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The Honourable Robert Redlich QC
Commissioner
Independent Broad-based Anti-corruption Commission
Level 1, 459 Collins Street,
MELBOURNE VIC 3000

Date: 31 August 2020
Your Ref: CD/18/50679
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Dear Commissioner Redlich,

RE: Special report on corruption risks associated with procurement in local government

I am writing in response to the investigation of Operation Royston; and the subsequent report tabled in Victorian Parliament on 30 September 2019 – *Special report on corruption risks associated with procurement in local government (Report)*.

The Report

In your Report, you recommended that City of Ballarat Council review its procedures to ensure that:

The CEOs of Darebin City Council and the City of Ballarat Council separately report to IBAC within 12 months of this report, to advise how they have strengthened their councils' procurement policies, systems and practices to address the corruption vulnerabilities identified by IBAC in this report, including by ensuring:

- (a) *robust information management processes are in place to accurately document all procurement activities in an auditable manner;*
- (b) *key elements of the procurement process are segregated, and regular checks are conducted to test the effectiveness of those mechanisms, which may include periodically rotating managers with significant responsibility for procurement;*
- (c) *suppliers are sourced in a way that complies with competition requirements set out in legislation and/or procurement policies and procedures;*
- (d) *audits and risk assessments are conducted to help identify system vulnerabilities that*
- (e) *may not have been detected through regular monitoring processes*
- (f) *training for all employees involved in procurement effectively covers relevant policies and procedures including the council's procurement policy, conflict of interest procedures, code of conduct, and the responsibilities of financial delegates*
- (g) *regular communication with employees and suppliers regarding their responsibility to report suspected corrupt conduct and how to make a report.*

The Report - Response

Council's efforts to strengthen its procurement processes are ongoing. At the time of producing this statement, Council's response to the recommendations detailed in Section 5.2 of the Special Report on Corruption Risks associated with procurement in local government are as follows:

- a) *Robust information management processes are in place to accurately document all procurement activities in an auditable manner*

All Council tenders are advertised via an independent, third party portal 'EProcure'. All queries are lodged and responded to via this portal. Tender submissions are not accessible by Council officers during the tender period and only available for download into Council's procurement software (EBMS) once the tender has closed. EBMS also provides for the evaluation template and evaluation reporting tool to be uploaded into the system once completed.

Council has commenced the development of a robust audit processes to ensure that its procurement policies and procedures are being adhered to within EBMS. Each tender will be audited including access log to EBMS and all applicable paperwork submitted. Similarly, procedures have been updated to encapsulate the information process for the use of corporate purchase cards with associating audit process.

- b) *Key elements of the procurement process are segregated, and regular checks are conducted to test the effectiveness of those mechanisms, which may include periodically rotating managers with significant responsibility for procurement*

Financial control processes include financial delegations to Council officers to ensure appropriate financial administration. Delegations are made to positions at the most appropriate level in the unit or department. The appropriateness of financial delegations is reviewed on a regular basis, including after the reorganisation or restructure of a unit, when the duties for a position are substantially varied, or a position assumes a new role or responsibility.

Current procurement practice is for the Executive Manager or Director to invite Council officers to the evaluation panel, generally from the business unit instigating the tender or Expression of Interest. In addition, Council's Procurement Officer role was amended to act as an independent member of all evaluation panels. Furthermore, all evaluation panel members are required to sign a conflict of interest and confidentiality declaration as part of the tender evaluation process and is included in the final report.

Regular reporting of procurement activities to the Executive Leadership Team include:

- Actual expenditure versus pre-approved tender amount;
- Any purchase orders that have been raised with amounts just below delegation thresholds;
- The frequency of purchase orders raised with respect to the same supplier;
- Identify number of contracts awarded, amended, and the number of contracts awarded to the same supplier; and
- Cumulative spend report.

Implementation of further controls and improvements identified as part of a broader review in line with Financial Management Principles in accordance with *Local Government Act 2020*, include:

- Expansion of Council officers being utilised as panel members considering experience and skills;

- Investigate opportunity for extending the use of additional third-party, independent panel member during evaluations;
- Amend process to ensure that Council officer who obtains quote cannot authorise payment (within delegated authority);
- Implementation of peer review meetings for quotes valued between \$25,000 and \$150,000 for goods and services; and \$200,000 for works;
- Implementation of peer review protocol for quotes valued under \$25,000; and
- Developing reporting or procurement utilising 'artificial intelligence' capability to identify variances against expected performance.

c) *Suppliers are sourced in a way that complies with competition requirements set out in legislation and/or procurement policies and procedures.*

All new vendors require pre-qualification prior to engagement of works with Council. All tender submissions include a Conflict of Interest clause. Whereby, the tenderer must declare that they do not have any conflict of interest either direct or indirect in connection with this request for tender. If this statement is false, they must detail the conflict.

Council officers are also required to register quotes within eBMS for works below the tender threshold. In order to supplement this process, Council have implemented an 'Approved Supplier' list that ensues a robust procurement process to ensure compliance with statutory and procedural requirements. This list is subject to internal audit to maintain integrity.

In review of the recommendations of the report, Council recognises that further improvements are required, including the implementation of broader contractor management process to enable the capture of all competition requirements and ongoing review of contractor performance.

d) *Audits and risk assessments are conducted to help identify system vulnerabilities that may not have been detected through regular monitoring processes.*

Enterprise risk assessment workshops have been held in early 2020 as part of the bi-annual risk assessment process. Workshop outputs include:

- Current risk controls identified for each risk area;
- Action items required to improve current controls to be implemented in next 24 months; and
- Operational risks assessed focussing on key processes.

A risk action tracking register has been developed and is being utilised to monitor the risk action plans and due dates. This report is regularly presented to the Executive Leadership Team and the Audit and Risk Committee.

In 2018, an internal audit was conducted covering Fraud and Corruption risks. Subsequently, Council developed a revised Fraud and Corruption Control Plan in Late 2018 in-line with Australian Standard AS 8001 Fraud and Corruption Control. From this plan, Council identified a 2019-2020 fraud assessment program that covers all outlined high-risk areas. The fraud assessments assist in the deterrence of fraud by examining and evaluating the adequacy and effectiveness of internal controls in proportion to the potential risk to the operations.

- e) *Training for all employees involved in procurement effectively covers relevant policies and procedures including the council's procurement policy, conflict of interest procedures, code of conduct, and the responsibilities of financial delegates*

Procurement Policy and procedures

Face to face Procurement training is mandatory for all Council officers with financial delegation. Existing Council officers attended training in late 2019 with all new Council officers required to attend training within the first month of commencing employment with Council.

On 22 July 2020, Council adopted a revised Procurement Policy following recommendations from a focus group of independent council officers to review the former policy.

The working group recommended several amendments to the former Procurement Policy including:

- Adding financial limits when using approved suppliers;
- Outlining requirements for evaluating tenders and quotations;
- Outlining a new way of evaluating price for both tenders and quotes using the 'Value for Money' formula where submissions will be evaluated on project quality and comparative criteria before pricing is considered;
- A weighted scoring method which outlines the circumstances when submitted tenders may be omitted from evaluation;
- Updating sustainability and environmental purchasing clauses; and
- Adding a breakdown on how local content is scored.

The policy, which will be reviewed in six months, has also referenced and drawn from the Victorian Local Government Best Practice Guidelines 2013.

Further training and education will be available to Council officers through the implementation of this policy through the 'Procurement Hub', an internal intranet page accessible to all Council officers. The completion of the training will be monitored through compliance reporting to Executive Leadership Team.

Code of Conduct and conflict of interest

A review and update of Council's Employee Code of Conduct (Adopted March 2019) (this included revised focus on conflict of interest during procurement) was rolled out to all employees that was in two forms: electronically for those with IT access; and hard copy with briefing for managers / supervisors for those without IT access. With both processes including an acknowledgement and sign-off requirements.

Compliance achieved against mandatory training are reported to Executive Leadership Team on a quarterly basis.

- f) *Regular Communication with employees and suppliers regarding their responsibility to report suspected corrupt conduct and how to make a report*

In late 2019 as reported, Council engaged an external consultant 'Brett Warfield' to deliver its bi-annual face to face mandatory fraud awareness training to all Council officers with financial delegation. Further internal training sessions have been delivered to staff in January and February of this year who were unable to attend sessions in 2019. All sessions included updates to the *Public Interest Disclosure Act 2012*.

Council uses several information platforms in which Council Officers are encouraged to report suspected corrupt conduct, how to make a report and provide support to any staff who does so. This has been provided through training, intranet resources, Council policy and procedures and access to Public Interest Coordinator and Officers.

Fraud awareness is further promoted across Council as part of *Fraud Awareness Week* in November each year, Council highlights to Council officers of their responsibility to report suspected corrupt conduct and how to make a report. Key activities included:

- Updated Public Interest Disclosure process;
- Promotional activities during Fraud Awareness Week;
- Fraud and corruption survey;
- Fraud awareness training;
 - Face to face for Employees and Councillors;
 - eLearning module for all new employees;
- Update of new policy – Council wide communications, refresher eLearning training to highlight any changes; and
- Conflict of Interest to be incorporated within Governance Rules being developed as part of the *Local Government Act 2020* compliance implementation.

Next steps

It is evident that although action has been taken to improve the systems and processes within Council, there is still more that needs to be done. The role of Council and all its employees is to ensure the delivery of quality services to the community, but not at the detriment to professional standards that undermine public trust.

I can assure you that Council is committed to working with me to address the necessary improvements required in the workplace culture toward the expected values of respect, integrity and accountability. Council is committed to ensure that appropriate risk controls are in place to prevent, detect, report and respond to corruption and ensure public trust in local government is achieved.

If you would like any further information in relation to matters outlined in the response or further actions implemented at City of Ballarat, please do not hesitate to contact me.

Yours faithfully,



Janet Dore
Chief Executive Officer
Enc.