# Policy One: Governance

## Context

This policy outlines the requirements for setting up and managing a procurement governance framework. It is mandatory for all Victorian Government departments and any public bodies (hereafter referred to as ‘organisations’) that are subject to the supply policies of the Victorian Government Purchasing Board (VGPB). However, this policy and other VGPB supply policies are not mandatory for any public body which is wholly exempt from compliance with the Standing Directions made under Section 8 of the Financial Management Act 1994.

In meeting the VGPB mandatory requirements, the level of detail in the organisation’s procurement policies and processes will be determined by the Chief Procurement Officer or equivalent and will be commensurate with the organisation’s procurement profile.

The Governance policy covers four components:

* Procurement governance framework
* Emergency Procurement
* Assessment to manage procurement activity
* Complaints management: Managing complaints from suppliers

## Procurement governance framework

A procurement governance framework establishes processes, authorities, accountabilities and relationships for the organisation to manage an efficient and effective procurement function. It operates at two levels:

* the structure, processes and roles that drive organisational performance, improve procurement practice, reduce risk and promote value for money; and
* ensuring compliance with VGPB supply policies.

A procurement governance framework ensures that:

* public sector information assets (e.g. ICT systems and data) are protected;
* the accountable officer (AO) has developed a strategy, systems, policy, practices and processes to monitor and benchmark performance;
* the accountable officer is asking appropriate and regular questions about procurement activity and procurement outcomes;
* roles, responsibilities, authorities and accountabilities are clearly articulated and understood;
* risks are identified, mitigated and/or improved; and
* complaints are treated fairly and in a timely manner.

## Emergency Procurement

Emergency Procurement refers to procurement activity undertaken to respond to an emergency.

The purpose of Emergency Procurement is to enable procurement of goods and services in a manner that enables urgent and effective response to an emergency while maintaining Victorian Government values, transparency, responsibility, and accountability for the spending of public money.

Emergency Procurement is undertaken in accordance with an organisation’s Emergency Procurement Plan.

## Assessment to manage procurement activity

An assessment to manage procurement activity informs the accountable officer that the organisation has the appropriate governance structure, policies, procedures, practices and probity in place to manage the scope and complexity of its procurement activities.

It reassures suppliers that the organisation will apply appropriate standards of probity and process when engaging the market.

## Complaints management: Managing complaints from suppliers

A complaint is an issue or concern expressed by a supplier in relation to the process and probity applied by an organisation when carrying out a procurement activity.

## Procurement governance framework

Governance can be defined as the processes by which an organisation (through the AO) holds itself to account for defensible and justifiable procurement decisions and processes. Governance embodies demonstration of leadership, accountability and responsibility.

### 1.1 Mandatory requirements

The AO is responsible for establishing the governance framework and is accountable for its implementation. The AO must set up the governance framework before starting any organisational procurement activity.

### 1.1.1 Roles and responsibilities

The AO must ensure that the governance framework identifies the roles and responsibilities, processes and performance standards to ensure compliance with VGPB supply policies.

**The role of the chief procurement officer**

The accountable officer must establish the chief procurement officer role. The chief procurement officer role encompasses:

* providing expert advice and guidance to the AO on matters related to the governance framework;
* overseeing the development, application and ongoing assessment of the governance framework; and
* ensuring that the complaints management process demonstrates due process and integrity.
* A person assigned to the chief procurement officer role:
* must hold a qualification in procurement or hold qualifications with a definable procurement component; and/or
* must have experience and expertise in managing a procurement function that matches the organisation’s procurement profile.

**Note:** In relation to public bodies, an AO may choose not to establish the role of CPO depending on the complexity of procurement activity conducted by the organisation. The AO must be satisfied that governance structures and reporting requirements are in place to conduct the organisation’s procurement activity and to maintain compliance with VGPB supply policies.

**The role of the internal procurement unit**

The AO must set up an internal procurement unit. The role of the internal procurement unit is to:

* ensure ICT supply chain risks are managed in the procurement of public sector information assets;
* ensure that all procurement activity applies strategies, policies, procedures, practices and probity that comply with VGPB supply policies and any other requirements in the Financial Management Act 1994 or imposed by the accountable officer;
* assess the procurement capability of the organisation on an annual basis;
* manage the preparation of a capability development plan;
* identify major procurement categories;
* review its own performance and capability at regular intervals; and
* report annually to the accountable officer on the organisation’s procurement activities.

**Note:** In relation to a public body, an accountable officer may choose not to establish an internal procurement unit if satisfied that governance structures and reporting requirements are in place to conduct the organisation’s procurement activities and to maintain compliance with VGPB supply policies.

The accountable officer will:

* determine the terms of reference and operational arrangements of the IPU; and
* ensure that the expertise and experience of IPU staff are appropriate for the scope, nature and complexity of the procurement activity carried out by the organisation.

### 1.2 Developing a procurement strategy

The governance framework is underpinned by a procurement strategy. This strategy provides an overview of the organisation’s procurement profile and includes the following components:

* procurement activity plan;
* contract management planning strategy;
* supplier engagement plan; and
* capability development plan.

**Note:** In relation to a public body, an accountable officer may choose not to establish an internal procurement unit if satisfied that governance structures and reporting requirements are in place to conduct the organisation’s procurement activities and to maintain compliance with VGPB supply policies.

The AO must ensure that the procurement strategy is reviewed annually to confirm alignment with the procurement profile of the organisation and broader government objectives.

The VGPB can request a review of the procurement strategy and component parts at any time.

### 1.2.1 Procurement activity plan

The procurement activity plan details planned procurement activity for at least the next 12 to 24 month period. The procurement activity plan must be reviewed at least annually to keep the market informed of changes or developments. A high‑level summary plan must be published on the organisation’s website to improve transparency for suppliers.

## Emergency Procurement

Procurement-related Victorian Government policies may apply when procuring goods and services in response to an emergency. Those policies may contain provisions for how to apply them in an emergency. Organisations should detail how to apply procurement-related policies in their Emergency Procurement Plans.

Procurement conducted under an Emergency Procurement Plan may occur simultaneously with routine procurement activities.

Emergency Procurement does not apply to urgent or unplanned procurement activities undertaken as part of routine operations. Emergency Procurement must not be used to avoid or shortcut procurement planning, approvals or competitive processes.

### 2.1 Definition of emergency

An emergency in Victoria is defined by the [Emergency Management Act 2013](https://www.legislation.vic.gov.au/in-force/acts/emergency-management-act-2013/019) (the Act). In summary, an emergency is the actual or imminent occurrence of an event that in any way:

* endangers or threatens to endanger the safety or health of any person;
* destroys or damages, or threatens to destroy or damage, any property; or
* endangers or threatens to endanger the environment.

The definition in the Act includes a disruption to essential services (for example transport, fuel, power, water, sewerage). The Emergency Procurement Policy may also be applied to an event that significantly disrupts or threatens provision of an organisation’s key services.

### 2.2 Emergency Procurement mandatory requirements

Organisations must comply with the mandatory requirements below for developing an Emergency Procurement Plan, activating and ceasing Emergency Procurement, and reporting.

### 2.2.1 Emergency Procurement Plan

An organisation’s Emergency Procurement Plan comprises the necessary procurement governance, procedures and procurement support preparation to respond urgently and effectively to an emergency.

Organisations must develop an Emergency Procurement Plan that:

* is clear and concise, streamlined, flexible, and proportionate;
* is integrated with the organisation’s emergency response and business continuity plans, including preparation for foreseeable types of emergencies;
* requires application of the VGPB procurement principles of value for money, accountability, probity and scalability;
* may allow flexible application of the mandatory requirements of other Supply Policies, but only:
	+ when necessary,
	+ to the extent necessary, and
	+ for the time necessary;
* details how procurement risks are to be managed appropriately, including information asset security;
* requires conflicts of interest to be declared and managed for each emergency procurement activity;
* requires consideration of State Purchase Contracts for each emergency procurement activity;
* requires consideration of the impacts of an emergency on key suppliers and supply chains;
* requires appropriate records to be created and maintained in accordance with records management policies;
* requires contract awards and variations to contracts to be disclosed in accordance with the [Contract management and disclosure policy](https://www.buyingfor.vic.gov.au/contract-management-and-contract-disclosure-goods-and-services-policy#2-contract-disclosure).

### 2.2.2 Activating and ceasing Emergency Procurement

The accountable officer or delegate is responsible for activating and ceasing their organisation’s Emergency Procurement Plan.

When activating the agency’s Emergency Procurement Plan, the accountable officer or delegate must set a date for review or cessation not exceeding 90 calendar days from the date of activation.

If applicable, on a review date the accountable officer or delegate may set a further date for review or cessation not exceeding 90 calendar days from the date of review.

Activation and cessation must be communicated appropriately to the organisation.

### 2.2.3 Reporting

Organisations must report activation of Emergency Procurement in their organisation’s annual report including the following details related to each activation:

* the nature of the emergency;
* a summary of the goods and services procured;
* total spend on goods and services; and
* the number of contracts awarded valued at $100,000 (GST inclusive) or more.

## Assessment to manage procurement activity

Assessments are measured against a series of standards set out in an assessment tool developed by the VGPB.

**3.1 Mandatory requirements**

 The VGPB may require that an organisation:

* make a submission and presentation to the VGPB using the assessment tool to demonstrate that their organisation is fully capable of managing their own procurement activities; and
* have the submission supported by the relevant accountable officer.

The VGPB can require the accountable officer to:

* submit to further assessment reviews when requested to assure the VGPB that the organisation is complying with supply policies and performance commitments;
* submit specific procurement activities to the VGPB for process and probity oversight;
* report on any recommendations made by the VGPB;
* submit documentation in a form required by the VGPB; and
* adopt processes and procedures as determined by the VGPB.

The VGPB can require the accountable officer to conduct an audit of compliance with VGPB supply policies and to report back as directed by the VGPB.

## Complaints management

A complaint is an issue or concern expressed by a supplier in relation to the process and probity applied by an organisation when carrying out a procurement activity. The complaint should be a letter, email or fax lodged with an organisation’s accountable officer or chief procurement officer.

**4.1 Mandatory requirements**

The organisation must develop a complaints management system that sets out the process and procedures for addressing complaints.

The investigation of a complaint and subsequent response must be overseen by a person not involved in the subject matter of the complaint. An organisation’s complaints management system must be accessible to a complainant.

The complaints management system must outline:

* how the investigation will be dealt with;
* what documentation the organisation requires from the complainant in terms of scope and format;
* contact and lodgement details for all documents;
* timelines for conducting the investigation and providing a response;
* the range of outcomes available to the organisation in responding to a complaint;
* the process for a review by the VGPB, should the findings and actions taken by the organisation not resolve the matter to the satisfaction of the complainant; and
* other government bodies that may be able to assist.

The organisation is to inform the VGPB within five working days of any complaint that could not be resolved to the satisfaction of both parties.

The organisation must disclose in its annual report the following information in relation to each complaint received:

* the procurement activity to which the complaint relates; and
* the status of the complaint confirming whether it:
	+ was resolved;
	+ is still under investigation; or
	+ could not be resolved.

The organisation must also ensure that its procurement governance framework includes measures that implement a dispute resolution mechanism as required by Australia’s international free trade agreements.

**4.1.1 Referring a complaint to the VGPB for review**

A complainant can refer a complaint to the VGPB for review if not satisfied with the findings and actions of the organisation involved. This could be related to the management of the complaint or the application of supply policies.

Complaints submitted to the VGPB must be lodged by letter, email or fax within 10 working days of the receipt of the findings by the organisation to:

The Chair

Victorian Government Purchasing Board

Department of Treasury and Finance

GPO Box 4379

MELBOURNE VIC 3001

The complainant must provide the following material:

* evidence that the organisation did not correctly apply supply policies in relation to a procurement activity;
* evidence that the organisation’s complaints management procedures were not applied correctly;
* a copy of all relevant correspondence between the complainant and the organisation in relation to the nature of the complaint; and
* any additional material requested by the VGPB to assist it in its findings.

The VGPB:

* will inform the organisation and complainant of its findings and any further action it intends to take in relation to the matter;
* can require the accountable officer to audit its application of supply policies in relation to the procurement activity;
* can inform the Minister of its review of a complaint and advise the Minister of further action that could be taken; and
* note the outcome of a review in relation to any complaint in its annual report to Parliament.

This policy is one of five Victorian Government Purchasing Board (VGPB) policies. For more information on the VGPB policies, see [**Goods and services supply policies**](https://www.buyingfor.vic.gov.au/goods-services-supply-policies).

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