

## 9.7 Service Provider Management Policy Review

REPORT BY THE MANAGER PROCUREMENT AND FLEET  
TO 21 APRIL 2021 ORDINARY MEETING  
GOV400088, COR4000019

### RECOMMENDATION

#### That Council:

1. **receive the report by the Manager Procurement and Fleet on the Service Provider Management Policy Review;**
2. **endorse renaming the policy the 'Contractor Management Policy';**
3. **place the Contractor Management Policy on exhibition for 28 days; and**
4. **adopt the policy if no submissions are received after the exhibition period.**

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### Executive summary

A consistent process for contract administration is fundamental in demonstrating compliance with legislation, policies and procedures. Fundamental to this is the terminology used across the organisation. Council is continuing to improve its contract administration and the changes proposed in the policy support this.

The attached reviewed policy shows the changes via track changes.

### Disclosure of Interest

Nil.

### Detailed report

Council is continuing to develop and implement a consistent contract administration approach. Council's day to day practice involves the use of terminology that is not currently referenced in the Service Provider Management Policy as it stands. The main change is to move from the term 'Service Provider' to the more widely used 'Contractor'. The terms have the same meaning and the intention of the Policy remains the same.

### Community Plan implications

<b>Theme</b>	<b>Good Governance</b>
Goal	An effective and efficient organisation
Strategy	Prudently manage risks association with all Council activities

### Strategic implications

#### Council Strategies

Not Applicable

**Council Policies**

Fraud Control Policy  
Procurement Policy  
Gifts & Benefits Policy  
Local Preference Policy  
Fraud Control Policy  
Statement of Business Ethics  
Code of Conduct  
WHS Management Policy  
Risk Management Policy  
Complaints Policy  
Chain of Responsibility Procedure

**Legislation**

Local Government Act 1993  
Local Government (General) Regulation 2005  
Work Health Safety Act 2011  
Revised Audit Office's Fraud Control Improvement Kit - February 2015

## Financial implications

Not Applicable

## Associated Risks

Nil.

KRISTIE WARD  
MANAGER PROCUREMENT AND FLEET

LEONIE JOHNSON  
CHIEF FINANCIAL OFFICER

22 February 2021

*Attachments:* 1. POLICY - REVIEW - Contractor Management Policy.

**APPROVED FOR SUBMISSION:**

BRAD CAM  
GENERAL MANAGER



POLICY

Service Provider/Contractor Management

*A prosperous  
and progressive  
community*

ADOPTED	VERSION NO	2.32.2
COUNCIL MEETING MIN NO 3320	REVIEW DATE	FEBRUARY-APRIL 2021
DATE: 19-FEBRUARY-2020/17-MARCH	FILE NUMBER	COR400089 / GOV400047

## Objective

This policy aims to ensure Mid-Western Regional Council's ('Council') expectations and management of **service-providersContractors** is legal, ethical and transparent for all parties. It is to provide guidance in the selection, management and monitoring of **service-providersContractors** engaged by Mid-Western Regional Council. The outcomes of this policy are:

- Clear & Defined Expectations & Responsibilities
- Performance Management Criteria & Matrix
- Ethical Behaviour & Fair dealing
- Maintaining a High Standard of Health & Safety Management
- Protection of **Service-ProviderContractor** Pricing, Rates and intellectual property

This policy applies to all Council workplaces including though not limited to depots, buildings and worksites. The policy covers the selection, management and monitoring of **Service ProvidersContractors** associated with the supply of goods and/or services to Council and all **Service ProvidersContractors** engaged by Council for the purpose of maintenance, repairs and capital works, including those selected via a tender or a formal contract process. This procedure also encompasses other services engaged by Council such as training providers or consultants.

For workplace health and safety (WHS) risk management of **service-providersContractors** refer to Council's WHS Management Policy.

## Legislative requirements

- WHS Act 2011

## Related policies and plans

- Procurement Policy
- Gifts & Benefits Policy
- Local Preference Policy
- Fraud Control Policy
- Statement of Business Ethics
- Code of Conduct
- **WHS-Work Health and SafetyManagement** Policy
- **Enterprise** Risk Management Policy
- Complaints Policy
- Chain of Responsibility Procedure

~~SERVICE PROVIDER/CONTRACTOR MANAGEMENT POLICY: CONTRACTOR MANAGEMENT | 2.23.0, 19 FEBRUARY 2020~~

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## Policy

In entering into contracts for the carrying out of work, or the supply of goods & services, Council Officers will have regard to Council's ~~service provider~~ Contractor management objectives as set out above.

The general objectives of this policy apply to all ~~service providers~~ Contractors regardless of engagement timeframes.

Council's ~~Service Providers~~ Contractors shall be considered to be agents of Council and therefore required to comply with Council's relevant policies and procedures. A breach of these policies and procedures may result in disciplinary action as specified in this policy.

## Fraud Control

Council is committed to the prevention, detection and investigation of all fraudulent and corrupt activity. Fraud and corruption wastes scarce public resources and damages organisational reputation. Council does not and will not tolerate fraudulent or corrupt practices either by staff, contractors or others working on behalf of Council.

~~Service Providers~~ Contractors are encouraged to report suspected ~~Fraudulant~~ fraudulent activity to the General Manager.

Council's Fraud Control Policy is available on Council's website.

## Training of Staff

Staff involved in the engagement (and/or management) of ~~Service Providers~~ Contractors will be appropriately trained by Procurement in the relevant procedures.

Training will be provided based on position requirements:

- To new recruits;
- In line with revision schedules for this policy (see Review date);
- With any major changes to this policy;
- Intermittently, as directed by Executive or the Manager Procurement, to address known risks.

## Responsibilities

<p>Council's General Manager &amp; Directors are responsible for:</p>	<ul style="list-style-type: none"> <li>■ The compliance management of the <del>Service Provider</del>Contractor Management Policy and other associated policies</li> <li>■ <del>Undertake appropriate</del>Requesting/undertaking investigations relating to such policies &amp; procedures <del>where required</del></li> <li>■ <del>Reporting suspected fraud and/or corruption</del></li> <li>■ Document procurement decisions appropriately</li> </ul>	<p>Formatted: Indent: Left: 1.32 cm, No bullets or numbering</p>
<p><u>Manager Procurement &amp; Fleet is responsible for:</u></p>	<ul style="list-style-type: none"> <li>■ Providing guidance for, or assist in the management of non-conforming Contractors in accordance with this and other relevant procedures;</li> <li>■ Undertake investigations relating to breach of procurement policies &amp; procedures and contractor performance</li> <li>■ Maintain relevant Council Policies &amp; Procedures</li> <li>■ Maintaining compliance with Council's Policies &amp; Procedures</li> <li>■ Monitor &amp; report on compliance of Councils' Contractor Management Policy and Council's Procurement Policies &amp; Procedures regarding the engagement of Contractors for both goods &amp; services</li> <li>■ Monitor Council's procurement activities promoting transparency &amp; probity</li> <li>■ Provide recommendation on procurement contractor expectations, terms &amp; conditions prior to advertising</li> <li>■ Document procurement decisions appropriately</li> <li>■ Maintaining security around tendered rates and pricing ; and</li> <li>■ Monitoring and maintaining VendorPanel for the organisation as a whole (Super Administrator)</li> <li>■ Reporting suspected fraud and/or corruption</li> </ul>	<p>Formatted: Justified</p> <p>Commented [KW1]: I PUT RECOMMEND AS DEPARTMENTS ARE ULTIMATLEY RESPONSIBLE</p> <p>Formatted: Justified</p> <p>Formatted: Justified</p>
<p><u>Procurement Coordinator/ Officer is responsible for:</u></p>	<ul style="list-style-type: none"> <li>■ Providing support to the Manager Procurement &amp; Fleet for all procurement activities</li> <li>■ Administer &amp; provide notification of non-conformance to relevant Contractor</li> <li>■ Liaising with Council's WHS Coordinator regarding new and existing Contractors and non-conformance and any other relevant matter;</li> <li>■ Maintaining security around tendered rates and pricing ; and</li> <li>■ Monitor and maintain VendorPanel including Contractor compliance information (Administrator)</li> <li>■ Assisting with the coordination of all Council tenders in conjunction with relevant project managers.</li> <li>■ Providing support to departments on the creation of procurement contractor expectations, terms &amp; conditions prior to advertising</li> <li>■ Monitoring the requirements of CPI rate increase to or requests for updated rates for relevant preferred Contractor lists at the start of each contract renewal or extension period and provide notification to Contractors as necessary.</li> <li>■ Support Council's departments in Procurement activities</li> </ul>	<p>Formatted: Left</p> <p>Formatted: Justified</p> <p>Formatted: Not Highlight</p> <p>Formatted: Not Highlight</p> <p>Commented [KW2]: I PUT RECOMMEND AS DEPARTMENTS ARE ULTIMATLEY RESPONSIBLE</p> <p>Formatted: Justified</p>

SERVICE PROVIDER/CONTRACTOR MANAGEMENT POLICY: CONTRACTOR MANAGEMENT | 2.23.0 | 19 FEBRUARY 2020

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	<ul style="list-style-type: none"> <li>■ <a href="#">Assessment and undertaking of approval with regards to the addition of Contractors;</a></li> <li>■ <a href="#">Document procurement decisions appropriately</a></li> <li>■ <a href="#">Reporting suspected fraud and/or corruption</a></li> </ul>
<p>Council's <a href="#">Delegated Officers (including Managers, Coordinators, Supervisors, Works Officers &amp; Team Leaders/employees)</a> are responsible for:</p>	<ul style="list-style-type: none"> <li>■ <a href="#">Ensure compliance to Council's Policies &amp; Procedures</a></li> <li>■ <a href="#">Document procurement decisions appropriately</a></li> <li>■ <a href="#">Confirm the goods/services received meet Council requirements;</a></li> <li>■ <a href="#">Advising the Manager, Council's Procurement team of any proposed tenders including provision of scope, expectations, contract type, terms &amp; conditions and financial requirements</a></li> <li>■ <a href="#">Utilising only Council approved Service Providers/Contractors and/or obtaining the minimum compliance requirements from Service Providers/Contractors prior to engagement. This includes Council's -specific Contractor inductions, appropriate insurances, licences and motor vehicle/plant registrations where required</a></li> <li>■ <a href="#">Confirming relevant Service-Provider/Contractor workers compensation and public liability insurance is compliance information current prior to them entering a work site;</a></li> <li>■ <a href="#">Confirm validity of the Service-Providers/Contractors Council's -specific Contractor Induction and their employees that will be entering or working on any Council site;</a></li> <li>■ <a href="#">Reporting any hazards and non-conformance identified as a result of work being performed by Contractors or any other non-conformance immediately</a></li> <li>■ <a href="#">Sighting Safe Work Method Statement (SWMS) where applicable;</a></li> <li>■ <a href="#">Undertaking site specific inductions and risk assessments;</a></li> <li>■ <a href="#">Ensure compliance to Council's Policies &amp; Procedures</a></li> <li>■ <a href="#">Ensure compliance with Council's Chain of Responsibility (CoR) Policies &amp; Procedures and the RMS Chain of Responsibility provisions in the Road Transport (General) Regulation 2005;</a></li> <li>■ <a href="#">Investigating and/or eliminating any hazards identified by all Council &amp; Service-Provider's/Contractor's employees;</a></li> <li>■ <a href="#">Ensuring relevant work permits are completed where applicable prior to commencing work;</a></li> <li>■ <a href="#">Ensure compliance with all applicable obligations under the Fair Work Act 2009 and the Fair Work Regulations 2009;</a></li> <li>■ <a href="#">Manage and report non-conformance issues to Service-Providers/Contractors via HRWHS 026 Notification of Non-Conformance Report to Council's Manager, Procurement &amp; Fleet and where applicable to Council's WHS Coordinator for investigation and/or action;</a></li> <li>■ <a href="#">Maintaining probity; and</a></li> </ul>

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	<ul style="list-style-type: none"> <li>■ Ensuring the term and conditions of the relevant <u>Service-Provider/Contractor</u> contract are relevant, monitored and enforced;</li> <li>■ <u>Reporting suspected fraud and/or corruption</u> Reporting suspected fraud</li> </ul>
<p>Council's Employees are responsible for:</p>	<ul style="list-style-type: none"> <li>■ <u>Utilising only Council approved Service Providers/Contractors</u> and/or obtaining the minimum compliance requirements from <u>Service Providers/Contractors</u> prior to engagement. This includes Council specific Contractor inductions, insurances, licences and motor vehicle/plant registrations where required;</li> <li>■ <u>Maintain compliance with Council's Policies &amp; Procedures</u></li> <li>■ <u>Maintain compliance with Council's Chain of Responsibility (CoR) Policies &amp; Procedures and the RMS Chain of Responsibility provisions in the Road Transport (General) Regulation 2005;</u></li> <li>■ <u>Confirming the goods/services received meet Council requirements;</u></li> <li>■ <u>Reporting any hazards and non-conformance identified as a result of work being performed by Service Providers/Contractors or any other non-conformance to their Supervisor;</u></li> <li>■ <u>Providing appropriate honest feedback on Service Providers/Contractors as requested by Project Manager and/or Works Officer/Coordinator/Team Leaders; and</u></li> <li>■ <u>Maintaining probity</u></li> <li>■ <u>Reporting suspected fraud</u></li> </ul>
<p>Council's Tendering &amp; Contracts officers are responsible for:</p>	<ul style="list-style-type: none"> <li>■ <u>Liaising with Manager, Procurement regarding all tenders and Advising the Manager, Procurement of any proposed tenders</u></li> <li>■ <u>Preparation of Contract documents including purchase order requests and relevant information</u></li> <li>■ <u>Maintaining compliance with Council's Policies &amp; Procedures</u></li> <li>■ <u>Maintaining and forwarding updated preferred service provider/Contractor lists of new providers as advised by Council's Manager Procurement to relevant staff;</u></li> <li>■ <u>Monitoring the requirements of CPI rate increase to or requests for updated rates for relevant preferred service provider/Contractor lists at the start of each contract renewal or extension period and provide notification to service providers/Contractors as necessary;</u></li> <li>■ <u>Monitoring and maintaining compliance of service providers/Contractors in Vendor Panel for department specific lists; and</u></li> <li>■ <u>Maintaining probity;</u></li> <li>■ <u>Reporting suspected fraud</u></li> </ul>

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<p>Council's WHS / Human Resources are responsible for:</p>	<ul style="list-style-type: none"> <li>■ Maintaining compliance with Council's Policies &amp; Procedures</li> <li>■ Coordination of the induction of <u>Service Providers/Contractors</u> &amp; relevant suppliers as required;</li> <li>■ Managing Induction renewal registers and advise Council staff and <u>Service Providers/Contractors</u> of any updated inductions that are required;</li> <li>■ Advising relevant Council staff of <u>Service Providers/Contractors</u> employees that fail to meet induction requirements; <u>and</u></li> <li>■ <del>Liaising with the Manager Procurement and relevant department managers in the planning of induction training dates;</del></li> <li>■ <del>and</del></li> <li>■ Provide assistance and assessment (where required) to assist in the acceptance of additional <u>service providers/Contractors</u> and recommended tenderers with regards to risk management.</li> <li>■ <del>Reporting suspected fraud and/or corruption</del> Reporting suspected fraud</li> <li>■</li> </ul>
<p><u>Council's Manager, Procurement is responsible for:</u></p>	<ul style="list-style-type: none"> <li>■ <del>Maintaining compliance with Council's Policies &amp; Procedures</del></li> <li>■ <del>Recommend and manage Policy guidelines and amendments</del></li> <li>■ <del>Providing</del></li> <li>■ <del>Monitoring &amp; reporting on compliance of Councils' <u>Service Provider/Contractors</u> Management Policy and Council's Procurement Policies &amp; Procedures regarding the engagement of <u>Service Providers/Contractors</u> for both goods &amp; services;</del></li> <li>■ <del>Providing guidance for, or assist in the management of non-conforming <u>Service Providers/Contractors</u> in accordance with this and other relevant procedures;</del></li> <li>■ <del>Assisting with the coordination of all Council tenders in conjunction with relevant department managers. The Manager, Procurement <u>must</u> be advised of any proposed tenders;</del></li> <li>■ <del>Assessment and undertaking of approval with regards to additional <u>Service Providers/Contractors</u>;</del></li> <li>■ <del>Provide support to Tendering &amp; Contracts officers to ensure</del></li> <li>■ <del>Liaising with Council's WHS Coordinator regarding new and existing <u>Service Providers/Contractors</u> and non-conformance and any other relevant matter;</del></li> <li>■ <del>Maintaining security around tendered rates and pricing ; and</del></li> <li>■ <del>Monitoring and maintaining Vendor Panel for the organisation as a whole</del></li> <li>■ <del>Monitoring and maintaining Probity</del></li> <li>■ <del>Reporting suspected fraud</del></li> </ul>



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Service Providers/Contractors  
 are responsible for:

- Ensuring services/goods are executed as directed by Council in compliance with Council policies, procedures, specifications, requirements and expectations and/or any relevant Goods and/or Service Contract associated to their engagement;
- Ensuring & maintaining appropriate qualifications, training, experience and certifications of competency required by Council for any Service Provider/Contractor persons conducting work under the Contract terms;
- Commit to re-inducting their employees/representative to the Council specific induction when requested by Council;
- Ensure their employees/representatives carry the Council specific induction ID on their person at all times and present to Council representatives on site as request (if issued);
- Ensuring SWMS have been completed for tasks identified as high risk, are present on site and have been signed by all workers engaged in the task. This includes though is not limited to construction works exceeding \$250,000, and demolitions and/or asbestos removal work that requires a licence;
- Ensuring all Risk Assessments are undertaken and copies presented to Council;
- Maintaining the workplace in a safe and healthy manner for themselves, subcontractors and other staff and visitors of Council;
- Raise any issues that may become a WHS concern with Council's nominated officer;
- Ensure compliance with the National Heavy Vehicle Regulator's (NHVR) Chain of Responsibility laws and the RMS Chain of Responsibility provisions in the Road Transport (General) Regulation 2005;
- Ensure that all employees and, as far as practicable all subcontractors employees are paid the correct wages, loadings, allowances, penalties and that any underpayments identified are rectified immediately;
- Maintain adequate insurance coverage and provide copies to Council of updated insurance information including current Certificates of Insurance, policy exemptions and a public liability Certificate of Insurance noting Council as an interested party;
- Ensuring they are complying with all applicable obligations under the Fair Work Act 2009 and Fair Work Regulations 2009;
- Ensure accuracy of invoicing and paperwork prior to forwarding to Council;
- Specifying their allocated Local Service Provider/Contractor number on all quotes & tenders (as per Council's Local Preference Policy); and
- Maintaining probity;
- Reporting suspected fraud and/or corruption Reporting suspected fraud
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## Council's Responsibilities Engaging a Service ProviderContractor

- For all goods & services engagements with a cumulative value (over the term of the contract) a financial value greater than \$50,000, ~~Council's Goods & Services General Conditions of Contract will apply except in the engagement of organisations for the purpose of construction. Appropriate Australian Standard Contracts would be utilised in this instance. Council will engage contractors via a relevant contract.~~ however this policy is still relevant with regards to ~~Service ProviderContractor~~ Management.
- ~~All Council are required to place all~~ contract arrangements over ~~the above mentioned amount \$50,000 must be placed~~ in Council's Contracts Register.
- When a requirement is identified that cannot be provided or undertaken by a Council employee, the person requiring this good/service must estimate potential costs associated with the requirement for that particular service. Council have ~~preferred prequalification preferred and prequalification contractor~~ lists for several services, including but not limited to: Trade Services, Wet & Dry Plant hire and also many contracts for the provision of goods ~~to assist with the smooth engagement of our contractors.~~ Council must engage ~~suppliers contractors~~ or purchase goods based on a spend ~~basis threshold~~ as noted in Council's Procurement Policy and make inclusive to their decision, consideration for Council's Local Preference Policy.
- When engaging a ~~Service ProviderContractor~~ that is not on a prequalification list, ~~it is recommended that~~ necessary ~~requirements compliance requirements are to~~ be discussed with ~~the Manager, Procurement Council's Procurement department~~ prior to engagement or commitment of any service or goods. If acceptable, the ~~Service ProviderContractor~~ may be required to undertake several steps prior to engagement e.g. ~~Register register~~ on Council's Marketplace or complete Additional ~~Service ProviderContractor~~ application forms ~~or inductions.~~
- In some instances a non-tendered pre-qualification list may be established in VendorPanel for commonly used ~~service providersContractors~~ enabling Council to capture and maintain compliance information. Council must also obtain relevant compliance information prior to the engagement of any supplier.
- ~~When evaluating procurement responses. Council will document the reasoning of their evaluation outcome to ensure transparency around the decision.~~
- ~~Council will provide appropriate feedback on procurement decisions as requested by respondents.~~
- All ~~Service ProvidersContractors~~ that enter a Council site must participate in induction processes, as specified by Council. See ~~Service ProviderContractor~~ Induction for further information.
- WHS requirements are to be communicated to the ~~Service ProviderContractor~~ prior to engagement (provision of necessary documentation, including sign off and proof of receipt, as required).

## Service ProviderContractor Selection - Evidence

- It is essential that the process of selection regarding ~~Service ProvidersContractors~~ is well documented. Tenders for trade services and wet & dry plant hire ~~are can~~ generated as both preferred and prequalification lists. The preferred order is utilised ~~either~~ up to the threshold

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nominated in the Tender documentation and for any work over the nominated threshold staff will approach ~~appropriate – all approved (prequalified) service providers~~ Contractors via Council's electronic quoting system 'VendorPanel' inviting a 'request for quote' ~~or the list will be used in preferred order only.~~

- Consideration needs to be made when sourcing goods and services ~~from with~~ a holistic view ~~with the highlighting the~~ intent of ~~gaining-obtaining~~ value for money. Extra costs associated eg floating costs, travel costs or even providers location may move a particular plant/supplier from say No. 3 to No. 1 as the overall cost would be lower for that particular item or service. Demonstrating value for money and documenting evidence to justify why the No.3 was selected is an acceptable means of procuring from our preferred supplier lists.
- The inclusion of Local Preference discount ~~must – should~~ be nominated by the ~~service provider/contractor~~ on the quotations/response documents, ~~however often identified and applied by Council staff where experience and local knowledge can be utilised by providing their Local Service Provider/Contractor number and the application~~ The inclusion of the ~~Local Preference~~ discount must be documented by Council staff ~~as applied.~~
- Council's backing sheets must be used as the evidence based document for all preferred supplier engagements ~~where No.1 is not utilised.~~

## Addition of ~~Service Providers/Contractor~~ to an Existing Procurement Service Arrangement

Procurement arrangements include:

- Pre-qualification panels; and
- Preferred supplier lists (overflow only).

The addition of ~~service providers/contractors~~ to existing procurement ~~service~~ arrangements can only occur in accordance ~~(and if permitted)~~ with ~~in~~ the original tender documentation ~~terms & conditions specifications specification, compliance items~~ and associated contract documents. Copies of application documents can be ~~found on Council's website~~ ~~obtained by Contracting~~ making contact with Council's Procurement department.

## Management of Rates/Pricing

### ACCESS TO RATES

- All rates/pricing provided to Council are confidential ~~when submitted~~. There are circumstances where rates are exposed ~~publicly, – for example those approved for a specific project i.e.: Design & Construct tenders~~, however only the successful price can be ~~exposed documented in a Council report~~ after acceptance from Council. The Council staff recommendation shall only state '\$XX' for the sum with no actual figure ~~in the original report~~. All rates must be presented in the confidential section of the Business Paper. Once Council/General Manager accepts the ~~report recommendation~~, the minute ~~would will~~ then demonstrate the approved pricing/sum for the project.
- In the instance of prequalification or preferred supplier lists, tenders and additional ~~service provider's/contractor's~~ rates, these shall be placed in the confidential section of the business

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paper to ensure 'commercial in confidence' is maintained. On acceptance of the pre-qualification list tenders the preferred order and rates will ~~remain in the custody of Council's Manager, Procurement or the tender contact officer, unless shared with the appropriate Council staff once~~ authorised for release ~~to appropriate staff~~ by the General Manager. If rates are authorised for release, staff will be appropriately trained in confidentiality and protection of commercial rates. In the instance that confidentiality is compromised, an investigation will be completed and disciplinary action will be enforced, as appropriate.

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- ~~In the event that Council engage a consultant to assist with the procurement and/or project management process, there may be instances that require Contractor rates to be shared with nominated consultants. If rates are authorised for release, consultants will be appropriately trained in confidentiality and protection of commercial rates. In the instance that confidentiality is compromised, an investigation will be completed and disciplinary action will be enforced as appropriate.~~

#### AMENDING TENDERED RATES

- Tendered rates cannot be amended mid-contract unless the original tender documentation and contract specifically permits rate increase considerations. All requests for rate increases must be made in writing to the appropriate Council delegate and must not exceed the most recent annual CPI rate increase (nearest quarter) All Groups (or the rate specified in the tender/contract).
- Any approved increase must be responded to in writing from Council's delegate ~~and forwarded to the Manager Procurement.~~
- ~~When Service Providers/Contractors are responding to~~ ~~In the event that~~ a Request for Quote via VendorPanel ~~is sent to contractors via a prequalification panel, they/Contractors~~ have the opportunity to review rates depending on the requirements ~~-, however the value must not exceed the value of the original tendered amount. VendorPanel creates an opportunity to allow for competitive environment whilst maintaining value for money for our rate payers.~~

#### Contractor Induction

- ~~Service Provider~~ ~~Council's Contractor~~ ~~Council-specific~~ inductions will remain valid indefinitely unless this induction is withdrawn by Council or major amendments are made to the WHS Act, in which, a new induction process must be undertaken. Council will notify ~~service providers/Contractors~~ of any re-induction requirements.
- The induction process is coordinated by Council's WHS department. ~~Service Providers/Contractors,~~ their employees or any other representative of the ~~service provider/Contractor~~ will be required to ~~either attend an induction in person or~~ complete an on-line induction. Early renewal or updated inductions may be called at any time deemed necessary by Council, ~~for example where there are changes to WHS legislation, or major changes to Council policies and procedures.~~
- Site specific inductions will occur as necessary.
- Council employees must confirm validity of ~~service-provider/Contractor~~ inductions prior to engagement and all ~~service-providers/Contractors~~ must have the induction card on their person at all times when working on a Council site. Council reserves ~~the right to randomly request inductions cards~~ ~~(or any other WHS required item)~~ at any time from any person ~~or organisation~~ on their site. Should evidence of the induction ~~(or any other WHS required item)~~

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not be supplied, Council reserves the right to stand that person/service-provider/Contractor down immediately and until such time as the evidence is provided.

- The Council specific-Contractor induction may not be required in some instances. This is at the discretion of the WHS Coordinator.

## Service Provider/Contractor Performance Management

- Non-conformance relates to all activities concerning a Service-Provider/Contractor where processes, actions, equipment or goods fail to meet Council's expected standards. These activities include (but are not limited to) the work whilst being undertaken, completion of works, behaviour of service providers/Contractors and their employees on Council worksites, condition of plant and equipment and any associated paperwork requirements, for example invoices and risk assessments or goods or services provided to Council.
- Any non-conformance issues identified with a Service-Provider/Contractor must be forwarded to Council's Manager, Procurement & Fleet for assessment. The relevant Council representative must notify the Manager, Procurement & Fleet in writing via Council's non-conformance report or via email describing the incident in detail – including at a minimum dates, times, offence and persons involved.
- The report must include detail of any discussions undertaken with the Service Provider/Contractor regarding the non-conformance. In the event of a WHS non-conformance, Council's WHS Coordinator must also be notified immediately as soon as practicable.
- If deemed appropriate, a non-conformance notification will be forwarded to the Service Provider/Contractor detailing Council's concerns, identified non-conformance and any corrective actions required. Each non-conformance notification must be coded with Council's non-conformance codes. Any correspondence relating to this matter must be placed in Council's record management system on Council's non-conformance register.
- Service-providers/Contractors must be issued with a non-conformance notification once agreed by the Manager Procurement & Fleet. For high risk non-conformance the General Manager must be notified, medium risk the Director/Department Manager must be notified and low risk non-conformance the relevant project Manager, Supervisor, Works Officer or Team Leaders must be notified.
- ~~All non-conformance requires the completion of a non-conformance report (HRWHS-026) by an authorised Council representative and forwarded to appropriate Manager for authorisation. Once authorised, all non-conformance reports must be forwarded to Council's Manager, Procurement for action.~~
- Contractors that have tendered (and been accepted) for a preferred supplier list may be reprioritised as a consequence from the receipt of a non-conformance and/or face potential removal as per the matrix depending on the severity of the breach. All other Contractors are based on the non-conformance matrix and the severity of the breach. In the instance of a severe non-conformance (as determined by the Council representative) the Contractor may be immediately stood down from the site and/or removed from Council's prequalification list either before, during or following investigation. A severe or catastrophic non-conformance is a non-conforming behavior or action that has the potential or is likely to cause high risk to people or property. Council reserve the right to stand down the

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~~contractor immediately until the completion of an internal investigation and deemed safe to do so~~

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- ~~■ Service Providers/Contractors that have tendered (and accepted) for a preferred supplier list may be reprioritised as a consequence from the receipt of a non-conformance and/or face potential removal as per the matrix depending on the severity of the breach. All other service providers/Contractors are based on the non-conformance matrix and the severity of the breach. In the instance of a severe non-conformance (as determined by the Council representative) the Service Provider/Contractor may be immediately stood down from the site and removed from Council's prequalification list following subsequent investigation.~~
- ~~Service Providers/Contractors~~ have right to respond to any non-conformance received. The response must be made in writing and within 14 days of receipt of the non-conformance notification letter.
- Council reserves the right to randomly audit ~~worksites/Contractors products & services and to capture feedback on Service Providers/Contractors. All feedback must be captured documented on Council's internal feedback forms accordingly to support and future correspondence.~~

## Supporting Documentation & Forms

- Council's Non-Conformance Matrix
- Council's (Non-Conformance) Consequence Outcomes
- Council's Feedback Form
- Council's Backing Sheet
- HRWHS 059 - Framework for the Safety Management of Contractor & Construction Project Works

Note: The above forms are an internal document and are subject to change

## DEFINITIONS

Council means – Mid Western Regional Council (MWRC)

~~GM, Directors, Managers, Coordinators, Supervisors, Officers means any person employed by Council that holds a financial delegated authority to undertake the engagement of a contractor or the purchase of goods Council's General Manager, Directors, Managers, Supervisors, Works Officers & Team Leaders / WHS / Human Resources/Manager, Procurement & Procurement staff means — any person employed by Council that holds and position of any of the above titles and the associated delegated authority to undertake the engagement of a service provider or the purchase of goods~~



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Council's Employee means – any person that is engaged by Council and has the delegated authority to undertake the engagement of a service provider/Contractor or the purchase of goods other than those noted above

Service Provider/Contractor means - Any person or organisation that provides goods and/or services to Council

Probity: Probity is also known as procedural integrity. It is a concept that brings together moral excellence, integrity, uprightness, conscientiousness, honesty, and sincerity in Service Provider/Contractor Management and Procurement the associated procurement processes.

THIS MATRIX IS A GUIDE ON LY – IN THE EVENT THAT A NON-CONFORMANCE BEHAVIOUR OR ACTION IS LIKELY TO CAUSE HIGH RISK TO PEOPLE OR PROPERTY COUNCIL RESERVE THE RIGHT TO STAND DOWN THE CONTRACTOR IMMEDIATELY UNTIL THE COMPLETON OF AN INTERNAL INVESTIGATION AND DEEMED SAFE TO DO SO

1. NON-CONFORMANCE MATRIX

		SEVERITY			
		>THREE Non-Conformances issued	THREE Non-Conformances issued	TWO Non-Conformances issued	ONE Non-Conformances issued
NON-CONFORMANCE	CATEGORY				
	<b>NC001</b> Compliance	HIGH	MEDIUM	LOW	LOW
	<b>NC002</b> Workmanship Performance Quality	HIGH	MEDIUM	MEDIUM	LOW
	<b>NC003</b> Breach of Council's Policies and/or Procedures	HIGH	HIGH	MEDIUM	MEDIUM
	<b>NC004</b> WHS and/or Environmental	HIGH	HIGH	HIGH	MEDIUM

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## 2. CONSEQUENCES

To re-prioritise a preferred supplier list, the consequence is listed below.

<b>HIGH</b>	<b>To be considered on a case by case basis:</b> 1. Investigation and issue of Non-Conformance warning; 2. If Non-Conformance results in serious injury, instant suspension from list for remainder of contract term; OR Suspension pending investigation (if then proven negligent) removal from list for remainder of contract term; 3. Suspension from list for one month – all high risk non-conformances require the General Manager to be notified, and must be formalised by Non-Conformance letter being issued.
<b>MEDIUM</b>	<b>To be considered on a case by case basis:</b> 1. Works to be rectified at service provider's expense with management or improvement plan produced by service provider, or; 2. Suspension for one month; 3. Meeting to discuss issues and performance-improvement agreement made – Direct Manager must be notified and Non-Conformance letter must be issued.
<b>LOW</b>	<b>To be considered on a case by case basis:</b> Non-Conformance letter must be issued.