

Social procurement involves using procurement processes and purchasing power to generate positive social outcomes in addition to delivering efficient goods, services and works. For local government, social procurement builds on initiatives already undertaken by the sector in enhancing sustainable and strategic procurement practice, enabling procurement to effectively contribute to building stronger communities and meeting the social objectives of councils.

For more information on social procurement refer to [Social Procurement: A Guide for Victorian Local Government](#) and the [Social Procurement Toolkit](#).

Minister-approved procurement arrangements

Victorian Government contracts

Councils can access a range of SPCs, Whole of Victorian Government (**WoVG**) contracts and the Construction Supplier Register (**CSR**) under section 186(5)(c) of the LG Act.

SPCs and WoVG contracts

SPCs and WoVG contracts are standing offer agreements for Victorian Government common use goods and services, which are established when improved value for money can be achieved through aggregating demand.

Access to these contracts enables councils to leverage the buying power of the Victorian Government while having confidence in the best practice procurement processes used to establish these contracts.

There are over [30 individual contracts and panel arrangements](#) currently available to councils. As with all purchasing decisions, councils should consider whether using these contracts will achieve the optimal outcome for a particular purchase.

Access to SPCs and WoVG contracts can only be obtained in accordance with the specific rules associated with each contract.

More details on SPCs and WoVG contracts can be found on the [Victorian Government Purchasing Board \(VGPB\)](#) website.

The Construction Supplier Register

The CSR is a pre-qualification scheme for building and construction industry consultants and contractors for government bodies, including councils, to engage when undertaking construction projects.

The CSR is available on the [Department of Treasury and Finance website](#).

What is the VGPB?

The VGPB establishes policies for the procurement of goods and services by Victorian Government departments and some public bodies. VGPB policies do not apply to local government procurement.

The [VGPB website](#) has useful information for government buyers such as [SPC and WoVG contracts](#) and [procurement guides and templates](#).

MAV and Procurement Australia aggregated contracts

Councils can access all aggregated contracts entered into by councils through MAV Procurement and Procurement Australia under section 186 of the LG Act.

Councils can access these contracts at any time, irrespective of whether that council appointed the organisation as the tendering agent at the time the contract was entered into.

These types of procurement arrangements differ to a one-off collaborative procurement activity. Under aggregated contract arrangements, councils can join these contracts at any time rather than committing to the procurement process at the beginning and entering into long term contracts as a direct result of that process.

More information on these contracts can be found at [MAV Procurement](#) or [Procurement Australia](#).

Working together

One of the primary objectives of WRRGs is to facilitate councils' procurement of waste and resource recovery services and infrastructure, and to help councils undertake collaborative initiatives consistent with the state infrastructure plan and applicable regional implementation plans.

Councils are not obliged to participate in any collaborative procurement process and may organise procurement of waste and resource recovery services and infrastructure individually or with other councils as they see fit, provided such arrangements comply with the LG Act and other relevant legislation.

Strategies for collaborative procurement

Where a council decides to participate in a collaborative procurement facilitated or carried out by a WRRG, there are certain strategies that both parties can apply to improve both their experience and the procurement outcomes:

Participating

- › Commit to the process from the outset and build a collaborative partnership based on mutual trust and respect, transparency, cooperation and accountability.
- › Actively participate in the procurement so that each party gains knowledge and experience in collaborative procurement.
- › Ensure councils work effectively within the governance structure established for the collaborative procurement process and support the WRRG or any specialist contractor that sets up a collaborative contract, and assist with managing and developing the contract where appropriate.

Planning

- › Undertake detailed forward planning and invest sufficient time to develop a well thought through process and high quality procurement documents.
- › Carefully manage the procurement process to adhere to agreed timelines as far as possible. Failure to meet critical dates increases procurement process risk and is inefficient for all parties.
- › Apply appropriate procurement principles with a focus on improved service cost and quality and better long term benefits for the region.

Managing

- › Establish capable resources with the expertise and experience to manage all stages of the collaborative procurement efficiently.
- › Ensure an efficient process to mitigate risk and increase the likelihood that the process will deliver value-for-money outcomes, and reduce unnecessary costs for both participating councils and respondents.
- › Manage the process in accordance with probity principles and a probity plan.

Sharing

- › Share in a fair and equitable manner the costs, benefits and risks involved in achieving collaborative contracts.
- › Seek to achieve efficient and effective use of resources while upholding the principle of equal treatment, transparency and accountability.
- › Share supplier performance information where possible (subject to commercial restrictions).³
- › Collaborate on developing common specifications. Specifications can be shared as the exchange of information is beneficial to the region.

Finding commonalities

- › Work together to achieve common outcomes, while recognising that each council may have different business objectives that may need to be accommodated.
- › Seek to establish a common understanding of the required outcomes and the collaborative procurement process.
- › Ensure effective communication between councils and the WRRG. Commitment, assumptions, constraints and issues can be resolved early in a collaborative procurement process through consultation.

³ Any supplier performance information that is shared must include feedback mechanisms allowing suppliers to comment on any adverse reporting.

Contractual models for working together

There are several different ways for WRRGs and councils to work together on collaborative procurements depending on the level of involvement of the WRRG.

The options available to a WRRG to support councils to undertake collaborative procurements are restricted by its powers under the EP Act. In addition, the level and type of support may be heavily influenced by resourcing and the desired level of involvement of the WRRG, as well as of participating councils.

Table 2 summarises the options and functions of the WRRG when undertaking collaborative procurement categorised by its level

of involvement. The options presented are not exhaustive and are provided to help WRRGs and councils identify ways to undertake procurement in the most efficient way possible, to achieve the best outcomes for the WRRGs and the councils and meet the objectives of the state infrastructure plan and regional implementation plans where possible.

A WRRG may wish to support councils using alternative contract models or approaches other than those listed below depending on the specific circumstances and objectives of the relevant parties, and should seek legal advice on the availability and implementation of alternative approaches if required.

TABLE 2: WRRG SUPPORT OPTIONS

Level of involvement	Option	Function
High	Joint Entry Model: Facilitate, contract and manage	Facilitate the procurement process, enter into the subsequent contract/s with the supplier (jointly with the councils) and manage the contract/s
	Agency Model: Facilitate, contract and manage as agent	Act as an agent of the councils to facilitate the procurement process, enter into the subsequent contract/s with the supplier/s as agent for the councils, and manage the contract
Moderate	Management Model: Facilitate and manage	Facilitate the procurement process and manage the subsequent contract/s
	Part Management Model: Facilitate	Facilitate the procurement process only
	Part Management Model: Manage	Manage contract/s only
Minimal	Other: Advise	Provide advice and consult on the procurement process and contract management
	Other: Outsource	Outsource the procurement process and contract management to a third party provider

Further details of these options and the related contract models, processes and templates are set out below and in Appendix 2: Collaborative procurement matrix.

Choosing a contractual model

There are advantages and disadvantages to entering into arrangements with councils under the Joint Entry, Agency or Management models. These are summarised in Tables 3 to 5. WRRGs should consider this information as part of its decision as to its role in the procurement

The legal advantages and disadvantages of each arrangement should be discussed by the WRRG and the councils with their legal advisers for the particular context and the requirements of their procurement.

Sustainability Victoria has developed contract templates for the Management Model only as it is likely to be more suitable in most instances.

The procurement lifecycle references the Management Model templates (the Management Agreement and Services Agreement) throughout. WRRGs and councils using a different contractual model can still follow the lifecycle as the procurement steps are the same regardless of the model chosen.

Joint Entry Model: Facilitate, contract and manage

Under this model the WRRG and councils jointly enter into the same contract with the supplier/s. The WRRG will:

- › **facilitate:** issue the procurement documentation in its own name and negotiate the Services Agreement with the successful respondent (supplier)
- › **contract:** enter into a Services Agreement with the selected supplier jointly with the councils
- › **manage:** manage and enforce the Services Agreement once it has commenced.

Two agreements are used under this model:

- › an Agreement between the WRRG and the councils up to contract execution
- › a Services Agreement between the WRRG, the council/s and each supplier.

The Services Agreement assigns the respective roles and responsibilities of the WRRG and councils relative to the supplier. The WRRG then manages the contract taking into account these roles. Generally, the councils receive the services from the supplier as the procurer of these services, and are directly responsible to the supplier for payments and meeting any guaranteed supply obligations. The WRRG does not warrant or guarantee the councils' payments or waste deliveries.

In selecting this model, the WRRG and councils need to ensure that the relationship is 'joint' in accordance with the EP Act.

Table 3 outlines the advantages and disadvantages of the Joint Entry Model

TABLE 3: ADVANTAGES AND DISADVANTAGES OF THE JOINT ENTRY MODEL

Advantages	<ul style="list-style-type: none"> › The supplier may have more confidence in the arrangements because all the details of the contractual arrangements are transparent to all parties. › Because it is a party to the Services Agreement, a WRRG can take enforcement action against the supplier in its own right, rather than as agent for the councils, in the event that the supplier breaches an obligation owed to the WRRG (not just a council/s) which will depend on the terms of the contract. › The WRRG can play a role in dispute resolution between the councils where a collective commitment is not met and the councils are not able to agree on a common approach. If the WRRG were merely the agent of the councils, then it may have a more limited role.
Disadvantages	<ul style="list-style-type: none"> › As the WRRG is a party to the contract in its own right, it will be more likely to be a party to any dispute or litigation with the supplier. The WRRG would have to rely on the councils' solvency and willingness to comply with the indemnity given in favour of the WRRG to recover from the councils any costs and liability incurred by the WRRG as a result of such a dispute or litigation. › Given differences between councils, it is not always appropriate to disclose the mechanics of how councils will collectively meet their obligations. Greater transparency may lead the supplier to seek to negotiate minor unnecessary amendments, wasting time and resources. › There may need to be procedures to ensure that, in taking enforcement action, a WRRG is not behaving at odds with the interests of one or more participating councils. Unless it has the benefit of an indemnity from the councils, it could find itself exposed to the costs of enforcement action. › From the supplier's perspective, there may be some uncertainty around the delineation in roles between the WRRG and the councils. This model is more resource intensive for the supplier if it needs to deal with multiple counterparties on a day-to-day basis, or if the contract requires amendment. The roles and responsibilities of the WRRG and each council may be complex and difficult to understand, making the arrangements ripe for dispute. › Councils may expect a stronger say in the content and administration of the contract and there is a risk that the views of the most intransigent council will prevail. As there is only one contract with the supplier, there is less flexibility for councils to tailor their arrangements with the supplier and councils with dissenting views on a contractual provision will be more difficult to accommodate. › This model is likely to require ACCC authorisation to mitigate potential CCA risks.

Agency model: Facilitate, contract and manage

Under this model each council (as principal) appoints the WRRG as its agent for one or more of the following purposes:

- › **facilitate:** issue the procurement documentation in its own name and negotiate the Services Agreement with the successful respondent (supplier)
- › **contract:** enter into the Services Agreement with the selected supplier as agent for the councils
- › **manage:** manage and enforce the Services Agreement once it has commenced.

Two agreements are used under this model:

- › an Agency and Management Agreement between the WRRG and the councils
- › a Services Agreement between the WRRG (as agent for each council) and each supplier.

The Agency and Management Agreement clearly sets out the scope of the WRRG's authority as agent. If the agency arrangement requires the WRRG to enter into and enforce the Services Agreement with the supplier, the WRRG needs to be granted the authority to do so. If the councils wish the WRRG to manage the relationship with the supplier, the agreement also specifies how the management relationship will work.

Arrangements for managing the relationship between councils would be included in the Agency and Management Agreement. In the interests of transparency between councils and the supplier/s, these principles could be included in the procurement documentation issued to prospective suppliers or could be provided once a supplier has entered into the Services Agreement, to the extent appropriate.

When participating councils appoint a WRRG to act as an agent, it does not absolve each council of its statutory powers and obligations to be involved in developing the specifications, making key decisions and ensuring that the process can stand up to any scrutiny. The councils are also parties to the Services Agreement as principals, and therefore will be bound by contractual obligations owed to the supplier.

Table 4 outlines the advantages and disadvantages of the Agency Model

TABLE 4: ADVANTAGES AND DISADVANTAGES OF THE AGENCY MODEL

Advantages	<ul style="list-style-type: none"> › A WRRG entering into, managing and enforcing a contract for waste and resource recovery services with a supplier, as agent for several councils, avoids the need for the supplier to deal with multiple counter parties on a day-to-day basis, or if the contract requires amendment. › The WRRG will not have principal liability to the supplier with respect to minimum volumes of waste and other obligations under the agreement.
Disadvantages	<ul style="list-style-type: none"> › It could take time for councils to agree a common approach to the WRRG's role, rights and obligations. › The roles and responsibilities of each of the WRRG and each council may be complex and difficult to understand, making the arrangements ripe for dispute. This is particularly the case if the WRRG is entering into the Services Agreement with the supplier in its capacity as agent for the councils, but is issuing procurement documentation or managing the procurement process in its own right. › It is unclear how disagreements between the councils will be managed. A WRRG risks being caught in a dispute between the councils, or between the supplier and the councils, where the councils are unable to agree on a common approach. › The supplier would enforce the agreement against the WRRG as agent for the councils, including by making the WRRG a party to any litigation. While the agency agreement will include an indemnity from each council, the WRRG will be relying on the council's solvency and willingness to comply with the indemnity. › If there is only one contract with the supplier, there is less flexibility for councils to tailor their arrangements with the supplier and councils with dissenting views on a contractual provision will be more difficult to accommodate. › This model is likely to require ACCC authorisation to mitigate potential CCA risks.

Management Model: Facilitate and manage

Under this model each council appoints the WRRG to:

- › **facilitate:** issue the procurement documentation (in the names of the councils) and negotiate the Services Agreement with the supplier (but not enter into the contract)
- › **manage:** manage the Services Agreement once it has commenced.

Two agreements are used under this model:

- › a Management Agreement between the WRRG and the councils
- › a Services Agreement between the councils and each supplier.

The WRRG is explicitly named as the Contract Manager, and its responsibilities and powers in that role are set out in each Services Agreement between the councils and a supplier.

Arrangements for managing the relationship between councils would be included in the Management Agreement. In the interests of transparency between the councils and the supplier, these principles could be included in the procurement documentation or could be provided once a supplier has entered into the Services Agreement, to the extent appropriate.

Table 5 outlines the advantages and disadvantages of the Management Model

TABLE 5: ADVANTAGES AND DISADVANTAGES OF THE MANAGEMENT MODEL

Advantages	<ul style="list-style-type: none"> › Contractual structure is simple and the role of each party easy to understand. › The WRRG will not have principal liability to the supplier with respect to minimum volumes of waste and other obligations under the Services Agreement, nor will it be a named party in the Services Agreement. › While each council will be a party to the Services Agreement, the supplier need only deal with WRRG as manager of the agreement on a day-to-day basis. › Where the WRRG is the Contract Manager, the WRRG can play a role in dispute resolution between the councils where a collective commitment is not met and the councils are not able to agree on a common approach.
Disadvantages	<ul style="list-style-type: none"> › The supplier may not wish to have multiple councils as counterparties to the Services Agreement. › Councils may expect a stronger say in the content and the administration of the contract than if they are not signing the contract themselves, and there is a risk that the views of the most intransigent council will prevail. If there is only one contract with the supplier, there is less flexibility for councils to tailor their arrangements with the supplier and councils with dissenting views on a contractual provision will be more difficult to accommodate. › This model is likely to require ACCC authorisation to mitigate potential CCA risks.

Part Management Model: Facilitate OR manage

Under this model each council appoints the WRRG to either:

- › **facilitate:** issue the procurement documentation and negotiate the Services Agreement with the supplier, OR
- › **manage:** manage the Services Agreement once it has commenced.

Under this model the Management Agreement is used from the Management Model (above) to set out the rights and obligations between the WRRG and the councils, with appropriate amendments to reflect those parts of the Management Model that do not apply. The same comments set out under *Management Model: Facilitate and manage* above apply to the extent applicable (depending on the aspect of the process that will be facilitated or managed by the WRRG).

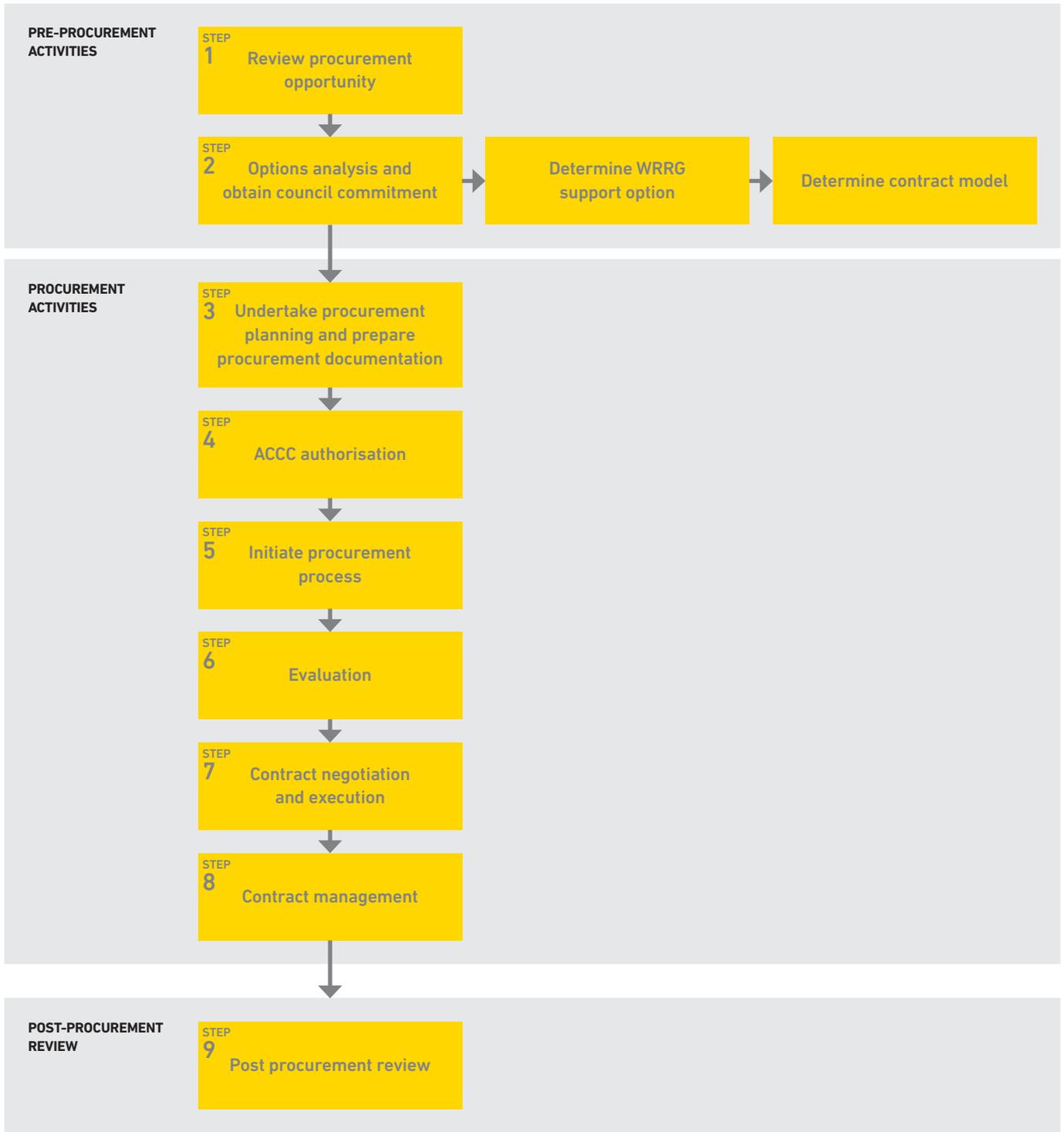
Other support options

For options with a minimal involvement level, the WRRG plays a less substantive role in the procurement and contract management process. In these instances, a WRRG could assist the councils to engage a third party provider (see Third party service providers) to undertake the procurement and/or contract management process entirely (outsource), or act as an adviser to the councils without facilitating or driving the process (advise).

Collaborative procurement lifecycle

This section provides an overview of the lifecycle of a collaborative procurement process.⁴ The lifecycle is divided into three stages made up of nine steps as shown in Figure 3. Table 6 outlines the outcomes and templates available for each step in the collaborative procurement process.

FIGURE 3: COLLABORATIVE PROCUREMENT PROCESS LIFECYCLE



⁴ This lifecycle is based on the Metropolitan Waste and Resource Recovery Group (MWRRG) Procurement Procedures Manual (Metropolitan Council Collective Procurements) Version 6, September 2014.

TABLE 6: STAGES, STEPS AND TEMPLATES IN A COLLABORATIVE PROCUREMENT PROCESS

Steps	Outcomes	Templates
Pre-procurement		
Step 1: Review procurement opportunity	<ul style="list-style-type: none"> › Brief prepared by WRRG for consideration and support of procurement by the WRRG Board 	<ul style="list-style-type: none"> › Brief
Step 2: Options analysis and council commitment	<ul style="list-style-type: none"> › Analysed options › Determined WRRG support options and contract model › Prepared the Business Case › Prepared the Management Agreement › Obtained council commitment 	<ul style="list-style-type: none"> › Business Case › Management Agreement › CEO Report / Presentation Brief
Procurement activities		
Step 3: Procurement planning and procurement documentation	<ul style="list-style-type: none"> › Established Working Group › Determined sourcing approach › Prepared the Procurement Plan and timeline › Prepared the Risk Management Plan › Prepared the procurement documentation including: <ul style="list-style-type: none"> – Sourcing documents – Evaluation Plan – Probity Plan › Council approved all procurement documents prior to release to market 	<ul style="list-style-type: none"> › Procurement Plan (including timeline) › Risk Management Plan › Sourcing templates › Draft Services Agreement › Evaluation Plan › Probity Plan (includes Conflict of Interest Declaration and Deed of Confidentiality) › Procurement documentation approval
Step 4: ACCC authorisation	<ul style="list-style-type: none"> › Council consented to apply for ACCC authorisation › Completed and submitted the required forms to the ACCC 	<ul style="list-style-type: none"> › ACCC – Form A › ACCC – Form B
Step 5: Initiate procurement process	<ul style="list-style-type: none"> › Publicly released the sourcing documents › Held a procurement briefing › Responded to clarification questions 	<ul style="list-style-type: none"> › Briefing Registration Form › Response to Clarification Questions › Addendum › Tender Receipt Register
Step 6: Evaluation	<ul style="list-style-type: none"> › Convened the Evaluation Panel › Evaluated the responses received against published criteria specified in procurement documents › Prepared Evaluation Report and draft recommendations › WRRG Board and councils endorsed the Evaluation Report and Probity Report 	<ul style="list-style-type: none"> › Invitation to Interview/ Presentation › Reference Check › Evaluation Report and Approval Brief
Step 7: Negotiation and contract execution	<ul style="list-style-type: none"> › Appointed the Negotiation Team › Negotiated the contract › Executed the contracts › Notified unsuccessful respondent/s 	<ul style="list-style-type: none"> › Negotiation Plan › Invitation to Negotiate › Contract Award Letter › Notice to Unsuccessful Respondents › Tender Debrief
Step 8: Contract management	<ul style="list-style-type: none"> › Appointed a Contract Manager › Finalised the Contract Management Plan › Commenced contract management 	<ul style="list-style-type: none"> › Contract Management Plan
Post-procurement review		
Step 9: Review procurement process	<ul style="list-style-type: none"> › Reviewed the procurement process and captured any lessons learned for future procurement 	<ul style="list-style-type: none"> › Lessons learned template

WRRGS can access templates (**in bold**) by contacting Sustainability Victoria directly.

Pre-procurement activities

In this stage the WRRG works with councils to see whether the identified procurement opportunity is feasible. The WRRG analyses the procurement options available to the councils and determines how to work together. At the end of this stage, councils will have agreed on the procurement approach and all parties will have signed the Management Agreement.

Table 7 outlines the steps, outputs and templates relevant to this stage.

TABLE 7: PRE-PROCUREMENT STEPS, OUTPUTS AND TEMPLATES

Steps	Outcomes	Templates
Step 1: Review procurement opportunity	<ul style="list-style-type: none"> › Brief prepared by WRRG for consideration and support of procurement by the WRRG Board 	<ul style="list-style-type: none"> › Brief
Step 2: Options analysis and Council commitment	<ul style="list-style-type: none"> › Analysed options › Determined WRRG support options and contract model › Prepared the Business Case › Prepared the Management Agreement › Obtained council commitment 	<ul style="list-style-type: none"> › Business Case › Management Agreement › CEO Report/Presentation Brief

Step 1: Review procurement opportunity

Once a procurement opportunity has been identified (refer to Identifying collaborative procurement opportunities) the WRRG approaches interested councils to review and assess the opportunity. The WRRG develops a brief for the WRRG Board to consider. If endorsed, the WRRG will move to a detailed options analysis in Step 2.

1.1 Prepare brief

The WRRG liaises with councils' senior management to define the service delivery opportunity and service levels required.

The WRRG then assesses the procurement opportunity for the group as a whole, while considering the service needs of each council. At the end of the assessment, the WRRG prepares a brief for the WRRG Board to consider and support the involvement of the WRRG in the procurement.

The assessment considers the:

- › opportunity to implement the strategic directions of the state infrastructure plan, applicable regional implementation plan/s, regional policies and planning frameworks, and council-specific strategies, priorities and outcomes
- › need for the service and the scale of service required to satisfy logistical and financial objectives
- › relative advantages to individual councils of undertaking a collaborative procurement
- › priority and urgency of the opportunity for individual councils in the group
- › potential financial implications of the opportunity
- › critical success factors for the opportunity to deliver the desired outcomes
- › lessons learned from previous procurements or the management of contracts.

Step 1 outputs	Completed (Y/N)
At the end of Step 1 you have:	
Prepared a brief for consideration and support of the procurement by the WRRG Board	

Step 2: Options analysis and council commitment

2.1 Analyse options

The WRRG, in consultation with participating councils, carries out an options analysis to identify and shortlist potential service delivery and procurement options. It develops recommendation/s for inclusion in a Business Case and drafts the Management Agreement. The Business Case and Management Agreement need to be endorsed by the councils.

The options analysis builds on the review in Step 1. Options are evaluated in the context of the:

- › commercial viability and service need
- › advantages and disadvantages of each option
- › risks and benefits to the council and the state government.

The options analysis should take into account, but is not limited to consideration of, the factors listed in Table 8.

TABLE 8: OPTIONS ANALYSIS FACTORS TO CONSIDER

Factors	Details
Assets	Can existing assets held by councils, industry or other government bodies be used or the service needs met without creating additional assets, or is investment in additional or enhanced assets necessary or appropriate?
Data sets	Base the options analysis on quantifiable data. The extent and detail of the required data depends on the nature and complexity of the opportunity and the availability of objective data.
Preliminary studies	Depending on the complexity of the procurement and the level of commitment sought by councils at this step, preliminary studies may be required to substantiate the recommendations in the Business Case
Technology	Analyse a range of possible technical solutions or likely options to meet the overall service needs of the council group, taking into account local service delivery models and appropriate assumptions regarding group composition
Potential suppliers	Assess the potential suppliers in the market, e.g. are they local, regional or global? What impact would this purchase have on the market, for example, on existing local suppliers?

2.2 Determine WRRG support option and contract model

There are several different ways for WRRGs and councils to work together on collaborative procurements depending on the level of involvement of the WRRG.

Refer to Contractual models for working together earlier in the guidelines to review the different WRRG support options and contract models.

Sustainability Victoria has developed contract templates for the Management Model only as it is likely to be more suitable in most instances.

The procurement lifecycle references the Management Model templates (the Management Agreement and Services Agreement) throughout. WRRGs and councils using a different contractual model can still follow the lifecycle as the procurement steps are the same regardless of the model chosen.

2.3 Prepare the Business Case

The Business Case includes analysis of:

- › the options identified for the procurement of the relevant waste and resource recovery services or infrastructure and a recommendation/s for the councils to consider
- › how the WRRG could facilitate the procurement, the preferred support model and the arrangements needed to enable this.

The Business Case covers the following (as relevant to the procurement):

- › key principles and assumptions underpinning the proposed process
- › respective roles of the WRRG and councils in the procurement
- › council governance arrangements, including an outline of the approval points and appropriate authorisation to ensure an efficient and effective procurement process
- › the proposed timing, grouping, procurement model and contractual arrangements
- › federal, state and local legislative and environmental policy and regulatory obligations
- › existing and future land-use planning requirements
- › existing and projected processing capacity requirements
- › nominal site options and selection process
- › future carbon pricing information
- › landfill versus technology pricing options
- › product markets
- › potential transfer requirements
- › transitional arrangements.

WRRGs and councils should consider whether any external support is required for the procurement process that needs to be budgeted for, including (but not limited to):

- › any additional legal advice
- › appointing a probity practitioner/s
- › the costs of advertising/public notice
- › potential ACCC authorisation fees
- › independent financial due diligence (if required)
- › subject matter experts or other consultants.

2.4 Prepare the Management Agreement

The Management Agreement governs the relationship between the parties throughout the procurement and contract management process (as relevant, depending on which option is used).

The Management Agreement sets out (as relevant):

- › rules regarding the roles and responsibilities of the parties during the procurement (and contract management if relevant) process, including decision making and governance processes and how the councils will participate in the evaluation and negotiation processes
- › obligations of the councils in relation to ensuring that their respective delegates have sufficient authority to approve various activities as part of the procurement and contract management process and keeping the other parties updated about any changes that may affect the timeline for the procurement process
- › certain obligations of the parties in relation to the selected contractual arrangement
- › collective procurement objectives
- › specific objectives of each individual council
- › liability arrangements as between the parties.

2.5 Obtain council commitment

The WRRG (C)EO or a senior council staff member delivers the Business Case and Management Agreement in a briefing to each council's CEO.

As part of endorsing the Business Case and signing the Management Agreement, council CEOs:

- › endorse the preferred service delivery option
- › agree the governance/approval arrangements
- › agree the arrangements to work with the WRRG
- › nominate an experienced officer to represent the council in the Working Group (see Step 3).

Once the Management Agreement is executed by the councils, it takes effect through to contract execution (or contract completion if the WRRG is managing the contract).

Step 2 outputs	Completed (Y/N)
At the end of Step 2 you have:	
Analysed options	
Determined WRRG support options and contract model	
Prepared the Business Case	
Prepared the Management Agreement	
Obtained council commitment	

Procurement activities

During this stage, the Working Group is established and prepares the procurement documentation. The Working Group manages the release of the procurement documentation to the public, evaluation of responses, and negotiation with one or more respondents through to contract award and execution. Where a WRRG has been appointed as a Contract Manager, it also undertakes contract management activities.

Table 9 outlines the steps, outputs and templates relevant to this stage.

TABLE 9: PROCUREMENT STEPS, OUTPUTS & TEMPLATES

Steps	Outcomes	Templates
Step 3: Procurement planning and procurement documentation	<ul style="list-style-type: none"> › Established Working Group › Determined sourcing approach › Prepared the Procurement Plan and timeline › Prepared the Risk Management Plan › Prepared the procurement documentation including: <ul style="list-style-type: none"> – Sourcing documents – Evaluation Plan – Probity Plan › Council approved all procurement documents prior to release to market 	<ul style="list-style-type: none"> › Procurement Plan (including timeline) › Risk Management Plan › Sourcing templates › Draft Services Agreement › Evaluation Plan › Probity Plan (includes Conflict of Interest Declaration and Deed of Confidentiality) › Procurement documentation approval
Step 4: ACCC authorisation	<ul style="list-style-type: none"> › Council consented to apply for ACCC authorisation › Completed and submitted the required forms to the ACCC 	<ul style="list-style-type: none"> › ACCC – Form A › ACCC – Form B
Step 5: Initiate procurement process	<ul style="list-style-type: none"> › Publicly released the sourcing documents › Held a procurement briefing › Responded to clarification questions 	<ul style="list-style-type: none"> › Briefing Registration Form › Response to Clarification Questions › Addendum › Tender Receipt Register
Step 6: Evaluation	<ul style="list-style-type: none"> › Convened the Evaluation Panel › Evaluated the responses received against published criteria specified in procurement documents › Prepared Evaluation Report and draft recommendations › WRRG Board and councils endorsed the Evaluation Report and Probity Report 	<ul style="list-style-type: none"> › Invitation to Interview/ Presentation › Reference Check › Evaluation Report and Approval Brief
Step 7: Negotiation and contract execution	<ul style="list-style-type: none"> › Appointed the Negotiation Team › Negotiated the contract › Executed the contracts › Notified unsuccessful respondent/s 	<ul style="list-style-type: none"> › Negotiation Plan › Invitation to Negotiate › Contract Award Letter › Notice to Unsuccessful Respondents › Tender Debrief
Step 8: Contract management	<ul style="list-style-type: none"> › Appointed a Contract Manager › Finalised the Contract Management Plan › Commenced contract management 	<ul style="list-style-type: none"> › Contract Management Plan

Step 3: Procurement planning and procurement documentation

Upon securing each council's execution of the Management Agreement, the collaborative procurement stage can commence.

At this point in time, all individuals associated with the procurement process should sign appropriate Conflict of Interest Declarations and Deeds of Confidentiality. Once signed, these documents are held on the secure procurement file as part of the Probity Plan.

3.1 Establish Working Group

Establish a Working Group made up of WRRG officers and a representative from each council.

3.2 Determine sourcing approach

Depending on the recommendations in the Business Case, the Working Group may undertake a Request for Information/Proposal (RFI/P), Expression of Interest (EOI) or Request for Tender (RFT) process, or a combination of more than one of these processes to form a multi-stage procurement process.

Table 10 details these sourcing approaches and the circumstances in which they may be appropriate.

TABLE 10: SOURCING APPROACHES

Approach	Details
RFI	<ul style="list-style-type: none"> Used when buyers are uncertain as to what services or works are required May be used to identify available technologies or products and services in the marketplace Should be used instead of an RFT or EOI to improve understanding of requirements, availability and likely costs before considering whether or not to issue another kind of procurement documentation to further the process
RFP	<ul style="list-style-type: none"> A flexible procurement document used to seek solutions-based responses to meet service needs Might be used when factors other than price are central to evaluating each offer or where there is no clearly defined specification or solution and the WRRG and councils are seeking a range of options or innovations
EOI	<ul style="list-style-type: none"> Usually the first stage of a multi-stage procurement process and is used to identify potential suppliers interested in and capable of delivering the required services Sets out an overview of requirements and seeks further information about whether there is sufficient interest in the opportunity. It does not of itself lead to entry into a Services Agreement Can be used as a screening process in the early stages of procurement to generate a shortlist for a selective RFT If the outcome of the EOI process is positive, shortlisted respondents are invited to respond to a select RFT (in a multi-stage procurement process)
RFT	<ul style="list-style-type: none"> Used to seek competitive bids from prospective service providers against a set of clearly defined and specified requirements Can either be open to the public at large or only to selected respondents (e.g. in the event that an EOI process has been conducted)

3.3 Prepare the Procurement Plan and timeline

The Working Group prepares a plan for the conduct of the collaborative procurement process. The Procurement Plan sets out a detailed plan for monitoring progress of the procurement process, and outlines processes relating to consultation, market testing and approvals.

The procurement process needs to be carefully planned to leave adequate time to develop the procurement documents and evaluate responses to maximise the likelihood of successful outcomes, and to allow time to obtain the necessary multiple approvals.

A timeline should be used to plan collaborative procurement milestones and tasks, and kept updated during the course of the procurement process to keep all parties informed of progress.

3.4 Prepare the Risk Management Plan

The Working Group develops a Risk Management Plan to cover risks across all stages of the procurement cycle. The plan should outline strategies proposed to mitigate risk and contingency planning to respond to risks that may emerge.

The Working Group should include all risks identified in the Business Case while also continuing to identify and document risks associated with the procurement process.

3.5 Prepare procurement documentation

Contract management planning

It is important to understand upfront how the contract will be managed so that this information can be communicated to prospective suppliers in the procurement documentation, for example, the councils' intended legal arrangement in delivering the procurement requirements.

Contract management planning should consider previous contract management activities, lessons learned and the overall objectives of the procurement. This information will be captured in the Contract Management Plan (see Step 8: Contract management).

The Working Group prepares the appropriate procurement documents. Contractual documents are further developed (the process for which is dependent on the WRRG/council support arrangement) and the Evaluation and Probity Plans are drafted. High level planning for managing the contract also starts during the procurement planning phase.

The procurement documentation should be developed in consultation with appropriate subject matter specialists to ensure success and be prepared in conjunction with the Evaluation Plan for consistency.

All documents should be approved by the appropriate council delegate prior to the procurement documentation being released to the market. The sign-off should confirm that the procurement documentation reflects councils' needs and is ready for release.

Sourcing documents

If the WRRG and the councils have agreed in the Procurement Plan to carry out a multi-stage procurement process, then this Step (and Steps 4 and 5) may need to be repeated for each stage of the sourcing process.

Table 11 lists the components that make up an EOI and an RFT – their composition may vary but they usually have some common sections.

TABLE 11: COMMON COMPONENTS IN SOURCING APPROACH DOCUMENTATION

Procurement process	Common components
EOI	<ul style="list-style-type: none"> › Conditions: specifies the rules under which the EOI process will be conducted. › Overview of requirements: describes the required services at a high level but gives enough information for respondents to adequately express their interest and demonstrate their capability. › EOI respondents form: allows the respondents to provide information on their capability to do the work in a prescribed form. The information in the response is used as the basis for evaluating expressions of interest against the published evaluation criteria.
RFT	<ul style="list-style-type: none"> › Introduction/overview: provides tenderers with information on the background to the project, the environment in which it exists and relevant policy considerations. › Conditions of Tender: specifies the rules under which the RFT process will be conducted. › Tender Response Schedules: sets out the information that must be provided by a tenderer in response to the RFT, in a prescribed form. This includes requiring the tenderer to provide details of any departures from the terms of the draft Services Agreement. The information in the response is used as the basis for evaluating tenders against the published evaluation criteria. › Draft Services Agreement/s: providing the draft Services Agreement as part of the RFT allows tenderers to provide more accurate responses as they will better understand the terms on which they will be required to provide the requested services. It is important that sufficient time and expertise is invested in developing the Services Agreement. › Specification: accurately describes the essential requirements for the services and works and must be written clearly and unambiguously to set out the outcomes desired by the WRRG and councils.

Specification writing

Including an appropriate specification in the procurement documentation is the mechanism to detail not only the requirements for the services but to prescribe the long term environmental and resource recovery objectives that the parties are trying to achieve through the procurement. WRRGs and councils may wish to engage subject matter experts to help draft the specification to facilitate the achievement of successful outcomes.

Factors to consider when preparing a specification include:

- › strategic directions of the state infrastructure plan and applicable regional implementation plan/s
- › improved source segregation and sorting of recovered materials (at all levels) to improve the quality and quantity of feedstock for use in manufacturing
- › skills and training of providers to improve overall service delivery
- › approaches that reduce contamination in recovered materials
- › Australian standards and/or industry standards that should be prescribed to improve the product quality and/or services provided and the accompanying audit processes that will be employed to hold the service provider accountable
- › minimising waste to landfill
- › buyback opportunities for products that meet quality standards.

For more on writing specifications, refer to the [Victorian Local Government Best Practice Procurement Guidelines 2013](#) and the VGPB's [Specification writing – procurement guide](#).

Evaluation criteria

Evaluation criteria are used to assess how well a response to the procurement documentation meets the councils' requirements and provides a mechanism for comparing offers by assessing the relative worth of each offer.

Generally, the evaluation criteria will address:

- › the technical merit of the services offered
- › the capability of the respondent to fulfil the requirements set out in the specification and draft Services Agreement, including technical and management competence, financial viability and relevant skills
- › experience and availability of key personnel
- › whole-of-life costs
- › an assessment of the risks or constraints associated with the offer.

Factors to consider when developing the evaluation criteria – depending on the procurement and objectives – include:

- › using mandatory criteria
- › using the Best Value Principles as evaluation criteria to meet council objectives (e.g. opportunities for local employment)
- › including long term environmental objectives/benefits (incorporating the objectives/strategic directions of the state infrastructure plan and regional implementation plans where applicable)
- › weighting price appropriately so that the overall score balances the ability of the respondent to fulfil its contractual obligations against the price.

Evaluation criteria and their weightings should:

- › reflect the operational imperatives of the councils
- › contribute to achieving the required outcomes
- › be used to ensure that, to the extent possible, all of those criteria important to the councils are recognised and valued during the evaluation.

The information requested from respondents must be sufficient to enable a detailed evaluation of responses.

Evaluation Plan

The Evaluation Plan details the evaluation methodology and the arrangements for evaluating responses against the published evaluation criteria in response to a RFI/P, EOI or RFT so that all participants understand their respective roles and responsibility in relation to the evaluation. The plan outlines the governance arrangements for the evaluation and establishes the Evaluation Panel. To avoid probity risks, all evaluations must be undertaken strictly in accordance with the endorsed Evaluation Plan.

Where there is a Working Group established, the Evaluation Plan should detail the reporting mechanisms between the Working Group and the Evaluation Panel throughout this process.

Appointing the Evaluation Panel

The size and composition of the Evaluation Panel depends on the complexity of the procurement process. Persons appointed to the panel should:

- › be equipped with the relevant skills and experience to undertake their role/s
- › observe all probity and other policies and guidelines as appropriate
- › make themselves available for meetings, briefings or training as required
- › provide subject matter expertise.
- › A Panel Chair should be identified.

Probity Plan

The Probity Plan describes how appropriate probity requirements and process will be established and maintained and how to report on compliance against the plan leading up to and during the procurement process.

The Probity Plan details the parties' obligations and responsibilities in relation to conflict of interest, confidentiality obligations, security of information, communication with respondents and potential respondents, staff guidelines, record keeping, and dealing with probity issues, queries and probity breaches.

WRRGs and councils participating in a collaborative procurement need to be particularly mindful of managing tender and supplier information where a high number of individuals are involved in the procurement process. All participants in the procurement process are to ensure that their confidentiality arrangements, obligations and behaviour safeguard the integrity of the process from the time the procurement documentation is prepared through to the public announcement of the procurement outcome.

Appointing a probity practitioner

Appointing a probity practitioner depends on the size and nature of the procurement. Where procurements are complex or high risk or value, the two roles must be independent.

It is highly recommended that a probity advisor is appointed to oversee the procurement process and/or a probity auditor to audit compliance with the Probity Plan.

A **probity advisor** provides advice on probity issues that may arise as well as strategies to overcome potential probity concerns.

A **probity auditor's** role is generally confined to reviewing the processes and documentation throughout the procurement process and reporting to the WRRG and councils at the end of the process.

Probity practitioners can be appointed from the [WoVG Probity Practitioners Services Panel](#) (see Minister-approved procurement arrangements).

Step 3 outputs	Completed (Y/N)
<i>At the end of Step 3 you have:</i>	
Established a Working Group	
Determined sourcing approach	
Prepared the Risk Management Plan	
Prepared the Procurement Plan and timeline	
Prepared the procurement documentation including:	
> Sourcing documents	
> Evaluation Plan	
> Probity Plan including signed conflict of interest declarations and deeds of confidentiality	
Council approved all procurement documents prior to release to market	

Step 4: ACCC authorisation

****Note: WRRGs and councils should seek legal advice as part of applying for ACCC authorisation****

Councils that participate in a collaborative procurement and contractual arrangement facilitated by a WRRG are likely to be considered 'competitors' in relation to the acquisition of waste and resource recovery services for the purposes of the CCA. In the absence of a relevant exception, defence or authorisation, the CCA:

- a. strictly prohibits competitors from agreeing the:
 - i. price at which they acquire goods or services;
 - ii. persons from whom they will or will not acquire goods or services; or
 - iii. terms on which they will acquire goods or services which would diminish competition; and
- b. otherwise prohibits any contract, arrangement or understanding that has the purpose or likely effect of substantially lessening competition.

Contravention of these prohibitions has significant potential financial and other consequences for those involved in the contravention.

The councils must seek ACCC authorisation for any aspects of the procurement process or Services Agreement that may contravene the CCA, prior to those contracts, arrangements or understandings being made. In general, this will mean that authorisation is required prior to the councils reaching a decision to appoint the service provider/s. Therefore, authorisation should be sought and obtained prior to the issue of procurement documentation.

The WRRG initiates authorisation to undertake a collaborative procurement from the ACCC on behalf of the participating councils.

4.1 Authorisation process

The ACCC may authorise councils to undertake a collaborative procurement if it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment. In the context of collaborative procurements of waste and resource recovery services and infrastructure, public benefits may include:

- › environmental and public health benefits
- › transaction cost savings for both participating councils and processors

- › improved purchasing power, leading to lower costs for participating councils (and therefore their respective residents)
- › reduced operational risks for processors, thereby underwriting investment in waste processing facilities.

Earlier applications made by councils in the waste and resource recovery space can provide useful guidance in relation to the public benefits relied on in the past and how those were assessed by the ACCC.

In order to seek authorisation, parties must complete the relevant prescribed forms and pay an application fee. It may be possible for the applicant to seek a fee waiver.

The ACCC tests the claims made by the applicant in support of an application for authorisation through an open and transparent public consultation process.

The ACCC seeks submissions from interested parties potentially affected by the application, which may include waste service providers, local councils, industry associations and government authorities.

Copies of the public submissions made by the applicants, as well as key documents associated with the processes, are lodged on the ACCC website at [ACCC Registers](#).

The ACCC must decide whether or not to grant authorisation within six months after the lodgement of a valid application (although this period may be extended in certain cases). This timeframe needs to be taken into account in planning the procurement process. The authorisation only applies to future conduct so it cannot be sought retrospectively in the event that the parties commence prohibited conduct before authorisation has been granted.

In certain circumstances, it is possible to apply, for 'interim authorisation' which protects the arrangements for which authorisation is sought from legal action while the ACCC evaluates the merits of a 'substantive' authorisation application. It is recommended that WRRGs pursue this option where appropriate in order to minimise any delays. In order to carry out the process most efficiently, the application for authorisation can be prepared and submitted at the same time as the procurement documentation is being prepared.

Fuller details of the process can be found in the [ACCC Authorisation Guidelines](#).

Step 4 outputs

Completed
(Y/N)

At the end of Step 4 you have:

Consent from council to apply for ACCC authorisation prior to it being submitted to the ACCC

Completed and submitted the required forms to the ACCC:

Form A – Exclusionary Provisions and associated cartel provisions

Form B – Agreements affecting competition or incorporating related cartel provisions: application for authorisation completed and submitted to the ACCC.

The next step, the initiation of the procurement process, may occur only after the ACCC has granted authorisation. If interim authorisation is granted, the procurement process can commence, but it needs to be made clear to participants that the procurement process will cease in the event that final authorisation is not obtained. Unless and until the final authorisation is obtained, the councils cannot agree to appoint a service provider.

Step 5: Initiate procurement process

Where a WRRG is facilitating the sourcing approach, it initiates and manages the procurement process from public release of the procurement documentation through to the closing date.

5.1 Publicly release the sourcing documents

Councils are generally required under section 186 of the LG Act to give public notice when calling for tenders or expressions of interest as part of procurement activities, which must be in the prescribed format and include any prescribed details. While there are no current prescribed details in the regulations, the requirement to give public notice has two elements. The notice must:

- › give the purpose of the contract
- › invite tenders (or expressions of interest) from persons wishing to undertake the contract.

An advertisement can be prepared in advance.

Notices must be placed in print media (including local media), online media and on the councils' websites. WRRGs may also wish to consider using tender portals such as an online tendering service to reach a wider audience and track interest.

5.2 Hold a procurement briefing

A briefing should be held for registered parties to reinforce the primary requirements of the procurement and allow potential respondents to clarify any uncertainties. When managing a briefing, remember to:

- › ask attendees to register on arrival to enable subsequent communication of clarification and response material
- › record all queries and note any questions unable to be answered or requiring clarification so a formal written response can be released to all attendees following the briefing session
- › provide a record of the briefing, including questions and responses, to all attendees and registrants on the tender portal (or otherwise registered if not using a tender portal).

5.3 Respond to clarification questions

Interested parties may seek clarification or raise queries during the procurement process and must do so in accordance with the process specified in the sourcing documentation. The closing date for questions should be at least one week prior to the deadline for submitting responses, to allow sufficient time to answer questions and disseminate answers to all parties who have registered their interest. All questions should be answered unless the responses are deemed commercial-in-confidence.

Receipt and registration of responses

Responses may be received via a physical tender box, email inbox or website tool. Choose a method based on ease of use for respondents and whichever is most secure and best enables tracking of responses.

The receipt and registration of responses, including downloading electronic responses, should be conducted by staff who are independent of the procurement process and should preferably include a senior member of staff and/or probity representative.

Responses should be date stamped and the respondent's details recorded on a register. The staff opening the responses should sign the record of the responses received.

As a general rule, WRRGs and councils should not accept late responses and should rely on their conditions for participation in the sourcing documents, which excludes late responses from being opened.

For more information on opening responses, registrations and late responses, refer to the [Victorian Local Government Best Practice Procurement Guidelines 2013](#).

Step 5 outputs	Completed (Y/N)
At the end of Step 5 you have:	
Publicly released the sourcing documents	
Held a procurement briefing for registered parties, released answers to questions after the event if necessary and provided a record of the briefing	
Responded to any clarification questions	

Step 6: Evaluation

The Evaluation Panel evaluates responses against the published criteria specified in the sourcing documents in accordance with the Evaluation Plan. Once complete the Evaluation Panel prepares an Evaluation Report for consideration and endorsement by the councils and WRRG Board (if applicable).

Under no circumstances should the conditions for participation, evaluation criteria, or evaluation methodology be altered after the closing date has passed.

6.1 Convene the Evaluation Panel

The Evaluation Panel holds an initial meeting to receive a probity briefing and revisit their Deed of Confidentiality and a Conflict of Interest Declaration prior to receiving the responses.

6.2 Evaluate responses received

Compliance/Conformance

Once responses have been received, the Evaluation Panel will check they are complete and comply with all conditions for participation and any mandatory criteria identified in the sourcing documents.

Where a response is late or non-compliant, due consideration needs to be given to exclude response/s from further evaluation in accordance with their conditions of participation in the sourcing documents and the Procurement Plan.

Evaluating scored criteria

The purpose of this step is to assess responses against the evaluation criteria specified in the sourcing documents. This usually covers capability, capacity and price.

Evaluation Panel members document their individual assessment of each response against each relevant evaluation criteria noting comments, including:

- › reasons for score, strengths and weaknesses
- › risks and issues
- › matters requiring clarification.

The evaluation of price should include a whole-of-life costs assessment (one-off acquisition costs versus recurring costs) to be used in scoring the tendered price.

Once individual scoring is completed, the Evaluation Panel meets to agree on consensus comments and scores for each response against each criterion. Decision rules for consensus scoring and finalisation of evaluation should be outlined in the Evaluation Plan. Weightings (as specified in the Evaluation Plan) will then be assigned and final scores totalled.

Evaluating non-scored criteria

Evaluating the non-scored criteria determines which of the responses meet all the requirements of the specification and represent the lowest risk.

Consider:

- › the quality of the proposed service (e.g. how well it meets the specified requirements)
- › risk management and impact (e.g. the capacity of the respondent to deliver the services, as specified, on time and on budget).

The Evaluation Panel should also carry out a due diligence investigation of the preferred respondent/s to verify that the supplier has the capacity and stability to fulfil all the requirements of the contract.

The due diligence process should, at a minimum, confirm the financial ability, technical ability and capacity of the service provider to deliver the required services. These activities may require professional, legal and financial input and advice, and should include checks with the EPA and WorkSafe Victoria to ensure regulatory compliance.

Financial assessments of proposed and existing suppliers are an essential part of the due diligence process for significant commercial engagements. WRRGs and councils can purchase financial viability reports from a range of financial assessment service providers under the [Professional Advisory Services SPC](#) (see Minister-approved procurement arrangements).

The Evaluation Panel also assesses the contract departures for the purposes of negotiation.

The Evaluation Panel will then determine a combined score for each respondent.

Interviews, presentations and referee checks for shortlisted respondents

If appropriate, and if specified in the sourcing documents, respondents may be invited to an interview or to make a presentation to the Evaluation Panel, to clarify aspects of their response and provide the opportunity for the panel to ask questions.

These questions or issues should be documented and reviewed by the Panel Chair prior to being forwarded to the respondent. The Evaluation Panel may use specialist advisers both before and after the interviews/presentations, to provide input or an informed view on potential issues in the responses.

Under these circumstances, it is especially important that the respondent does not introduce new or revised information, and that questions and answers from the presentation are formally recorded.

In addition, site visits may be undertaken to further clarify and validate responses.

The Evaluation Panel conducts reference checks as required.

Information collected via interviews, presentations, site visits and reference checks should be assessed by the Evaluation Panel to enable scores to be confirmed or adjusted where appropriate.

6.3 Prepare Evaluation Report and draft recommendations

Upon reaching a decision on the preferred respondent or respondents, the Panel Chair prepares the Evaluation Report with a comprehensive record of the evaluation method and the rationale used to validate the recommendations made in the report. The report seeks the approval of the evaluation and corresponding recommendations, which may include (in the case of an RFT) seeking approval to enter into negotiations with the preferred tenderer/s. The report is endorsed by the members of the Evaluation Panel.

The Probity Report prepared by the probity practitioner is also attached to the Evaluation Report.

6.4 Endorse the Evaluation and Probity Reports

The agreed process for approving the Evaluation Report should be detailed in the Management Agreement. Suggested steps for an efficient approval process are as follows:

- › The Evaluation and Probity Reports are submitted to the WRRG Board for consideration and endorsement (where a WRRG is entering into the contract with the councils).
- › Once endorsed by the WRRG Board (if applicable), a copy of the Evaluation and Probity Reports are referred to the participating councils for their consideration.
- › To assist with each council’s endorsement of the recommendations, the WRRG will:
 - schedule a council CEO briefing to present the outcomes of the procurement process and recommendation/s
 - prepare a proforma report that can be tailored into an agenda item in the council-specific format
 - brief councils on the procurement process and the recommendation, in advance of their consideration at a council committee meeting.
- › The councils formally consider the recommendations. Considerable lead time may be required especially if a high number of councils are participating, given the lead time for placing items on individual council agendas.
- › The recommendation/s reported to participating councils for approval are subject to obtaining statutory approvals and securing facilities.
- › Upon the participating councils reaching consensus on the acceptance of the Evaluation Report recommendation, the WRRG proceeds to implement that recommendation (including, in the case of an RFT, appointing one or more preferred tenderers and negotiating with them).

Note: It is open to a councillor/officer who has delegated authority not to accept the recommendation made by the evaluation panel. However, any decision made that is inconsistent with the recommendation should include reasons for making an alternative decision and must be compatible with the selection criteria published in the sourcing documents and relevant plans.

Step 6 outputs	Completed (Y/N)
<i>At the end of Step 6 you have:</i>	
Convened the Evaluation Panel	
Evaluated the responses received	
Prepared the Evaluation Report and draft recommendations	
Endorsed the Evaluation Report and Probity Report (by the WRRG Board if applicable and by councils)	

Step 7: Contract negotiation and execution

Once the participating councils have adopted the Evaluation Panel's recommendation on one or more preferred tenderers (with or without modification), contract negotiations can commence.

The tenderer/s should be invited to negotiate and advised of any aspects of the tender that are unacceptable or deficient that will be raised at the negotiation.

Negotiations can be conducted with more than one preferred tenderer at the same time to get the best outcome in a competitive environment.

7.1 Appoint the Negotiation Team

Negotiations are carried out by a team led by the WRRG who liaise with the Working Group and specialist advisers (e.g. commercial, legal or technical) as required.

7.2 Negotiate the contract

Conducting negotiation sessions is a significant activity requiring a structured and logical approach. To achieve this, the following terms or principles should be adhered to and documented in a Negotiation Plan:

- › Clearly define the issues to be negotiated together with the position on each of them (these positions should be consistent with the Evaluation Report endorsed by the councils and the Management Agreement and reviewed to determine what flexibility would be suitable to obtain the greatest benefit for all parties).
- › The WRRG or its legal advisers (where appropriate) control and manage the drafting process.
- › Record matters agreed upon during the negotiations in meeting notes and confirm in writing between the parties.
- › Do not revisit agreed issues or introduce new issues through the process.
- › Agree and adhere to a timetable for negotiation to prevent possible delaying tactics and uphold the overall timetable for implementation.
- › Negotiation team members have the authority to make and commit to decisions on behalf of their organisations.

7.3 Execute the contract

Following the negotiation sessions, final contract/s are prepared to reflect the negotiation outcomes and executed with the supplier/s.

7.4 Notify unsuccessful respondent/s

Unsuccessful tenderers can now be notified in writing of the status of their tenders. A debrief meeting can be offered to both unsuccessful and successful tenderers (or respondents for other procurement processes).

Step 7 outputs	Completed (Y/N)
<i>At the end of Step 7 you have:</i>	
Appointed the Negotiation Team	
Negotiated the contract	
Executed the contract with preferred supplier/s	
Sent notification letter/s to unsuccessful respondent/s and/or offered a debrief meeting	

Step 8: Contract management

A WRRG may undertake contract management functions as part of the full lifecycle of the procurement or only be appointed to undertake contract management functions on the councils' behalf.

8.1 Appoint a Contract Manager

The Contract Manager manages the contract for the length of the term.

If the parties have not already specified who is responsible for managing the Services Agreement, for example, in the Management Agreement, a Contract Manager should be appointed.

Where a WRRG is named as the Contract Manager for a group of councils, a Management Agreement must be put in place (if one is not in place already) to clearly articulate the roles and responsibilities of each party under the Services Agreement.

Where a WRRG is not a party to the Services Agreement, it needs to be explicitly named as the Contract Manager in the Services Agreement and the scope of its role should be set out in order to provide certainty for the WRRG, the councils and the service provider.

Accordingly, it is important for contract management responsibilities to be decided early in the procurement process so that they can be appropriately documented.

8.2 Finalise the Contract Management Plan

The parties' respective roles and responsibilities with respect to contract management should be detailed in a Contract Management Plan (which can be an attachment to the Management Agreement).

If the Management Agreement was entered into for the purpose of the procurement process, a Contract Management Plan may already exist, but may need to be updated or made more detailed in light of the final form of the Services Agreement (which will set out many of the activities that need to be undertaken in order to manage the Services Agreement). The Contract Management Plan needs to be consistent with the roles and responsibilities of the parties as set out in the Services Agreement.

Key areas of the Contract Management Plan include:

- › ensuring milestones or acceptance criteria are met
- › establishing reporting and meeting requirements agreed to during contract negotiations
- › reviewing important dates, especially in relation to preparing for contract end, re-tender or contract extension
- › monitoring the service levels or Key Performance Indicators (KPIs) that have been determined in order to ensure that the benefits and outcomes of the contract are measured and met
- › certifying insurance coverage is current and evidence of the insurance is obtained at appropriate intervals (generally every year)
- › setting up appropriate quality management systems and providing for their audit where appropriate
- › ensuring there is no change to the risk profile
- › ensuring that any variations are dealt with appropriately and do not contradict the scope of the original specification or contract and do not change the risk profile
- › ensuring that no changes in practice or procedure which amount to de facto waivers or contract variations occur without prior consideration and approval
- › ensuring any critical issues and claims by any parties are investigated and dealt with promptly
- › establishing a contingency plan in case of service failure during the life of the contract
- › setting up and managing a reporting and monitoring system.

For more information on contract management, refer to the [Victorian Local Government Best Practice Procurement Guidelines 2013](#) and the VGPB's [Contract Management – procurement guide](#).

8.3 Undertake contract management

The contract should be managed in accordance with its terms and the terms of the Management Agreement.

Step 8 outputs

Completed
(Y/N)

At the end of Step 8 you have:

Appointed a Contract Manager (if not already identified)

Prepared a Contract Management Plan

Begun managing the contract

Post-procurement review

During this stage the WRRG carries out a post-procurement review to capture any learns learned from the procurement process. It incorporates any issues, learning and/or departures that were captured throughout the process.

Table 12 outlines the steps, outputs and templates relevant to this stage.

TABLE 12: POST-PROCUREMENT REVIEW – STEPS, OUTCOMES AND TEMPLATES

Steps	Outcomes	Templates
Step 9: Review procurement process	Reviewed the procurement process and captured any lessons learned for future procurement	Lessons learned template

Step 9: Review procurement process

9.1 Review the procurement process

The WRRG should schedule meeting/s after signing the contract/s to document the observations of stakeholders involved in the process including the Evaluation Panel, Working Group, appointed Contract Manager, Probity Advisor and any other specialists.

Comments and observations can be used in future procurement processes.

Step 9 outputs	Completed (Y/N)
At the end of Step 9 you have:	
Reviewed the procurement process and captured any lessons learned for future procurement	

Glossary

Glossary terms (see Table 13) are sourced from the [Victorian Local Government Best Practice Procurement Guidelines 2013](#) and the VGPB glossary.

TABLE 13: GLOSSARY

Term	Definition
Australian Competition and Consumer Commission (ACCC)	The ACCC is an independent statutory authority which enforces the <i>Competition and Consumer Act 2010</i> (Cth) and other legislation. It protects the competitive process and facilitates competition within a market. The ACCC, upon application, may grant authorisation to councils, for a specified period, to jointly procure, negotiate and contract for the supply of services.
Business Case (procurement)	The information needed to decide whether to support a proposed project before significant resources are committed to engaging the market. The core of the Business Case is an assessment of the costs and benefits of proceeding with a procurement activity.
Collaborative procurement	Where two or more councils work together to purchase waste and resource recovery services and/or infrastructure by consolidating waste materials or products to maximise environmental, social and economic outcomes.
Collaborative Procurement Framework	The Collaborative Procurement Framework consists of a number of practical tools and resources to support the WRRGs to work with and encourage councils to aggregate and consolidate their volumes of waste and material streams; procure waste and resource recovery infrastructure and services in a way that delivers economic, social and environmental benefits to communities; and work towards realising the strategic directions of the state infrastructure plan.
Commercial-in-confidence	Information that, if released, may prejudice the business dealings of a party e.g. discounts, rebates, profits, methodologies and process information. It is information provided for a specific purpose that is not to be used for any other purpose than set out in the initial document.
Conditions of tender, EOI or for participation	Rules governing the content and submission of tenders, EOIs or other procurements and the conduct of the procurement process.
Confidentiality agreement	A written legal document that is proof and record of the obligations agreed to between parties to protect the commercial interests of the council and/or the supplier.
Conflict of interest	A conflict of interest is where a person who is involved in a procurement has or may be perceived to have a personal interest in ensuring that a particular respondent is successful. Actual and potential conflicts of interest must be declared by a person involved in a procurement process.
Conflict of interest declaration	A declaration signed by staff, councillors and consultants involved with a procurement process to declare they do not have a conflict of interest.
Contract	An agreement between two or more parties to perform or not perform a specific act/s, and specifying the rights and obligations of each party, that is enforceable in law. A contract may be verbal or written or inferred by conduct. The contract can include terms and conditions, specifications, drawings, tender responses, delivery and payment schedules.
Contract management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Contract Management Plan	A document outlining strategies for managing a contract.
Contract Manager	The person nominated by the councils who are parties to a Services Agreement to manage the day-to-day operation of the Services Agreement on behalf of the councils.
Contract variation	An addition or alteration to the goods and/or services under a contract that is within the general scope of the original contract. A contract variation can be documented between the parties with a letter or a deed of variation.
Council staff	Includes full- and part-time council staff, and temporary employees, contractors and consultants while engaged by the council.
Debrief	The process of advising unsuccessful respondents, on a no commitment basis, of the strengths and weaknesses of their bid and where improvements would make them more competitive in future.
Deed of confidentiality	Agreement between parties to protect information.

Term	Definition
Delegate	A person authorised by the council or chief executive officer to make general or specified decisions constrained only by the instrument of delegation, including decisions about committing and incurring of expenditure. The delegate is responsible for actions arising from their use of such power.
Delegation	A power handed down by the council or chief executive officer in an instrument to enable a delegate to act on council's behalf.
Due diligence	The process of reviewing and analysing in detail the capacity of a bidding organisation to meet future contract performance requirements. This may include a detailed assessment of the organisation's financial stability, legal risks, technical capacity and infrastructure.
Evaluation criteria	The criteria used to evaluate the compliance and/or relative ranking of tender responses. All evaluation criteria must be clearly stated in the request documentation.
Evaluation Plan	A document that details the methods, techniques and resources allocated to evaluate tenders.
Expression of interest (EOI)	A response to an open approach to the market requesting submissions from bidders interested in participating in procurement. It is used to identify potential suppliers interested in, and capable of, delivering the required goods or services. This invitation is not an offer or a contract. Potential suppliers are asked to provide information on their capability to do the work. It is usually the first stage of a multi-stage tender process.
Late tender	A tender received after the specified closing time and date.
Mandatory criteria	Evaluation criteria which the respondent must meet in order to be considered further; the response is judged to have either met the criteria or not met the criteria.
Negotiation	The bargaining process between two or more parties. Each party has its own viewpoints and objectives, but seeks to reach an overall satisfactory arrangement.
Participating council	A council that has chosen to participate in a collaborative procurement. In the case of a procurement being facilitated, contracted or managed by a WRRG, the council has entered into an Agency or Management Agreement with the WRRG.
Preferred tenderer	Tenderer who at the conclusion of the evaluation period has been selected to enter contract negotiations for the Services Agreement. Once the contract is signed, the preferred tenderer becomes the 'supplier'.
Probity	In the context of a procurement process, probity is a defensible process which is able to withstand internal and external scrutiny – one which achieves both accountability and transparency, providing tenderers with fair and equitable treatment.
Probity advisor	A contractor with extensive experience and skills in procurement who may develop probity plans and other key documents and provide advice and training to staff on probity principles and guidelines.
Probity auditor	A contractor who provides the WRRG Board and councils with an independent and appropriate sign-off on probity requirements generally at the end of the procurement process.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. It can include planning, design, standards determination, specification writing, preparation of procurement documentation, selection of suppliers, financing, contract administration, disposals, and other related functions. It also includes the organisational and governance frameworks that underpin the procurement function.
Procurement briefing	A forum held where council or WRRG representative/s briefs prospective respondents regarding a procurement process and responds to questions.
Request for Information (RFI)	Formal request to gain a more detailed understanding of the supplier market and the range of solutions and technologies that may be available. It may be used to develop documentation for a future tender.
Request for Proposal (RFP)	Similar to an RFI, an RFP can be used to invite suppliers to offer a solution to a defined problem. Depending on the nature of the RFP, it is possible to enter into a contractual relationship with a supplier who can best address the problem as a whole.
Request for Tender (RFT)	A request for offer against a set of clearly defined and specified requirements. Tenderers are advised of all requirements involved, including the conditions of tender and proposed contract terms and conditions.
Sourcing documents	The documents that are circulated to potential suppliers when they respond to an advertised EOI, RFP/I or RFT.

Term	Definition
Specification	The statement which clearly and accurately describes the essential requirements for goods, services or works. It may also include the procedures by which it will be determined that the requirements have been met and performance required under a contract.
Social procurement	The use of procurement processes and purchasing power to generate positive social outcomes in addition to the delivery of efficient goods, services and works.
Supplier	An organisation engaged as a result of the collaborative procurement process to supply services used by the participating councils.
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Tenderer	A party offering to enter into a legally binding contract with another party, often used interchangeably with respondent or bidder.
Value for money	The optimum combination of quality, quantity, risk, timeliness, on a whole-of-contract and whole-of-asset-life basis. Source: Victorian Auditor-General's Office
Victorian Government Purchasing Board (VGPB)	The independent government entity that develops, implements and reviews procurement policies and practices; monitors compliance and reports irregularities; and fosters improvements in the use and application of purchasing systems. The VGPB provides leadership in government procurement of goods and services to deliver value-for-money outcomes for Victoria.

Appendix 1: Relevant legislative powers of WRRGs

The following is a summary of the relevant sections of the *Environment Protection Act 1970 (Vic)* (EP Act) applicable to Waste and Resource Recovery Groups (WRRGs) and collaborative procurement within these guidelines.

Section 49G(1)(b) of the EP Act states that one of the (five) objectives of a WRRG is:

'to facilitate efficient procurement of waste and resource recovery infrastructure and services for its waste and resource recovery region through the collective procurement of waste management facilities and waste and resource recovery services in the region'.

In seeking to achieve its objectives, a WRRG must collaborate with councils, Sustainability Victoria, the Environment Protection Authority, industry, business and the community (section 49G(2)).

A WRRG's functions under section 49H include (but are not limited to):

- (c) to facilitate the development of contracts for the joint procurement of waste management facilities and waste and resource recovery services within its waste and resource recovery region; and
- (d) to manage contracts in the performance of its objectives and functions; and
- (f) to advise, with Sustainability Victoria, councils and businesses within its waste and resource recovery region on best practices for waste and resource recovery systems, facilities and services.

However, under section 49I(2), a WRRG cannot –

- (a) own or operate a waste management facility; or
- (b) apply for or hold a planning permit; or
- (c) enter into contracts for the procurement of waste management facilities or waste and resource recovery services, unless the contract is jointly entered into with a procurer under that contract.

The following exemptions apply to the application of the *Local Government Act 1989* specified under 49SC:

- (1) If a council enters into a contract, arrangement or agreement with a Waste and Resource Recovery Group, the council is exempt from the requirements of section 186 of the *Local Government Act 1989*.
- (3) If a council engages in the procurement activities of a Waste and Resource Recovery Group which comply with any procurement directions or guidelines issued under section 49SA, the council is exempt from the requirements of section 193 of the *Local Government Act 1989*.

For the purposes of section 49SC(3), section 49SA states that a WRRG must comply with any procurement directions or guidelines issued by the Treasurer in consultation with the Minister in carrying out its functions.

A WRRG is comprised of a Board of Directors, a (Chief) Executive Officer and staff as set out in sections 49J–R.

The Board is responsible for managing the operations of the WRRG.

The (Chief) Executive Officer is responsible to the WRRG for carrying out its functions and must comply with the directions of the WRRG and any written direction of the Minister.

Appendix 2: Collaborative procurement matrix

The following matrix summarises the different support options and contract models, as well as the procurement steps and templates available for each support option.

Support option	Contract model	Procurement steps	Procurement template
<p>Joint Entry Model: Facilitate, contract and manage via Joint Entry: Facilitate the procurement process, enter into the contract (Services Agreement) with each of the supplier/s jointly with the councils and manage the subsequent contract/s with the supplier/s. Under this option, the WRRG:</p> <ul style="list-style-type: none"> › undertakes the procurement process in its own name › enters into a contract with the selected supplier jointly with the councils › as a contracting party, manages the contract directly with the supplier, dealing with any issues raised by any of the councils and, if a dispute arises, enforces the contract against the supplier. 	<p>Joint Entry Model</p> <p>Under this model the councils and the WRRG are both principal signatories to the contract with the supplier. The councils agree to the WRRG performing the lead role to:</p> <ul style="list-style-type: none"> › issue the procurement documentation › negotiate the Services Agreement with the supplier › manage and enforce the Services Agreement once it has commenced. <p>There are two agreements used under this model – an agreement between the WRRG and the councils and a Services Agreement between the WRRG (as agent for each council) and the supplier/s.</p> <p>The Services Agreement may allocate liabilities and risks as between the councils and the WRRG and will provide for the councils to indemnify the WRRG for liabilities arising from any breach of the agreement by the councils. Both the councils and the WRRG must separately resolve to enter the contract</p>	All steps	Full suite of procurement templates. Sustainability Victoria has not developed a template agreement or Services Agreement for the Joint Entry Model
<p>Agency Model: Facilitate, contract and manage as agent: Facilitate the procurement process, enter into and manage the subsequent contract/s (Services Agreement/s) with the supplier. Under this option, the WRRG:</p> <ul style="list-style-type: none"> › undertakes the procurement process in its own name › enters into the contract with the supplier › as the contracting party, manages the contract directly with the supplier, dealing with any issues raised by any of the councils and, if a dispute arises, enforces the contract against the supplier. 	<p>Agency Model</p> <p>Under this model each council (as principal), appoints the WRRG as its agent for certain purposes including the authority to do one or more of the following:</p> <ul style="list-style-type: none"> › issue the procurement documentation › negotiate the Services Agreement with the supplier › manage and enforce the Services Agreement once it has commenced. <p>There are two agreements used under this model – an Agency and Management Agreement between the WRRG and the councils and a Services Agreement between the WRRG (as agent for each council) and the supplier/s.</p> <p>The agency agreement would clearly set out the scope of the WRRG’s authority as agent and allocates liabilities and risks as between the councils and the WRRG and will indemnify the WRRG for liabilities arising from any breach of the agreement by the councils. If relevant, the WRRG needs to have authority to enter into the Services Agreement as agent for each council.</p>	All steps	Full suite of procurement templates. Sustainability Victoria has not developed a template Agency and Management Agreement or Services Agreement for the Agency Model

Support option	Contract model	Procurement steps	Procurement template
<p>Management Model: Facilitate and manage: Facilitate the procurement process and manage the subsequent contract/s (Services Agreement/s). Under this model:</p> <ul style="list-style-type: none"> > the WRRG manages the procurement process by coordinating the procurement documentation issued in the names of the councils > councils enter into the contract with the supplier, either: > one contract between all councils and the supplier, or > a separate contract for each council with the supplier > the WRRG manages the contract/s with the supplier on behalf of the councils (but not as a party to the contract with the supplier). 	<p>Management Model</p> <p>Under this model each council appoints the WRRG to:</p> <ul style="list-style-type: none"> > issue the procurement documentation > negotiate the Services Agreement with the supplier > manage and enforce the Services Agreement once it has commenced. <p>There are two agreements used under this model – a Management Agreement between the WRRG and the councils and a Services Agreement between the councils and the supplier/s. The WRRG is explicitly named as the Contract Manager in the Services Agreement.</p> <p>The Management Agreement allocates liabilities and risks as between the councils and the WRRG and will indemnify the WRRG for liabilities arising from any breach of the agreement by the councils.</p>	All steps	Full suite
<p>Part Management Model: Facilitate: Facilitate the procurement process only. Under this model:</p> <ul style="list-style-type: none"> > the WRRG manages the procurement process by coordinating the procurement documentation issued in the names of the councils > councils enter into the contract (Services Agreement) with the supplier, either: > one contract between all councils and the supplier, or > a separate contract for each council with the supplier > the councils make their own arrangements to manage the relationship with the supplier, possibly by appointing one council to manage the relationship on behalf of them all. 	<p>Part Management Model</p> <p>Under this model each council appoints the WRRG to:</p> <ul style="list-style-type: none"> > issue the procurement documentation > negotiate the Services Agreement with the supplier. <p>Under this model the relevant parts of the Management Agreement are used from the Management Model to prepare an agreement setting out the rights and obligations between the WRRG and the councils.</p> <p>The Services Agreement from the Management Model is used in the tender process, but does not name the WRRG as the manager of the contract.</p> <p>The Management Agreement allocates liabilities and risks as between the councils and the WRRG and will indemnify the WRRG for liabilities arising from any breach of the agreement by the councils.</p>	All steps except for Step 8	Full suite except for templates under Step 8

Support option	Contract model	Procurement steps	Procurement template
<p>Part Management Model: Manage: Manage contract/s (Services Agreement/s) only. Under this model:</p> <ul style="list-style-type: none"> › councils make their own arrangements to undertake the procurement process and contract with the supplier › the WRRG manages the contract/s with the supplier on behalf of the councils (but not as a party to the contract). 	<p>Part Management Model</p> <p>Under this model each council appoints the WRRG to manage the Services Agreement once it has commenced.</p> <p>Under this model the relevant parts of the Management Agreement are used from the Management Model to prepare an agreement setting out the rights and obligations between the WRRG and the councils.</p> <p>The Councils execute the Services Agreement from the Management Model with the supplier. The WRRG is explicitly named as the Contract Manager in the Services Agreement.</p> <p>The Management Agreement allocates liabilities and risks as between the councils and the WRRG and will indemnify the WRRG for liabilities arising from any breach of the agreement by the councils.</p>	Only Step 8	Only templates under Step 8
<p>Advise: Provide advice on the procurement process and contract (Services Agreement) management. Under this model, the WRRG provides advice on the procurement and contract management but does not perform any direct role in the arrangement.</p>	<p>If desired, an agreement could be entered into between the councils and the WRRG setting out the WRRG's responsibilities as an adviser.</p>	The WRRG provides advice to councils throughout the full lifecycle of the procurement activity	Full suite
<p>Outsource: Outsource the procurement process and contract (Services Agreement) management to a third party provider. Under this model, the WRRG simply provides assistance to the group of councils to outsource the procurement process to a third party procurement service provider such as MAV Procurement, Procurement Australia or procurement consultants as appropriate.</p>	<p>If desired, an agreement could be entered into between the councils and the WRRG setting out the WRRG's responsibilities to assist the council. An appropriate agreement would also be required with the third party procurement service provider.</p>	Not applicable	Third party providers may have their own procurement templates but councils may wish to use the collaborative procurement template suite for a consistent look and feel

Sustainability Victoria
Level 28, Urban Workshop,
50 Lonsdale Street, Melbourne VIC 3000
Phone (03) 8626 8700
sustainability.vic.gov.au

Published by Sustainability Victoria.
Collaborative Procurement Guidelines for Regional Waste and Resource Recovery Groups
© Sustainability Victoria, November 2015 RRR009

