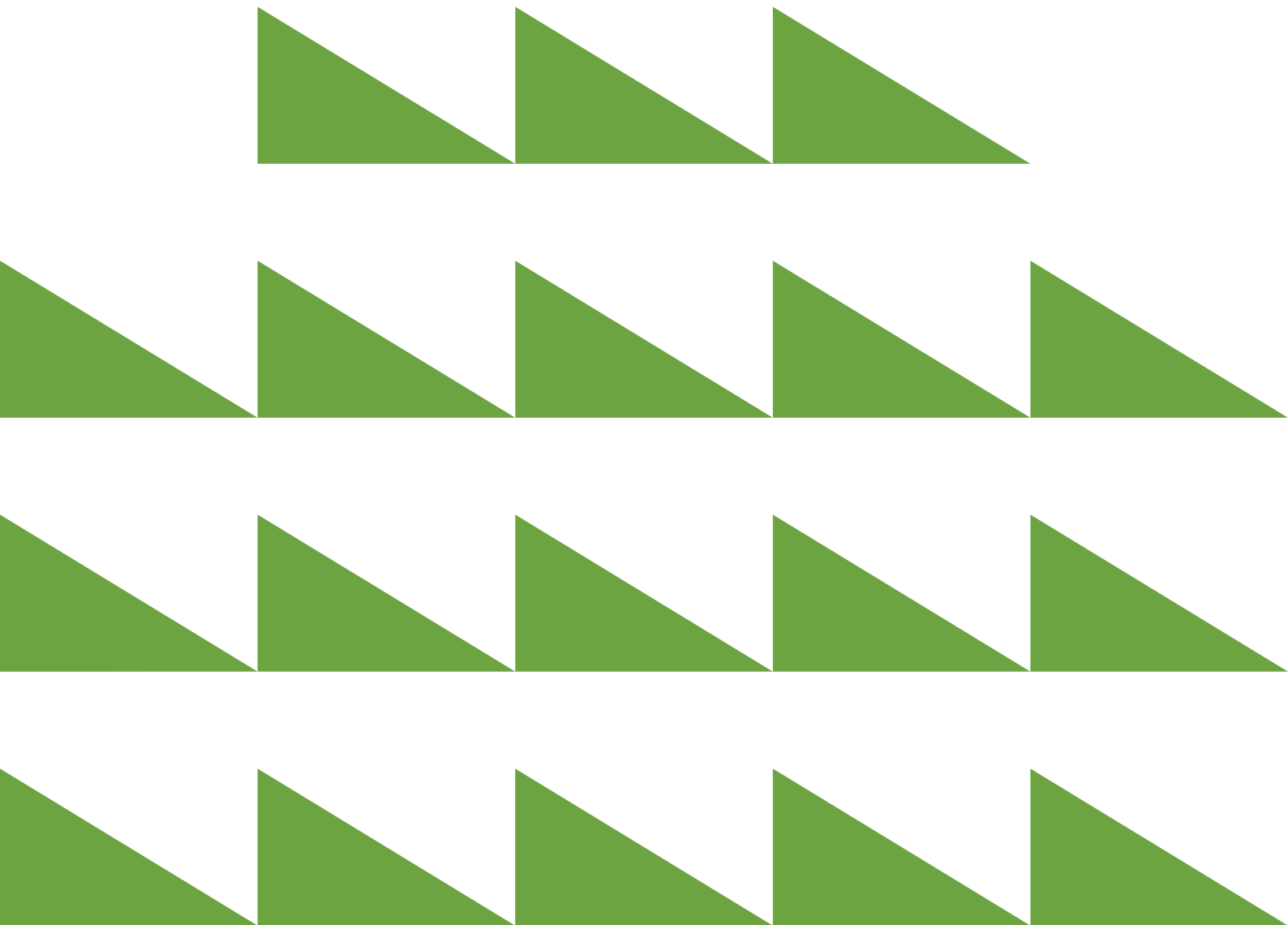


Local Government:

Review of council works depots

May 2015



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Table of contents

Executive summary	3
Background	3
Key findings from the review of council works depots	3
Procurement	3
Small plant and equipment	4
Bulk consumables	4
Leadership and culture	5
<hr/>	
1 Introduction	6
<hr/>	
2 Methodology	7
2.1 Review of policies and procedures	7
2.2 Council depot visits	7
2.3 Prevention and education consultations	8
2.4 After the visits	8
2.5 Structure of this report	8
<hr/>	
3 Procurement	9
3.1 Introduction	10
3.2 Key corruption risks	10
3.3 Regulatory and policy frameworks	11
3.3.1 Legislation and guidelines	11
3.3.2 Policy frameworks	12
3.4 What the review found in relation to tendering	14
3.4.1 Invitation to tender and the bidding process	14
3.4.2 Declaration requirements and evaluation panel membership	17
3.4.3 Tender evaluation reports	18
3.4.4 Exemption from requirement to tender above legislative thresholds	23
3.5 What the review found in relation to quotations	24
3.5.1 Policy specifications for procurement below legislated thresholds	25
3.5.2 Quotation processes	26
3.5.3 Exemption from council policy below legislated thresholds	27
3.6 What the review found in relation to general purchasing practices	28
3.6.1 Segregation of duties and effective management	28
3.6.2 Purchase orders	29
3.6.3 Risk management	30
3.6.4 Audits	31

3.6.5	Conflicts of interest	32
3.6.6	Gifts and benefits	33
3.7	Future directions in contract management and review	34
3.8	Controlling risks: practice insights	35
<hr/>		
4	Small plant and equipment	37
4.1	Introduction	38
4.2	Key corruption risks	38
4.3	Regulatory and policy frameworks	39
4.3.1	Legislation and guidelines	39
4.3.2	Council policies	39
4.4	What the review found	40
4.4.1	Acquisition process	40
4.4.2	Storage	40
4.4.3	Registers and tagging of small plant and equipment	43
4.4.4	Use of plant and equipment out of hours	44
4.4.5	Disposal of small plant and equipment	45
4.5	Controlling risks: practice insights	46
<hr/>		
5	Bulk consumables	49
5.1	Introduction	50
5.2	Key corruption risks	50
5.3	Regulatory and policy frameworks	51
5.3.1	Legislation and guidelines	51
5.3.2	Policy frameworks	52
5.4	What the review found	53
5.4.1	Fuel management	53
5.4.2	Other bulk consumables	58
5.5	Controlling risks: practice insights	62
<hr/>		
6	Leadership and culture	66
6.1	Introduction	67
6.2	Key corruption risks	68
6.3	Regulatory and policy frameworks	68
6.3.1	Legislation and guidelines	68
6.4	Creating ethical positive organisational culture: practice insights	69
<hr/>		
7	Conclusion	74
<hr/>		

Executive summary

Background

In 2013, IBAC investigated allegations of corrupt conduct involving employees at a council works depot. Operation Continent identified issues relating to the management of that council's depot including poor record-keeping, lack of accountability for plant and equipment, inappropriate relationships with external contractors, and inadequate controls including a lack of audits, segregation of duties, and management of conflicts of interest.

Recognising that other councils may be facing similar risks, IBAC undertook a review of council depots aiming to identify common vulnerabilities in the operation of works depots. The review also aimed to identify opportunities to strengthen processes and other controls to build knowledge, skills and corruption prevention practice across the local government sector. The review focused on four key issues considered as areas of particular vulnerability in Operation Continent, namely:

- procurement
- management of bulk consumables
- management of small plant and equipment
- leadership and culture.

Key findings from the review of council works depots

Procurement

Councils undertake a wide variety of procurement activity. In depots, this can involve purchasing or hiring plant and equipment, engaging specialists to undertake major works or standing orders for consumables that are used on a regular basis.

Overall, the six procurement policies reviewed complied with key legislative requirements regarding competitive tendering and provided guidance on most aspects of procurement. However, some policies allowed council employees or work units to bid for council tenders which could give rise to significant conflicts of interest. Accordingly, IBAC strongly suggests that councils amend their policies to remove such provisions.

Risk management approaches to procurement varied. Procurement-related risks did not consistently appear in council risk registers and where such risks did appear, controls tended to lack sufficient detail. Another area for possible improvement was procurement training which, in its present form, tended to focus on procedural requirements with little, if any, consideration of probity issues (such as conflict of interest) or corruption risks (such as over-ordering or fraudulent purchases).

All councils had policies in place regarding the management of gifts and benefits, however, recording gifts, benefits and hospitality could be enhanced to include items offered and rejected to help councils monitor external approaches and attempts to influence their employees. In addition, providing staff with tools and resources to confidently decline gifts, benefits and hospitality could help to minimise risks associated with external approaches.

In relation to tendering, good practice included the development of detailed evaluation plans for high-value procurements prior to tender and preparation of detailed tender evaluation reports that:

- outline the expertise and experience of panel members relevant to the particular tender
- attach signed confidentiality and conflict of interest declarations (that state the name and position of all members) completed prior to commencing a tender evaluation
- explain the rationale for the panel's recommendation.

Other good practice included providing information to suppliers that conveys council's expectations of contractors, requiring the approval of more than one staff member when adding new suppliers to the procurement system, and proactively advising the executive team of applicants in relation to open tenders to mitigate inappropriate discussions and conflicts of interest.

Small plant and equipment

Depots are repositories of a considerable amount of small plant and equipment, which are attractive items particularly vulnerable to theft. As such, robust controls should be put in place to minimise the risk of theft, including maintaining up-to-date registers, conducting random and regular audits, and securely storing small plant and equipment.

Overall, the review found that there were significant deficiencies in the management of small plant and equipment at depots. In particular, one council allowed for the private use of plant and equipment by staff. However, following IBAC's visit, that council acknowledged the issues raised and issued an immediate directive to cease the practice.

While all of the councils reviewed had asset management plans, few had policies to govern the life cycle of all assets from small plant and equipment through to major assets.

The review also found that there was a general lack of regular and random audits to help councils track their small plant and equipment and to assist in councils' broader asset management. In addition, it would be beneficial for councils to review their approaches to reporting fraud to ensure they are robust. Such systems should include central registers of all instances of suspected and actual instances of fraud to help monitor trends and identify systemic issues.

To minimise corruption risks associated with small plant and equipment the review found that small plant and equipment should be:

- appropriately marked as council property
- stored securely (noting unrestricted access to small plant and equipment presents a significant risk in terms of theft and/or loss)
- subject to both regular and random audits.

Bulk consumables

Bulk consumables stored in works depots are low value, frequently used resources such as soil, sand, fuel and personal protective equipment. The combination of accessibility, varied use by different teams and minimal oversight contribute to the risk of misuse. While the occasional loss of a small quantity of concrete or petrol may appear negligible, when aggregated over time, the cost to council and ratepayers may be considerable.

In general, IBAC found that there was significant room for improvement in the management of and accountability for bulk consumables.

Most of the policies and procedures reviewed could be enhanced by providing guidance on the purchase, use and disposal of lower-value resources such as bulk consumables. Policies and procedures should identify controls (including record-keeping requirements and stocktakes) as well as the consequences for non-compliance. Only two of the councils reviewed had conducted a stocktake of bulk consumables. In doing so, those councils were able to identify vulnerabilities and opportunities for improvements in storage and recording.

While storeroom bulk consumables were generally secured, yard items tended to be more accessible. Most councils reviewed maintained records for storeroom items but left management of yard items to teams that frequently used those resources. Three of the councils reviewed stored bulk fuel on-site and used electronic fuel systems to monitor usage. However, one did not use that technology at all of its depot sites, increasing the potential for fuel to be misused.

Without accurate records of supply and usage it is difficult to monitor stock and investigate specific allegations of misuse. Effective recording can also help to deter misuse by making it harder for misuse of bulk consumable to go undetected in the first place.

Leadership and culture

Leadership or 'tone at the top' is an essential element in building a positive organisational culture in which corruption is not tolerated. Effective leaders must communicate behavioural expectations to staff and demonstrate values. In works depots, the challenge is to ensure visibility of management and to effectively communicate key messages through a variety of mechanisms to promote good conduct, given the disparate and sometimes isolated nature of many of those roles.

To encourage a positive organisational culture within council works depots, the review found that management must be visible and accessible to operational staff and communicate key messages in a variety of ways, recognising that different approaches may be required for operational staff compared with office workers.

While IBAC found that councils were generally aware of the different educational needs of depot staff who may have more limited literacy skills, training content and delivery methods could be better tailored for operational staff to promote a shared understanding of organisational values and increased awareness of fraud and corruption risks.

The review identified some good practices, including incentives for good conduct such as awards that recognise employees who exemplify the council's values or exceed performance expectations. Proactive identification and broadcasting good conduct can help to reinforce council's commitment to preventing corruption and encourage employees to adopt organisational values more keenly.

IBAC would like to thank the management and staff at the six councils involved in this project for the assistance they provided in the course of the review.

1 Introduction

In 2013, IBAC investigated allegations of corrupt conduct involving council works depot employees in Mitchell Shire Council, an outer metropolitan council. That investigation, Operation Continent, identified a number of issues in the conduct, management and supervision of the council's Broadford depot that had the potential to allow corrupt practices to go unchecked. These included poor record-keeping, a lack of registers for managing physical assets, inappropriate relationships with external contractors, and inadequate controls in areas such as audits, segregation of duties, and management of conflicts of interest.¹

Following this investigation, IBAC undertook a broader review of six selected councils to determine whether other councils are facing similar risks, and to identify control and education opportunities for the broader local government sector.

Given the diverse range of work undertaken by staff involved in council depot operations, this review focused on four key issues that were considered to be areas of particular vulnerability at Mitchell Shire Council. These were: procurement, management of bulk consumables, management of small plant and equipment and leadership and culture.

This report aims to identify common vulnerabilities in the operation of works depots, as well as opportunities to strengthen processes and other controls in ways that build knowledge, skills and corruption prevention practice across the local government sector.

¹ More information on this investigation is provided in the *Special report following IBAC's first year of being fully operational*, April 2014, p 8

2 Methodology

Six councils participated in the review.

A key consideration when selecting councils was to ensure there was a cross-section of metropolitan and rural councils. Consultation also occurred with the Local Government Investigation and Compliance Inspectorate (LGICI) and Local Government Victoria (LGV).

The following six councils were chosen to participate in the project:

- Benalla Rural City Council
- Central Goldfields Shire Council
- Corangamite Shire Council
- Glenelg Shire Council
- Greater Dandenong City Council
- Whitehorse City Council.

This selection represents two metropolitan councils², two large rural councils³, and two small rural councils⁴. Council areas ranged in size from 60 to more than 6,000 square kilometres⁵, with population densities of between three people per square kilometre and more than 2,600 people per square kilometre⁶. Staff numbers ranged from around 200 to more than 1,200 employees⁷. Recurrent revenue ranged from \$26 million to more than \$186 million per annum⁸, while recurrent expenditure ranged from \$25 million to more than \$146 million per annum⁹. The primary industries in some of these councils included agriculture, forestry, manufacturing and tourism¹⁰, as well as retail, commercial and residential services¹¹.

The review was undertaken in three stages:

1. A preliminary review of policies, procedures and information relevant to the key issues being examined.
2. Site visits to inspect systems, review control mechanisms, and to consult with relevant council employees.
3. Identification of education and prevention initiatives which could be used more broadly by councils to minimise corruption risks in works depots.

More information on each of these stages follows.

2.1 Review of policies and procedures

IBAC reviewed each council's policies and procedures relevant to the key issues being examined, namely procurement, small plant and equipment, and bulk consumables. In addition, policies and procedures on specific elements of each council's integrity framework were also reviewed, including staff codes of conduct, gifts and benefits, fraud prevention, risk management and audit.

This review initially identified policies and procedures that were available publicly, such as procurement policies, which councils are legislatively required to publish on their websites. Additional information was then requested directly from each council.

2.2 Council depot visits

Between 5 June and 15 August 2014, IBAC visited the six councils. Each visit was conducted over two days and involved an inspection of the depot site (or sites) as well as discussions with relevant staff including (in most cases) the Chief Executive Officer (CEO) as well as employees involved in depot operations, procurement, risk management, audit and other relevant areas.

² Whitehorse and Dandenong

³ Corangamite and Glenelg

⁴ Benalla and Central Goldfields

⁵ Whitehorse and Glenelg respectively

⁶ Glenelg and Whitehorse respectively

⁷ Benalla and Whitehorse respectively

⁸ Benalla and Dandenong respectively

⁹ Benalla and Dandenong respectively

¹⁰ Corangamite, Central Goldfields, Benalla and Glenelg

¹¹ Whitehorse and Dandenong

2.3 Prevention and education consultations

Whitehorse City Council and Corangamite Shire Council were selected to participate in further consultations regarding their approaches to leadership and culture in the context of corruption prevention. These councils were chosen on the basis of the preliminary information obtained during the first two stages of the review, with a view to identifying a range of initiatives that could be considered by the broader local government sector.

Additional visits to Whitehorse and Corangamite were conducted, to obtain more information about their approach to leadership and culture.

2.4 After the visits

In September 2014, correspondence was sent to the CEO of each council, providing feedback on IBAC's observations during each visit. Responses were received from some councils indicating that steps were being taken to address at least some of the issues identified. It is encouraging that the visits prompted some councils to take immediate steps to improve their processes and practices to mitigate identified risks. This is consistent with IBAC's legislated function to assist the public sector to increase its capacity to prevent corrupt conduct.

The six councils were also provided with a draft copy of this report, and given an opportunity to comment. Where relevant, comments provided have been incorporated into this report.

2.5 Structure of this report

This report considers the three key areas of focus in the review namely procurement, control of small plant and equipment, and management of bulk consumables. Each of these chapters outlines the key corruption risks associated with these activities, the legislative and policy frameworks that apply, and the observations following the visit to each council. Each chapter also highlights suggested practices to mitigate corruption risks.

The report then considers the importance of leadership and culture in strengthening an organisation's resistance to corruption, and how this can be reinforced by the right types of education and awareness-raising activities.

3 Procurement

Key findings

- Procurement policies and procedures were generally clear.
- A number of councils acknowledged that purchase orders are sometimes completed after receipt of invoices. This is contrary to good practice.
- Procurement-related risks did not consistently appear in council risk registers although procurement is a significant corruption risk.
- A number of policies appeared to allow employees and work units to bid for council tenders.
- Procurement training tended to focus on procedural requirements with little, if any, consideration of probity issues or procurement risks.

Practice insights

- All policies, procedures and systems should be reviewed regularly to incorporate current procurement risk mitigation strategies.
- Policies and procedures should clearly state that purchase orders are to be raised before receipt of an invoice where possible.
- Procurement should not generally occur outside established procurement policies. The process for seeking exemptions should be clear (differentiating between exemptions for tenders above and below the legislated thresholds) and preferably be subject to central review.
- Recording gifts, benefits and hospitality offered, accepted and rejected can help councils monitor external attempts to influence their employees.
- Providing staff with tools and resources to confidently decline gifts, benefits and hospitality can help to reduce the risks associated with external approaches.
- Segregation of duties is important to mitigate corruption risks and address conflicts of interest. At a minimum, high-risk points in the procurement process should be identified and segregated.
- Electronic procurement systems offer a number of internal controls to address corruption risks, including around segregation of duties.
- Councils should have controls in place to govern the addition of new suppliers to the procurement system and regularly review and remove details of old contractors that are dormant to minimise the risk of misuse.
- Providing prospective tenderers and contractors with information about a council's expectations can help to put external parties on notice regarding the standards of conduct expected.
- In relation to tenders:
 - evaluation panel members should sign a declaration confirming that they do not have any pertinent conflicts of interest
 - evaluation reports should outline panel members' position titles, names, and signatures
 - evaluation reports should include sufficient information to justify scores allocated to all tenderers
 - consideration should be given to undertaking more stringent due diligence on prospective suppliers, including checks with the Australian Securities and Investments Commission (ASIC) which should be cross-checked against the names and addresses of council employees.

3.1 Introduction

Most aspects of council activity has the potential to involve procurement, from the policy unit operating out of council's main offices to home care workers providing services to the community and the crew maintaining local roads. All of these activities require materials, equipment, labour and/or advice, which councils obtain by means that commonly include purchase, hire or engagement.

In relation to depot operations, councils may purchase or hire plant and equipment for street cleaning, construction work and the like, engage specialists to provide advice, manage facilities or undertake major works, or order a variety of consumables. Lower-value procurement is usually undertaken by obtaining quotes while higher-value procurement involves tendering, expressions of interest and/or accessing a panel of suppliers who have been assessed as suitable to undertake specific work¹² on behalf of councils.

The review found that most councils have electronic procurement systems in place and the procurement reviewed during this project complied with key legislative requirements in relation to competitive tendering.

3.2 Key corruption risks

Procurement has been identified as a major corruption risk by integrity agencies across Australia.¹³ In Operation Continent, IBAC investigated the procurement activity undertaken by some council employees. The investigation included allegations that invoices were paid to suppliers for work that was performed using council staff and resources, over-ordering of stock to undertake unauthorised works, and fraudulent purchasing of truck parts. While the investigation was only able to substantiate the allegation of fraudulent purchasing, it also found evidence of poor practices that had the potential to result in false invoicing, over-ordering of concreting materials, and theft of fuel.

The issues identified in Operation Continent demonstrate that corruption risks are not limited to large-scale procurement. While the quantum of possible damage may be greater in relation to corruption involving large purchases, the likelihood of corruption may be greater in relation to small purchases as there are often less stringent controls in place.

The sheer magnitude of public funding committed to the acquisition of goods, services and works in support of council activities heightens both the potential likelihood and impact of procurement corruption risks. In 2008, the *Local Government Procurement Strategy* estimated that:

The Victorian local government sector spends in excess of \$2.7 billion on goods and services – largely in common categories of spend as the 'business' of local councils is similar, regardless of geography or size. There would be very few corporate organisations in Victoria with such a significant external spend.¹⁴

¹² For example, by Procurement Australia or Municipal Association of Victoria (MAV)

¹³ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers (Operation Jarek)*, October 2012. Operation Jarek investigated allegations that local council and other public servants accepted secret benefits from suppliers and that staff from two local councils facilitated payments of false invoices from suppliers. WA Corruption and Crime Commission, *Report on the investigation of alleged public sector misconduct in relation to the purchase of toner cartridges in exchange for gifts outside government procurement policies and arrangements*, November 2011 and Ombudsman Victoria, *Corrupt conduct by public officers in procurement*, June 2011, both of which investigated over-ordering of toner by state bodies outside the state purchase contract in exchange for gifts

¹⁴ LGV and Ernst & Young, *Local Government Procurement Strategy*, September 2008, p 3

This risk is compounded by differences between the private and public sectors, as noted in the New South Wales (NSW) Independent Commission Against Corruption's (ICAC) Operation Jarek:

In public sector organisations, procurement transactions span the boundary between the impartial and ordered world of the bureaucratic administration inside the organisation and the profit-seeking world of the free market outside.

The actions of many public sector agencies suggest that they regard procurement as just another cog in the machinery of government, guided by policies and procedures. They appear oblivious to the commercial practices and pressures pulling at their staff, including false friendships and inducements that may be offered by suppliers.¹⁵

In addition the relatively autonomous nature of depot operations, often characterised by physical distance and independence from central office, may make procurement in relation to depot operations less visible, potentially creating opportunities to engage in corrupt conduct without detection.

3.3 Regulatory and policy frameworks

3.3.1 Legislation and guidelines

Under the *Local Government Act 1989* (Local Government Act), councils are required to prepare, approve, and publish a procurement policy which must be reviewed at least once every financial year.¹⁶ A procurement policy is defined as the principles, processes and procedures that will apply to all purchases of goods, services and works by the council.¹⁷

The Local Government Act also states that before entering into contracts worth \$100,000 or more, a public tender process must be undertaken.¹⁸ This threshold has been increased by an Order in Council so that a public tender must be conducted for goods and services worth at least \$150,000 and for works worth at least \$200,000.¹⁹

In October 2013, Local Government Victoria issued *Best Practice Procurement Guidelines 2013* (LGV Procurement Guide) which outline five best-practice principles that should apply to all procurement, namely:

- value for money
- open and fair competition
- accountability
- risk management
- probity and transparency.²⁰

These principles reflect the purchasing principles of the Victorian Government Purchasing Board (VGPB) which govern the procurement of non-construction goods and services across Victorian government departments and specified public bodies.

¹⁵ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers* (Operation Jarek), October 2012, p 108

¹⁶ Local Government Act 1989, s 186A

¹⁷ Local Government Act 1989, s 186A (10)

¹⁸ Local Government Act 1989, s 186

¹⁹ Order in Council under section 186(1) of the *Local Government Act 1989*, as reported in the *Victoria Government Gazette*, Number G 32, 7 August 2008, p 1908

²⁰ Local Government Victoria, *Best Practice Procurement Guidelines 2013*, p 13

While the local government sector is not mandated to comply with VGPB policies, it is encouraged to apply best-practice procurement practices. The LGV Procurement Guide references various elements of VGPB policies including appointment of probity advisors, development of business cases for significant procurement and confidentiality agreements for members of tender evaluation panels.

The LGV Procurement Guide also suggests that councils' procurement policies include guidance in relation to:

- risk identification
- controls including appropriate segregation of duties, financial delegations and record-keeping
- standard procurement procedures including quotation and tendering processes
- training arrangements for staff who undertake procurement.²¹

3.3.2 Policy frameworks

There are three general models for undertaking procurement within organisations:

1. Centralised, where a central group is responsible for undertaking all procurement.
2. Decentralised, where procurement is undertaken by individual work units.
3. Centre-led, which is a combination of localised and centralised procurement models.²²

The ICAC report, *Corruption risks in NSW Government Procurement* notes that there is a lower corruption risk associated with a more centralised model of procurement, but acknowledged that a fully centralised model is not practical in devolved organisations that undertake a large amount of procurement, such as councils.²³ Moreover, in pursuing centralised or centre-led models, councils should be careful not to introduce processes that encourage staff to develop ways to work around excessively onerous systems.

There is also value in having a designated procurement officer or unit whose responsibilities may include providing advice and capability building for other staff, reviewing and identifying patterns of procurement activity (which could contribute to category management), compliance audits (random and regular) and performing ASIC checks on suppliers.

Such units must be properly resourced. In IBAC's Operation Fitzroy, the agency's failure to properly resource the central procurement unit was identified by IBAC as a factor that assisted the alleged corrupt conduct.²⁴

Three of the councils – Whitehorse City Council, Corangamite Shire Council and Glenelg Shire Council – had clear centre-led models of procurement in which central procurement units were responsible for the council's procurement policy, providing advice to ensure compliance with that policy, and assisting with monitoring activities around procurement, while actual purchasing was decentralised to work units.

Benalla Rural City Council had a similar model, although following an internal audit that identified a number of tendering deficiencies, it has advised that it is moving to a centralised model under which all procurement exceeding \$50,000 will be conducted centrally.²⁵ Greater Dandenong City Council required all procurement in excess of \$100,000 to be considered by the central procurement team.

In comparison, Central Goldfields Shire Council operated the most-centralised model, where all requisition orders were dependent on the approval of the procurement manager.

21 LGV, *Best Practice Procurement Guidelines 2013*, p 40

22 LGV, *Best Practice Procurement Guidelines 2013*, p 45

23 NSW ICAC, *Corruption risks in NSW Government Procurement: The Management Challenge*, November 2011, pp 6–9

24 IBAC report, *Operation Fitzroy: An investigation into the conduct of former employees of the Department of Transport/Public Transport Victoria*, Barry John Wells and Hoe Ghee (Albert Ooi, and others, October 2014, p 79

25 Benalla, Internal audit report on procurement, June 2013, p 11

All six councils had adopted procurement policies and procedures which specify that, at minimum, a public tender must be undertaken for goods and services valued at \$150,000 or more and works valued at \$200,000 or more, consistent with the legislated threshold requirements. There was considerable variety in the arrangements adopted by councils for procurement below the statutory thresholds, as discussed further in section 3.5. With the exception of Central Goldfields, all of the procurement policies stated that they were subject to annual review, with half specifying a due date for the next review. It is important that policies are reviewed regularly, not only to comply with the Local Government Act, but also to prompt councils to consider possible improvement opportunities. In response to the draft report, Central Goldfields advised it would amend its procurement policy accordingly.

The six policies and procedures reflected some best-practice principles outlined in the LGV Procurement Guide. All policies identified that risk management applies at all stages in the procurement cycle, with some policies specifying mechanisms that the council will employ to minimise its risk exposure, including plans that identify and assess risks to determine appropriate mitigation strategies. Value for money was generally discussed in terms of considering price as well as non-cost factors such as the quality of the goods and services. Probity was considered in terms of having clear, defensible procedures to instil confidence amongst stakeholders. Open and fair competition was identified as requiring impartiality, ensuring that all prospective contractors and suppliers are afforded an equal opportunity. Accountability and transparency were discussed in terms of being able to explain and provide evidence of the process followed.

Financial delegations and/or authorisations were also covered in all six policies, many of which linked delegations with the principle of accountability in procurement, as per the LGV Procurement Guide.²⁶ For instance, Whitehorse's procurement guidelines stated that accountability for actions and decisions is a deterrent to corruption and collusion, and that delegations ensure that action is taken by the appropriate officers.²⁷ Both Whitehorse and Corangamite outlined the financial delegations attached to specific positions in their procurement policies. The other four councils outlined specific financial delegations in separate documents, but discussed the significance of delegations within a procurement framework and the role of the CEO in authorising the delegations within their procurement policies.

All six policies addressed the principle of probity in procurement. Although the detail varied, this was generally reflected in statements around council staff involved in procurement not seeking or receiving personal gain, treating all potential suppliers equitably, the requirement to store supplier commercial-in-confidence information securely and confidentially, staff avoiding and disclosing conflicts of interest, and not accepting gifts and hospitality from potential suppliers. A number of council policies, including those of Dandenong and Glenelg, also referred to the importance of sound and consistent procurement processes underpinning accountability and transparency.

²⁶ Five of the six policies and procedures reviewed linked the importance of delegations with the principle of accountability in procurement. The exception was Corangamite Shire Council

²⁷ Whitehorse City Council, *Procurement Guidelines June 2013*, CD/14/21571, p 6

3.4 What the review found in relation to tendering

All six councils had procurement policies which specified that, at minimum, a public tender must be undertaken for goods and services valued at \$150,000 or more and works valued at \$200,000 or more, consistent with statutory requirements. Indeed, Central Goldfields Shire Council's policy specifies that a public tender process must be undertaken for goods, services or works in excess of \$60,000 unless specifically authorised,²⁸ while Glenelg Shire Council's policy specifies that public tender may be undertaken for goods, services and works in excess of \$15,000 subject to the Group Manager's decision.²⁹

3.4.1 Invitation to tender and the bidding process

The LGV Procurement Guide recommends that councils develop a risk-management plan for all high-value procurements as well as those of a lesser value which are complex in nature,³⁰ noting that councils must be aware of their statutory obligation to manage financial risks prudently by having regard to economic circumstances.³¹

The LGV Procurement Guide also notes that to ensure a consistent and transparent bid consideration process, tender evaluation must occur 'in a systematic manner against clearly predetermined and disclosed evaluation criteria'.³² Those criteria should be included in documentation, when tenders are sought.

Consistent with the LGV Procurement Guide, Whitehorse City Council's Tendering and Contract Administration Guidelines state that 'before calling tenders the contract manager must establish project specification qualification criteria... decide the relative importance of each... and give an appropriate weighting to the criteria for the evaluation of tenders'.³³ The guidelines also outline six phases in tendering including the preparation, advertising and evaluation of a tender as the first three stages.³⁴

In response to IBAC's request, councils provided a variety of completed sample tender initiation documentation:

- contract initiation forms (Greater Dandenong City Council)
- initial risk identification checklist and lifecycle costing template (Whitehorse City Council)
- procurement and contract management plans and procurement checklists (Benalla Rural City Council)
- a procurement initiation form, procurement conduct plan and minutes from a pre-tender panel meeting (Central Goldfields Shire Council)
- tender invitation paperwork available to prospective tenderers (Glenelg Shire Council and Corangamite Shire Council).

Dandenong and Central Goldfields use one initiation form for all procurement including, tenders, expressions of interest and quotes, while Benalla uses two forms (for procurement above and below \$50,000).

²⁸ Central Goldfields Shire Council, *Procurement Policy*, May 2014, p 12

²⁹ Glenelg Shire Council, *Procurement Policy*, p 19

³⁰ LGV, *Best Practice Procurement Guidelines*, pp 79–80

³¹ Local Government Act, s 136

³² LGV, *Best Practice Procurement Guidelines*, p 54

³³ Whitehorse City Council, *Tendering and Contract Administration Guidelines*, June 2013, p 14

³⁴ Whitehorse City Council, *Tendering and Contract Administration Guidelines*, June 2013

All six processes included details of the:

- description of the proposed procurement and whether a business case has been prepared (including the aims, what it will involve and how it relates to the council plan in the case of Benalla), the approved budget (with a breakdown of the estimated expenditure over time for contracts that would not be paid as a lump sum) and the type of procurement proposed
- advertising and receipting arrangements, including the method of advertising (statewide and local newspapers, as well as the council's website), the receipting methods to be used (tender box or e-procurement, as well as mail at Corangamite), the closing date and time, and details of the person responsible for responding to queries from prospective tenderers
- evaluation process, including the:
 - tender specifications
 - proposed evaluation criteria and associated weightings
 - membership of the evaluation panel (including details of staff involved in the tender such as their name, position, role in the tender process, and whether they have been selected to be on the tender evaluation panel in the case of Benalla, and details of the staff members' position, name, email address and experience or expertise in the case of Central Goldfields)
- record-keeping requirements, including the key documents to be retained on file
- process details which specify dates and responsibilities for key steps in the specific procurement (in the case of Central Goldfields and Benalla)
- risk management issues associated with the tender, for instance, minutes of Central Goldfields' pre-tender panel meeting indicated that a risk management assessment had been completed and the types of insurance or security required, while Dandenong's contract initiation form included specified categories of risk associated with the activity.

While most councils stated that late tenders would not be accepted, at Corangamite where tenders can be submitted by mail, the conditions of tendering stated that:

Late tenders may be accepted if:

- the tender is clearly postmarked prior to closing date/time of tenders; or
- if circumstances beyond the tenderers control were the cause of lateness and the integrity of the tendering process is not undermined by accepting the late tender.
- Tender documents which will not be accepted shall remain unopened and will be immediately returned to the sender.³⁵

The criteria used to determine whether delays are beyond the control of the tenderer are not clear. Moreover, discretion to grant extensions has the potential to lead to allegations of bias and favouritism. The LGV Procurement Guide states that as a general rule, late tenders should not be accepted. The only exception would be if it can be clearly documented that there was a system failure in the operation of an electronic tender system or access was hindered in relation to a physical tender box.³⁶

³⁵ Corangamite, Standard conditions of tendering, Clause 2.5

³⁶ LGV, *Best Practice Procurement Guidelines*, p 90

3.4.1.1 Additional information provided to prospective tenderers

The tendering information provided by councils in the course of this review included a number of examples where information was provided to prospective tenderers to convey a council's expectations of suppliers.

For instance, Greater Dandenong City Council has developed a separate code of conduct for contractors, which replicates the staff code of conduct including provisions regarding the standards of conduct expected of tenderers in relation to conflicts of interest, gifts, rewards and benefits and use of confidential information.

Corangamite Shire Council's standard conditions of tendering includes a clause which warns tenderers that they 'must not approach, or request any other person to approach any member of the council's staff or councillor of the council to solicit support for their tenders or otherwise seek to influence the outcome of the tender process'.³⁷

These standard tendering conditions also state that Corangamite 'will comply with the Victorian Local Government Code of Tendering' and appends the code which outlines the council's tendering process, expectations of contractors and how complaints can be made about the tendering process.³⁸ While there is value in setting out this type of information for prospective tenderers, the Code of Tendering has been superseded by the LGV Procurement Guide and should be updated accordingly.³⁹

It is good practice to communicate with prospective tenderers about the standards of behaviour (including ethical behaviour) expected of contractors, as well as staff. ICAC suggests that there is value in providing suppliers with simple information about probity and corruption prevention to reduce the potential for misunderstandings about appropriate conduct and expectations.⁴⁰

3.4.1.2 Staff submitting tender bids

A number of councils indicated that they allow units and/or individual staff members to submit tenders for council work. For instance:

- Benalla Rural City Council's Guide to Purchasing and Tendering states that staff may submit tender bids providing they advise the CEO, however, in consultations, council wasn't aware of staff tendering for work in this way
- Greater Dandenong City Council's probity of tender process declaration form which covers conflicts of interest and confidentiality states that 'any member of Council staff who is in any way connected with a tender process [must] notify the team leader in writing if... he or she intends to submit a tender for any contract of which Council has given, or proposes to give, public notice', indicating that employees are not banned from tendering
- Glenelg Shire Council's procurement policy states, under 'Ethics and Probity' that 'employees responsible for managing or supervising contracts are prohibited from performing any works under the contract they are supervising',⁴¹ in addition the council's code of conduct states that 'if an employee intends to contract for a Council service, either individually or as part of a group, they must resign from Council before doing so. Current employees are not able to enter into a contract for council services'⁴²
- Corangamite Shire Council's Local Government Code of Tendering states under 'In-House Tenders' that 'on occasions, in-house teams of the council may submit a tender' and discusses the measures that council will employ to ensure that in-house tenders are on the same terms as an external tenderer.

³⁷ Corangamite, Standard conditions of tendering, Clause 5.1

³⁸ Corangamite, Standard conditions of tendering, Clause 5.2

³⁹ Note that The LGV *Best Practice Procurement Guidelines*, 2013, p 10, state that 'These guidelines replace the Local Government Victoria Local Government Procurement Best Practice Guideline, August 2008 and the Victorian Local Government Code of Tendering which was developed in 1996 and had a focus on compulsory competitive tendering'

⁴⁰ NSW ICAC, *Corruption Risks in NSW Government Procurement: The Management Challenge*, December 2011, p 27

⁴¹ Glenelg Shire Council, Procurement Policy, p 12

⁴² Glenelg Shire Council, Code of Conduct, p 9

An internal audit commissioned by Central Goldfields Shire Council indicates that staff and internal council units are now prohibited from bidding for council tenders, noting that standard conditions of tender have been amended to stipulate that 'staff or council will not submit a tender for the contract'.⁴³

During consultations, some councils were of the view that they could not prevent staff from submitting tenders, while other councils argued that these provisions promote competition by encouraging relevant business units, such as the depot works unit, to bid for council work on a competitive basis. However, there was no indication that the latter was currently occurring.

Allowing employees or work units to bid for council tenders is fraught with conflicts of interest, including an external perception of favouritism, the practical difficulties involved in restricting the availability of 'insider' information in relation to internal bidders, and secondary employment challenges that a winning internal bid could present (in terms of time and resources). Councils may wish to reconsider any provisions in their procurement policies that allow for internal bids by employees or council units recognising that such practices can involve a high level of risk.

3.4.2 Declaration requirements and evaluation panel membership

The LGV Procurement Guide includes information on the establishment and operation of tender evaluation panels, stressing the need for such panels to underpin a transparent, objective and robust evaluation process. LGV recommends councils obtain conflict of interest and confidentiality declarations from all panel members. It also suggests that panels for tenders up to \$1 million be comprised of three people and larger panels be convened for contracts greater than \$1 million.

Half of the councils – Whitehorse City Council, Central Goldfields Shire Council and Glenelg Shire Council – specified in their procurement policies and procedures that tender evaluation panel members must sign a declaration confirming that they do not have any pertinent conflicts of interest prior to commencing the evaluation. The other three councils – Corangamite Shire Council, Benalla Rural City Council and Greater Dandenong City Council – had general provisions regarding employees' obligation to declare relevant conflicts of interests. Most of the sample evaluation reports provided by the councils contained signed declarations from all panel members confirming that they did not have relevant conflicts of interest and would abide by confidentiality requirements. In comparison, Corangamite Shire Council did not obtain signed declarations, but instead included a statement in its tender evaluation paperwork to the effect that panel members did not have any pecuniary interests in the tender under consideration. Full details and signed declarations are important for the purposes of transparency and accountability.

The evaluation reports provided by Central Goldfields and Glenelg included conflict of interest and confidentiality declarations that contained position titles, names, signature and dates of all panel members. In addition, Central Goldfields' tender initiation documentation detailed the positions, names, email addresses and experience or expertise of tender evaluation panel members.

43 Central Goldfields Shire Council, Internal Audit report on procurement, March 2014, p 3

While the conflict of interest declarations provided by Dandenong, Benalla and Whitehorse named the people on the evaluation panel, they did not clearly state their positions. However, Dandenong's contract initiation form and evaluation report both detailed the names and positions of tender evaluation panel members, while Benalla's procurement and contract management plan details the names, positions and roles of all staff involved in the tender process, noting if the staff member has been selected to be on the tender evaluation panel. In response to the draft report, Whitehorse advised that it would ensure the name and position of tender evaluation panel members were noted on conflict of interest declarations.

Dandenong has also developed a separate probity agreement for external tender evaluation panel members which stipulates the confidentiality requirements in greater detail, outlines the conflict of interest requirements in less detail (with regard to pecuniary interests) and requires that the participant confirm that they are able to perform the obligations outlined in the agreement.

Dandenong also advised that its executive is provided with a weekly list of current tenders, in part to ensure that they know not to have discussions with those people if they receive a call or a request for a meeting, while the tender process is open.

In terms of evaluation panel membership, the example tender evaluation report provided by Corangamite was the only report to comment on the expertise or background of the panel members, noting that one member was the contracts officer, another oversaw the development of the tender and the third had more than 10 years' experience evaluating contracts in (the relevant field of) road construction.

It is good practice for panel members to be sufficiently experienced to be able to contribute to the evaluation in an independent and informed way. This is reflected in the LGV Procurement Guide which states that tender evaluation panels should be comprised of members who have the appropriate operational and technical expertise, as well as a member who is independent of the operational area to improve the panel's overall objectivity.⁴⁵

3.4.3 Tender evaluation reports

Tender evaluation reports must include sufficient detail and analysis to justify a decision to award a tender.⁴⁶ This is a critical component of a transparent and accountable procurement process.

Sample tender evaluation reports were reviewed for each of the six councils. The overall quality of evaluation reports varied. Recognising that evaluation requirements will vary according to the value of the tender, the following discussion considers the sample evaluation reports based on the value of the goods, services or works being procured.

Identifying details of the evaluation reports are not included in this report, in the interests of protecting potential commercial-in-confidence information.

3.4.3.1 Example tender evaluation reports for procurement over \$1 million

The two largest tenders discussed in the sample evaluation reports related to the provision of services valued at more than \$1 million. The reports were provided by Greater Dandenong City Council and Whitehorse City Council.

In terms of panel membership, Dandenong's tender panel comprised four members including the contracts officer and three employees from Infrastructure Services, while Whitehorse's tender panel included three employees from the Operations Centre.

⁴⁴ See document number CGSC19

⁴⁵ Local Government Victoria, *Best Practice Procurement Guidelines 2013*, p 92

⁴⁶ Local Government Victoria, *Best Practice Procurement Guidelines 2013*, p 94

Whitehorse's panel for this tender does not appear to be consistent with its tendering guidelines which state that an independent person from another department, including a representative from the finance area, should be included on the panel for sensitive contracts or large-value contracts. While the term 'large-value contracts' is not defined, it would be reasonable to expect that the requirement to include a representative from the finance area would apply to contracts valued at more than \$1 million.

Evaluation matrices and reports to senior management and/or the council were provided for both tenders.

Dandenong's evaluation matrix and report to council both list the 11 evaluation criteria (including weightings), a summary of the bids received (including names and prices) and the scores awarded to the tenders. There is no commentary to explain the reasoning behind the scores in the evaluation matrix. However, the accompanying tender evaluation plan outlines the scope of the work and the factors to be considered in determining scores for each of the weighted criteria. While the report to council outlines a range of reasons why the panel recommended the preferred tenderer (including the price, experience and resource capability), the evaluation report does not comment on the specific bid details submitted in support of the stated scores.

Whitehorse's matrix and report to the executive management team both list the six evaluation criteria (including weightings), a summary of the bids received (including names and prices), and the scores awarded to the conforming tenders noting that the remaining tenders were non-conforming. As was the case with Dandenong, Whitehorse's evaluation matrix does not contain any commentary to explain why certain tenders do not conform or the reasoning behind the scores.

In the interests of transparency and accountability, particularly in relation to high-value contracts, it is suggested that more detailed information be included in evaluation reports to justify scores allocated against all tenders.

In relation to probity checks, both reports contained limited information about verification checks conducted on possible suppliers; for instance, whether referee checks and financial capacity checks were undertaken and what those checks revealed. However, in consultations both councils were able to provide further information about their processes.

Whitehorse advised that it conducts independent financial reviews to check the business viability of preferred tenderers, however, details of those checks were not documented in the sample tender evaluation matrix or report provided to IBAC.

Dandenong's report notes that 'corporate scorecard' financial checks were obtained for all shortlisted tenders, however, there is no discussion regarding the key observations or issues identified in the course of those checks. For instance, the corporate scorecard in relation to the preferred tenderer recommended that the council obtain additional financial security based on deficiencies in the tenderer's financial position. This issue is not addressed in the evaluation report.

In addition, there is no indication that council checked for any obvious conflicts of interest such as familial relationships between the proposed tenderer and council employees. IBAC's Operation Fitzroy highlighted the risks associated with failing to undertake adequate due diligence checks on prospective suppliers.

In terms of record-keeping for tenders, Dandenong maintains a detailed process status sheet which provides a running summary of activities relating to the tender, from the drafting of the preliminary documentation to the signing of the contracts, including details of any contact from prospective tenderers seeking information and the like.

While the combination of documents provided sufficient detail and analysis to justify the tendering decision, scores in tender evaluation reports should be accompanied by sufficient information to explain panel members' rationale, noting the specifics of the relevant tender. Additionally, the probity checks undertaken should be identified and discussed to ensure that decision makers are fully informed prior to acting on the tender evaluation panel's recommendations.

3.4.3.2 Example tender evaluation reports for procurement over the legislated thresholds and below \$1 million

Three of the example evaluation reports concerned tenders above the tendering thresholds of \$150,000 for goods and services and \$200,000 for works but below \$1 million. The reports were provided by Benalla Rural City Council, Corangamite Shire Council and Glenelg Shire Council.

The panel composition for each of the three tenders appeared to have a reasonable spread of staff with the appropriate operational expertise and independence. All were comprised of at least three members and two panels included a contracts officer while the third noted that the panel included a contracts officer in an advisory role:

- Benalla's tender panel comprised five members, including the managers of two departments, a project officer, an administration officer and the relevant community volunteer coordinator assisted by the procurement coordinator in an advisory role
- Corangamite's tender panel comprised three members, including the acting contracts officer and two employees from the works area
- Glenelg's tender panel comprised three members, including the contract manager as an independent member, and two employees with relevant operational experience.

Evaluation reports and matrices were provided in relation to all three tenders, which varied in their content.

The tender evaluation report provided by Benalla listed the details of the four tenders including each tenderer's name and quote, and the five evaluation criteria (including weightings) but did not give any indication of the overall scores obtained by each tenderer. The report identified a preferred tenderer noting that it was 'the lowest tender received... meets all tender requirements... provides value for money, [has] extensive experience, can work within timelines and [has] a strong methodology for the works required'.

Benalla was the only council to provide paperwork that documented the assessment of each panel member. Those signed and dated forms included comments and scores on each tenderer against the five weighted selection criteria. While notes were generally brief, they recorded the views of individual panel members and a summary sheet detailed the overall scores and comments of the panel. In consultations, Benalla advised that it conducts reference checks on suppliers but does not conduct more substantive probity checks in relation to ownership or solvency.

The tender evaluation report provided by Corangamite opened with a statement that all members had no pecuniary interests at the commencement of the tender and was the only report that commented on the experience of the panel members relevant to that tender. The report listed the companies that requested the tender documentation as well as the companies that went on to submit tenders and the six evaluation criteria (including weightings). The evaluation section of the report considered each criterion in turn, and included scores and comments for the two tenders. It also included a summary total score and concluding comment, noting the advantages and disadvantages of each tender before identifying a preferred tender based on price.

Glenelg's tender evaluation report listed the details of the tenders received including each tenderer's name and quote. It also included details of the tender evaluation panel including each employee's name, job title and relationship to the project, but did not list the evaluation criteria or associated weightings. While this information may have been included in the invitation to tender, there is value in restating the criteria and weightings in the report to remind decision makers of the relative importance of the criteria used.

The evaluation section of the Glenelg report considered each tenderer in turn, noting each company's background, quoted rates and the summary evaluation score. The evaluation also included detailed commentary on each tenderer which canvassed prior experience, qualifications, local presence, service standards and whether the tender has been able to nominate local references. Glenelg's report to council was the only report to refer to risk management, noting why the two preferred tenders posed the lowest risk to council.

None of the three sample tender evaluation reports included comments about probity checks. While notes made by panel members in the matrices provided by Benalla and the report provided by Glenelg suggest that reference checks were conducted, there is no indication of the outcome of those checks. Similarly, while Corangamite advised that it conducts probity checks in relation to ABN details and business viability, details of those checks were not discussed in the evaluation report provided. In response to the draft report, Glenelg advised it would adjust its process to include details of reference checks in future reports.

Good practice would entail undertaking probity checks on preferred suppliers (including checking for familial relationships between the proposed tenderer and current council employees) and reporting on those and other referee checks to the decision maker.

3.4.3.3 Example tender evaluation reports for procurement under the legislated thresholds

Two example evaluation reports concerned tenders below the legislated thresholds. They were provided by Central Goldfields Shire Council and Benalla Rural City Council.

The following was observed in relation to the tender panel composition:

- Central Goldfields' tender panel comprised four panel members, including two senior members of technical services, the procurement manager and contract manager.
- Benalla's tender panel comprised two members (employees within the development and environment division) assisted by the procurement coordinator in an advisory role.

While Benalla was not required to conduct a tender under either the Local Government Act or its own policies, given that it determined it was appropriate to go to tender, it would be prudent to apply its basic tendering requirements such as including at least three people as full members of the evaluation panel in the interests of probity.

Evaluation reports provided in relation to these tenders were less detailed than those prepared for the higher value tenders discussed above. Although this may be commensurate with the level of procurement, at a minimum, documentation for decision making regarding procurement should include sufficient detail and analysis.

The Central Goldfields tender evaluation report listed details of the tenders received including each tenderer's name and quote, and the number of conforming tenders, but did not explain why some tenders were non-conforming. The report also noted the names but not the positions of the panel members and restated the four evaluation criteria (including weightings). The evaluation section of the report considered each criterion and included scores and

brief comments on the tenderers, opening with a comment about the information the panel was looking for in response to the criteria and concluding with a summary of the scores.

Central Goldfields' report also included details of the reference check conducted for the preferred tenderer, although probity checks did not canvass possible familial relationships between prospective suppliers and council employees. The report concluded with a statement signed by all panel members confirming that they had reviewed the report and endorsed the contract manager's recommendation.⁴⁷ A 2014 internal audit commissioned by Central Goldfields observed that tenderers' referees are generally contacted as part of the evaluation process,⁴⁸ the tender evaluation process is incorporated into a checklist for all hard-copy tender documents, and the council's e-procurement function contains controls to ensure all tender documents are completed prior to issuing and finalising a tender.⁴⁹ The audit also recommended that Central Goldfields require that panel members independently review tender documents prior to attending the panel meeting to ensure adequate preparation.⁵⁰

The tender evaluation report provided by Benalla listed the details of all tenders received including each tenderer's names and quotes (a number of which exceeded council's stated budget) but did not restate the evaluation criteria, weightings or scores. Nor did the report expressly state that the preferred tenderer obtained the highest score, rather it stated:

The Assessment Panel has completed formal scoring against the Assessment Criteria and [the selected tenderer] meets the required criteria in all areas along with the second lowest price. The lowest price tender... did not provide sufficient documentation to satisfy the panel that they could deliver the required design and deliver the project on time.

47 In response to the draft report, Central Goldfields Shire Council advised that all tender panel members sign conflict of interest and probity declarations at the tender initiation stage, and are reminded of their obligations throughout the process.

48 Central Goldfields Shire Council, *Internal Audit report on procurement*, March 2014, p 3

49 Central Goldfields Shire Council, *Internal Audit report on procurement*, March 2014, p 14

50 Central Goldfields Shire Council, *Internal Audit report on procurement*, March 2014, p 2

Justification for selecting the preferred tenderer were limited and did not give any indication that probity checks such as referee or financial checks were undertaken.

In consultations, IBAC suggested to all councils that consideration be given to undertaking more-stringent due diligence on prospective suppliers including ASIC checks for potential suppliers and existing suppliers on a regular basis, cross checked against the names and addresses of council employees. Such checks could provide a level of comfort that suppliers are financially viable and that there are no conflicts of interest with council staff.⁵¹

If it is decided to undertake a competitive tender for procurement below the legislated threshold, that process should be undertaken in a rigorous manner consistent with good tender practice as outlined in the LGV Procurement Guide. It is important that tender evaluation reports clearly and fully outline the reasons for engaging a particular supplier.

3.4.4 Exemption from requirement to tender above legislative thresholds

The Local Government Act and Regulations provide for a limited number of circumstances where a council can be exempt from procuring goods and services above \$150,000 or works above \$200,000 through public tender. These circumstances include emergencies, contracts entered into via agency arrangements, where approval has been obtained from the Minister for Local Government, and specific prescribed exemptions (currently limited to legal services).⁵²

Exemptions from competitive public tendering above the legislated thresholds are rare. Only one example of a Ministerial exemption was provided.⁵³ In that instance an exemption was granted in the form of an extension to an existing waste contract so that the council could align a number of waste contracts and undertake a competitive tender for all combined waste management services a few months later.

To facilitate the ministerial exemption approval process, LGV has developed a form accompanied by explanatory notes which state that while the Minister's power to exempt is discretionary, the Minister's approval should only be sought in 'exceptional circumstances, where it is clearly warranted'.⁵⁴ Examples of situations where the Minister may be satisfied that it is not viable for a council to conduct a public tender include circumstances where:

- there is no competitive market for the proposed goods, services or works
- engaging the provider will result in best value for money to the council
- the council is restricted to contracting with only that provider.⁵⁵

⁵¹ In response to the draft report, Whitehorse City Council said it believed it would be too costly to undertake ASIC checks to assess potential staff conflicts of interest in relation to council suppliers. Whitehorse advised it mitigates its risk by engaging external auditors to undertake suspicious transaction audits of supplier and payroll data

⁵² Local Government Act 1989, s 186(5) and (5A) and Local Government (General) Regulations 2004, clause 10

⁵³ The Minister's approval notes that the extension was granted so that all waste contracts could be aligned and a competitive tender could be undertaken for all waste management services, noting that a public tender for a 10-month contract would be unlikely to attract interest

⁵⁴ LGV, *Application form: Seeking Ministerial approval under section 186(5)(c) of the Local Government Act 1989*

⁵⁵ LGV, *Information Sheet on the Application form: Seeking Ministerial approval under section 186(5)(c) of the Local Government Act 1989*, p 2

Glenelg's policy and associated exemption form contained the clearest details in relation to tendering exemptions noting the specific exemption for legal services under the Regulations, the need for a council resolution in order to procure without tendering in an emergency, and the need for ministerial approval for a range of situations where the procurement exceeds the legislated thresholds.

While Whitehorse City Council's procurement guidelines refer to the Local Government Act exemptions, they are included in a long list of exemptions from council's procurement procedures making it difficult to discern the circumstances in which procurement over the legislated threshold may be exempt from public tendering.⁵⁶ In response to the draft report, Whitehorse advised it complies with the requirements of the Local Government Act.

Benalla Rural City Council's guidelines state that exceptions to competitive procurement may be appropriate if a known and reputable supplier can supply the goods or services, or if the supplier identified is the only one who can provide the goods or services sought.⁵⁷ IBAC is of the view that even if a 'known and reputable supplier' is providing goods and services to council, it is not sufficient reason to forego a competitive procurement process, which is in the interests of council operating in a transparent and accountable manner.

Moreover, Benalla's guidelines state that a policy exemption certificate must be completed and signed by the CEO for exemptions between \$50,001 and \$200,000, suggesting that an exemption to the tendering requirements could be approved by the CEO for goods or services above the \$150,000 tendering threshold without applying to the Minister for an exemption. While it may not be viable for the council to enter into a public tender in these circumstances, approval must still be obtained from the Minister.

Council procurement policies and guidelines should clearly outline the process of applying for exemptions from competitive tendering above the legislated thresholds, highlighting the provisions of the Local Government Act and the requirement to seek the approval of the Minister.

3.5 What the review found in relation to quotations

While the tendering process receives considerable attention due to the large amount of funds involved and the scale of those projects, it is important not to lose sight of the corruption risks associated with smaller purchases and contracts for goods, services and works. When aggregated, corrupt activities in relation to lower value procurement can have a significant impact on a council's reputation and finances. Moreover, at this lower end of the scale, procurement generally involves relatively less rigour in terms of approvals, documentation and monitoring, increasing the risk of corrupt activity.

⁵⁶ Whitehorse City Council, Procurement Guidelines, June 2013, pp 11–12

⁵⁷ Benalla Rural City Council Purchasing and Tendering Guidelines, p 15

3.5.1 Policy specifications for procurement below legislated thresholds

Councils are not obliged to stipulate requirements for procurement below the legislated thresholds, however the LGV Procurement Guide recommends that councils develop their own policies to promote competitive procurement at all levels and achieve value for money. The Guide states that 'procurements at values below the threshold should be subject to authorisations of staff and include any conditions on those authorities, such as the number of prices or quotations required'.⁵⁸

All six councils have quotation processes in place for procurement below the legislated thresholds. As shown in Table 1, Whitehorse City Council and Corangamite Shire Council adopted two-tiered approaches, requiring only a 'best offer' for procurement less than \$3,000 in the case of Whitehorse or one verbal quote for procurement less than \$10,000 in the case of Corangamite and three written quotes for procurement between those respective levels and the legislated thresholds.

Table 1: Comparison of policy specifications for procurement below the legislated thresholds

	UP TO \$3K	UP TO \$5K	UP TO \$10K	UP TO \$15K	UP TO \$30K	UP TO \$50K	UP TO \$60K	UP TO \$100K	UP TO THRESHOLDS (\$150K & \$200K)
CENTRAL GOLDFIELDS	Verbal quote may be obtained		3 verbal quotes	3 written quotes unless accessing a panel of suppliers		3 written quotes and written scope/ specification		Open or select tender	
CORANGAMITE	1 verbal quote			3 written quotes					
BENALLA	1 verbal quote	3 verbal quotes		3 written quotes and written scope specification			3 written quotes directed to the e-tendering portal and written procurement and contract management plan		
DANDENONG	1 written quote		2 written quotes				3 written quotes		Public tender or quotes
GLENELG	Quotes are encouraged but not required		2 written quotes		Public tender subject to Group Manager decision and risk analysis. Procurement plan for procurement over \$50K (alternatively 3 written quotes)				
WHITEHORSE	Exhibit best value	3 written quotes							

58 LGV, *Best Practice Procurement Guidelines*, p 76

Central Goldfields Shire Council had the most detailed approach, with five increments up to the legislated thresholds, ranging from one verbal quote for procurement less than \$5,000 to open or selective tender for procurement between \$60,000 and the legislated thresholds.⁵⁹ Those requirements are supplemented with 'optional process requirements' however, the policy does not clearly indicate when or why the additional requirements would be applied. Central Goldfields has since advised it will remove the optional requirements to improve the clarity of the procurement process.

Half of the councils – Central Goldfields, Glenelg and Dandenong – apply competitive tendering requirements for procurement below the legislated threshold.

Dandenong's procurement policy and online purchasing manual suggest that there are no specifications in place for procurement between \$100,000 and \$150,000. However, its tenders and contracts process map for procurement at or above \$100,000 suggests that the council requires tenders for procurement in excess of \$100,000. Its contract initiation form, however, suggests that a 'restricted quote process may be arranged'. Inconsistent practices were also observed at Benalla Rural City Council where a tender was conducted for procurement valued at \$100,000 as noted above.⁶⁰

3.5.2 Quotation processes

All of the councils reviewed, with the exception of Benalla Rural City Council, utilised electronic procurement systems. Electronic procurement systems can assist with internal controls, including compliance with quotation requirements.

For example, Whitehorse City Council's electronic system requires three attachments to be uploaded to confirm that three quotes have been obtained. Corangamite Shire Council's system also requires details of the three quotes obtained in addition to uploading three quotes as attachments in the electronic system.

In the absence of an electronic procurement system, Benalla uses a paper quote registration form, which includes details of the goods or services to be purchased and provides space for three quotes including the name of the supplier, the quoted price and a column to indicate the successful quote. This summary is followed with a comment on the reasons for selecting that supplier and reasons for any exemptions to the policy. The last section includes the details and signatures of the employees who completed, recommended and authorised the quote (indicating that a quote can only be authorised by the CEO or the General Manager). The form must be completed for purchases over \$3,001 and requires invoices and purchase orders to be attached at the payment stage.

⁵⁹ Central Goldfields Shire Council Procurement Policy, May 2014, states: 'one verbal quote required for procurement under \$5,000, three verbal quotes required for procurement up to \$10,000, three written quotes required for procurement up to \$30,000, a written scope/specification and three written quotes required for procurement up to \$60,000, and open or selective tender required for procurement up to \$150,000 goods and services or \$200,000 works'

⁶⁰ Note that Benalla's evaluation of the \$100,000 tender was limited – no indication of criteria or weightings in report, limited discussion of reasons for selecting preferred tender, no indication that referees were contacted

A sample quotation provided by Greater Dandenong City Council related to a contract below the legislated thresholds to procure goods and services. The process involved an evaluation panel comprising two members from the relevant business unit as well as the contract officer. The report contained an evaluation matrix similar to that used for tenders, which sets out the criteria for quotes (including the non-conforming quote which obtained a lower score).

The LGV Procurement Guide does not stipulate a standard process for evaluating quotations but suggests that there will be circumstances when it is appropriate to convene a small panel.⁶¹ It is appropriate that the process applied be commensurate with the value and complexity of the procurement in question, however, in doing so councils should be mindful of potential corruption risks associated with lower-value procurement and apply other probity checks such as audits, risk identification and management, staff training and appropriate supervision.

3.5.3 Exemption from council policy below legislated thresholds

All six councils had established practices for seeking exemptions from council's procurement policy below the legislated threshold. In two cases (Whitehorse City Council and Greater Dandenong City Council) the process involved sending an email to the CEO indicating why an exemption was being sought, however, that process was not fully documented in the written policies and guidelines of either council.⁶²

Three councils – Corangamite Shire Council, Benalla Rural City Council and Glenelg Shire Council – have specific forms to be used when requesting exemptions. Those forms require employees to provide a justification for the exemption. While Central Goldfields Shire Council did not have a standard form, its policy stated that a detailed justification needed to be included in an email to the General Manager and the CEO when seeking approval of an exemption. In response to the draft report, Central Goldfields advised it will consider developing a standard form for exemptions.

In terms of approving exemptions, Benalla's policy states that exemptions must be signed off by the CEO. In consultations, the council advised that requests for exceptions do not go through the Procurement Coordinator before being referred to the CEO or General Manager for approval, while the exemption provided by Corangamite suggests that exemptions can be approved by directors without the knowledge or approval of the central procurement unit or the CEO.

While councils may delegate approval for exemptions to employees who are authorised to approve procurement, all such exemptions should, at minimum, be considered centrally (for instance by a council's central procurement unit or officer) to ensure that exemptions are applied in a consistent and appropriate manner.

61 LGV, *Best Practice Procurement Guidelines*, p 91

62 Whitehorse had developed a draft Procurement Policy Exemption Request form which was in the process of going through approval processes

3.6 What the review found in relation to general purchasing practices

3.6.1 Segregation of duties and effective management

In Operation Continent, IBAC investigated an allegation related to the use of the council's procurement system to purchase truck parts for personal use. It was alleged a staff member altered invoices to disguise purchases that did not relate to council vehicles. It appeared this practice went undetected largely because one staff member had responsibility for approving purchase orders and confirming invoices details without effective supervision.

Segregation of duties is important to ensure that no one officer has control of multiple points in the process, although it is recognised that it may present difficulties in small organisations. At a minimum, high-risk points in the process should be identified (such as raising a purchase order and verification of delivery of goods and services) and segregated.

However, segregation alone cannot be relied upon to prevent inappropriate activity in corruption. Effective management and oversight is also crucial.

At Benalla Rural City Council, where purchase order books are used for procurement, council advised that the plant team leader was able to initiate the purchase of a good or service, raise a purchase order and approve it, up to his \$7,500 delegation. This suggests an issue with lack of segregation of duties. The one control in this process is a requirement that another employee countersign the purchase order to confirm when the goods have been received, however the conduct identified in Operation Continent indicates this is an inadequate control.

Benalla also suggested that the exercise of financial and other delegations are checked by requiring that a copy of the signed purchase order is provided to the finance unit while the original is retained in a book (which is sent to finance when completed). In consultation with the council, IBAC noted that an electronic procurement system could offer a number of internal controls to address these issues.

The five councils with electronic procurement systems indicated that their systems built in appropriate duty segregation. Their systems were generally set up to progress a purchase order by sending it to a higher authority for approval, until it reached a person with the appropriate delegation to sign off on the purchase. The exception was Glenelg Shire Council, where a purchase order can be approved by someone at the same level as the person who raised the order, as the process of approvals in the system is job specific not hierarchical. As noted in Operation Continent, a procurement system that allows peer approval rather than hierarchical approval may expose a council to greater risk of corrupt transactions. In response to the draft report, Glenelg noted IBAC's concerns and advised that it would review this process.

Regardless of the system used, any approval process must carry with it an appropriate sense of accountability and involve monitoring the work of employees in a meaningful way. This does not necessarily mean that the process must be onerous. As noted in ICAC's *Corruption Risks in NSW Government Procurement*, random checks of varying targets in the process can create a threat of detection to discourage inappropriate conduct, in turn helping managers develop a better understanding of the processes they are managing.⁶³

Central Goldfields Shire Council advised that it has controls around adding new suppliers to its procurement system, noting that a new supplier form must be completed (including information such as ABN) and signed by two people to minimise the risk of employees setting themselves up as suppliers.

63 NSW ICAC, *Corruption Risks in NSW Government Procurement: The Management Challenge*, November 2011, p 25

The segregation set up within electronic systems can only assist where an electronic purchase order is raised. If petty cash or other ancillary procurement processes are used, councils may not be able to assure themselves that purchases are being authorised appropriately. As such, limiting the amount of procurement that occurs outside of the established procurement policies is also an important corruption risk control. This can be achieved through effective forward planning of procurement requirements (which is consistent the VGPB and Health Purchasing Victoria (HPV) procurement reforms), reducing the need for petty cash and having a clear process for seeking exemptions, requiring employees to clearly justify the need for exemptions from competitive procurement processes which is also subject to central oversight to identify possible inappropriate patterns.

At the end of the procurement cycle, it is important to have measures in place to confirm the nature and quantity of the goods, services and works provided. While the review did not examine this issue, a control that can easily be applied involves requiring that staff obtain counter signatures on delivery dockets to confirm that the goods and services stated on the docket have been received. Following Operation Continent, Mitchell Shire Council has strengthened its processes by requiring all suppliers to provide delivery dockets stating the quantity of material delivered, the delivery address and date. This enables random checks to be conducted on all materials purchased.

Mitchell also changed the reporting line of the depot purchasing officer from the operations areas to finance, with the objective of improving independent oversight of purchasing. Only one of the six councils – Central Goldfields – has adopted a centralised approach to procurement in which the procurement manager approves all purchasing.

3.6.2 Purchase orders

As noted in ICAC's Operation Jarek, an organisation's procurement system must be set up to facilitate the effective management and oversight of resource purchases and allocations:

The design of the procurement process should build in mechanisms of controls, including audit and stocktake processes, and provide the manager with final approval and access to information necessary to carry out the oversight function and to manage delegations.⁶⁴

Of particular concern, a number of councils acknowledged that purchase orders are sometimes completed after invoices. Greater Dandenong City Council advised that as recently as 12 months ago, there was a practice of some purchase orders being completed after an invoice was issued.⁶⁵ The council advised it had taken steps to improve practices in relation to raising purchase orders.

A check of a purchase order book at Benalla Rural City Council indicated that at least some purchase orders were completed after the goods or services had been provided. Staff at the depot indicated that a purchase order for some services may be completed after the invoice had been received because it was not possible to know the final value of the services in advance.

Electronic purchasing systems offer the opportunity to build in strong controls requiring purchase orders to be raised as part of the procurement approval process, before receipt of invoices. Invoices can then be checked against purchase orders to confirm the required goods and services have been received and purchased with the appropriate approvals.

64 NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers* (Operation Jarek), October 2012, p 118

65 The practice occurred in relation to crushed rock, where there were instances where the amount delivered slightly exceeded the original order, requiring the purchase order to be amended

Glenelg Shire Council's procurement policy states that its internal controls include 'ensuring all purchases of works, goods and/or services are precipitated by an order requisition and an official purchase order'. However, this conflicts with documented procedures for bitumen which state that the purchase orders be adjusted after tax invoices are received so that the two documents match, potentially exposing the council to fraudulent activity. Glenelg noted IBAC's concerns and undertook to ensure that purchase orders are raised prior to delivery.

ICAC highlighted that one way to mitigate the corruption risk associated with accounts, is to validate invoices with supporting documentation such as purchase orders to ensure that payments are for legitimate goods and services.⁶⁶ The creation of purchase orders after receipt of an invoice negates the effectiveness of this risk mitigation approach.

It is suggested that council procurement policies and guidelines include a statement clarifying that purchase orders are to be raised wherever possible before a tax invoice is received from the vendor.

3.6.3 Risk management

Risk management is an essential element of a sound integrity framework. The Fraud and Corruption Control Australian Standard states that organisations should adopt policy and processes for the systematic identification, analysis and assessment of fraud and corruption risks.⁶⁷

The procurement policies of all six councils addressed the issue of risk management across all categories of procurement, most frequently referring to the need to develop risk management plans for high-value and/or complex procurement.

The risk registers for the six councils varied in the range of risks and associated controls identified to address corruption risks associated with procurement.

For example, some of the procurement-related corruption risks identified in risk registers as relevant to depot operations included:

- collusive tendering – controls included monitoring
- fraud by facilities maintenance staff – controls included awareness training for staff, severe disciplinary responses as a deterrent, and random audits of work and processes
- false invoicing – controls included scrutinising invoices before payment is approved and random verification checking on site
- payment for unauthorised purchases – controls included authorisation of all orders by the responsible officer and monthly variance reports
- contract management failures – controls included development of updated and standardised documentation and the engagement of a new contract manager
- tender criteria compliance – controls included having a 'well-disciplined' tender evaluation process in place, development of a contract manual, delegation controls, and having the contract manager available as a corporate resource
- invoice fraud – controls included the application of clearly defined processes for independent checking of lists of creditors and a council policy
- creditor invoice duplication – controls included using electronic programs that will not allow an invoice number to be paid twice, scrutiny by accounts payable officers and review by the finance manager
- conflicts of interest – controls included declaration requirements, well-documented processes and templates, availability of industry experts or committees of management to provide insight in relation to the final decision if required, and a requirement that the contract manager provides advice to all panel members on conflict of interest implications of the Local Government Act.

⁶⁶ www.icac.nsw.gov.au/preventing-corruption/known-your-risks/accounts-management/4910, accessed 17 November 2014

⁶⁷ Australian Standard 8001-2008, *Fraud and Corruption Control*, p 30. The Standard outlines a generic risk management process based on establishing the context, identifying risks, analysing risks, evaluating risks and ultimately treating risks

With controls applied, all of these risks were identified by councils as low or medium risks with the exception of fraud by facilities maintenance staff, which was identified as a high risk by Whitehorse City Council.

To enhance risk assessment and management activities, the procurement-related risks identified by councils could benefit from a more detailed consideration of controls and assessment of their effectiveness in mitigating those risks.

It would also be valuable to consider a broader range of corruption risks associated with procurement, such as employees providing confidential information to a tenderer resulting in unfair advantage, and contracts being awarded by employees for personal benefit.

An internal audit of a sample of procurement files commissioned by Central Goldfields Shire Council was generally positive about the council's procurement functions but nominated a number of areas for improvement, including the need for risk assessments and development of risk management plans for high-value/high-complexity procurement.⁶⁸ In response to the draft report, Central Goldfields advised that, of the four areas of improvement highlighted in the audit report, two areas (regarding risk management and tender documentation) had been identified as areas of concern prior to the audit and improvements instigated.

Corangamite Shire Council did not list procurement risks in its risk register, noting that the register was under development, however it did outline relevant risks in its fraud control plans. For instance, risks listed by Corangamite as areas requiring action in its fraud control plan included potential accounts payable fraud and collusive tendering.

It is important that procurement risks are thoroughly considered and outlined in a council's risk register, with appropriate risk rating and treatments. Risk registers provide a systematic way of identifying, evaluating and reviewing corruption risks.

IBAC has identified procurement as a significant corruption risk, as a result of IBAC investigations (such as Operation Fitzroy), IBAC's strategic assessment (which drew on the experience of anti-corruption agencies in other jurisdictions), and the Australian National University (ANU) research.⁶⁹ IBAC encourages public sector organisations to carefully consider the range of procurement risks that should be included on their risk registers and to ensure that robust, proactive controls and appropriate risk ratings are applied to those risks.

3.6.4 Audits

Internal audits are a critical factor to ensure that controls are in place to mitigate risks associated with procurement.⁷⁰ Auditing can provide a systematic review of procurement processes and practices to identify corruption vulnerabilities and potentially corrupt conduct. Effective auditing regimes can serve as both an early warning system to identify emerging risks and procedural weaknesses, and a detection mechanism to identify specific instances of misconduct or corruption.

Ideally, auditing schedules should be informed by a thorough risk assessment, and monitored by an independent committee so that council can be assured its functions have been scrutinised objectively. The Fraud and Corruption Control Australian Standard recognises that 'no one strategy ... can be effective in managing the risks of fraud and corruption' and highlights the importance of an internal audit program that reviews compliance with internal controls.⁷¹

All but one council had an internal audit program in place, which included procurement-related functions in either past audits or future planned audits. For instance, since 2009 Greater Dandenong City Council has undertaken audits of its purchasing systems, tendering processes and contract management. It also conducted an annual audit of its financial controls.

⁶⁸ Central Goldfields Shire Council, *Internal Audit Report on Procurement*, March 2014, p 2

⁶⁹ In 2012, the Transnational Research Institute on Corruption at the ANU was engaged by the interim IBAC Commissioner to undertake a research project identifying corruption risks within Victoria. The purpose of the research was to establish a baseline of current corruption risks and challenges

⁷⁰ LGV, *Best Practice Procurement Guidelines*, p 112

⁷¹ Australian Standard 8001-2008, *Fraud and Corruption Control*, p 29

Central Goldfields Shire Council did not have an internal audit plan in place, although it had instigated two audits in relation to procurement. One of those audits found that the council's procurement function was operating effectively in accordance with policies and guidelines, and made four recommendations for improvement, including the completion of risk assessments and management plans for high-value and high-risk procurement.⁷²

All councils should have well-researched and planned short and long term internal audit programs that address areas of identified risk, including procurement. IBAC's Operation Fitzroy highlighted the risks associated with failing to undertake systematic audits of procurement processes, when ad hoc audits failed to identify fraudulent activity.

In addition to systematic audits, there is also value in conducting random audits of procurement processes to check compliance with policies and procedures. Staff may be advised of the likelihood of random audits being conducted, but not when the audits will occur.

3.6.5 Conflicts of interest

All six council procurement policies and/or guidelines addressed conflicts of interest. These were supplemented by other provisions on conflict of interest in employee codes of conduct and/or standalone conflict of interest policies. The common position was that staff should avoid private interests conflicting with council duties. Whitehorse City Council, Central Goldfields Shire Council, Greater Dandenong City Council and Glenelg Shire Council required employees to disclose any conflicts of interest and to remove themselves from relevant decision-making processes while the only explicit requirement in the policies of Benalla Rural City Council and Corangamite Shire Council was that staff disclose the conflict.

Whitehorse has also incorporated a reminder about conflicts of interest into its electronic procurement portal. The opening screen to the portal displays a conflict of interest declaration which prompts the user to agree to a statement that they 'have no conflicts of interest in respect of the subject matter to which my request for this Purchase Order relates' before entering the system. While multiple purchase orders could be submitted once in the system, this is nevertheless an example of creative ways in which employees, particularly those with procurement responsibilities, can be reminded of the need to recognise and manage potential conflicts of interest.⁷³

Good practice around management of conflict of interest includes:

- requiring a conflict of interest declaration by employees involved in specific procurement, at the commencement of the procurement process (prior to release of tenders) and once tenders have been received
- undertaking ASIC checks on potential and existing suppliers on a regular basis, and checking them against the names and addresses of council employees
- ensuring relevant procurement officers are nominated officers for the purpose of submitting primary and ordinary returns under the Local Government Act.⁷⁴

More information on declaration of conflicts of interest in the tender evaluation process is outlined in section 3.4.2.

⁷² Central Goldfields Shire Council, *Internal audit report on procurement*, March 2014, p 2

⁷³ Whitehorse City Council advised that due to programming limitations, line-by-line conflict of interest declarations by employees could not be achieved with its current software. However, council has determined the best available option is for staff to acknowledge that they do not have a conflict of interest prior to accessing the purchasing system

⁷⁴ Part 4, Division 1A of the *Local Government Act 1989*

3.6.6 Gifts and benefits

The Victorian Ombudsman has highlighted the risk associated with acceptance of gifts from suppliers, observing that once a public officer accepts a gift from a supplier without declaring it, there is a risk of that employee engaging in corrupt conduct, making it difficult to discontinue purchasing from that supplier.⁷⁵ The LGV Procurement Guide also recommends caution in relation to acceptance of gifts and hospitality to avoid conflicts of interest.

Policies concerning gifts and benefits should clearly explain the circumstances in which a gift or benefit can be accepted. Such policies should also provide the details of a senior officer with whom concerns and questions can be discussed. In addition, councils should consider providing employees with training and/or guidance to be able to politely refuse any gifts that are offered, and advise the giver that gifts and benefits are not acceptable within the organisation.

Four councils' procurement policies and guidelines specifically addressed gifts and benefits. The policies of Whitehorse City Council, Benalla Rural City Council, Greater Dandenong City Council and Glenelg Shire Council state that staff involved in procurement are not to accept gifts or hospitality during the procurement process or in other situations that may cause a conflict of interest.

In addition Glenelg's policy states that councillors and council employees shall not participate in activity associated with the arrangement of a contract (ie. evaluation, negotiation, recommendation, or approval) where any conflict of interest is either real or perceived. The policy notes that council employees should also avoid potentially ambiguous situations created by visiting the premises of a contractor, organisation, firm or individual uninvited and/or not on official business.

Central Goldfields Shire Council's procurement policy clearly states that staff must not accept gifts, gratuities, hospitality or other benefits from suppliers, other than those of a token value. However, the council's document on ethics, probity and accountability in procurement discourages staff involved in procurement from accepting gifts or hospitality, but only prohibits it in specific situations. These different suggested approaches may cause confusion amongst council staff, and therefore it is suggested that a consistent position prohibiting the acceptance of gifts, benefits and hospitality be adopted. The council has indicated it is receptive to this.

The Corangamite Shire Council procurement policy was silent on gifts and benefits, but its employee code of conduct requires gifts to be entered onto a gift register using a specific form.

In Operation Jarek, ICAC noted that gifts and benefits policies and procedures do not necessarily control employee behaviour:

The actions of many public sector agencies suggest that they regard procurement as just another cog in the machinery of government, guided by policies and procedures. They appear oblivious to the commercial practices and pressures pulling at their staff, including false friendships and inducements that may be offered by suppliers.⁷⁶

Effective controls could include appropriate training and mentoring to ensure that staff not only understand the rules and ramifications of breaching council policy, but are also equipped to decline offers of gifts and benefits in an appropriate manner. As the Operation Jarek report states, 'to be able politely to refuse any gifts that are offered, and advise the giver that gifts are not acceptable in the organisation is a skill that can be taught'.⁷⁷

⁷⁵ Victorian Ombudsman, *Corrupt conduct by public officers in procurement*, June 2011, p 5

⁷⁶ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers* (Operation Jarek), October 2012, p 108

⁷⁷ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers* (Operation Jarek), October 2012, p 117

Five councils maintained gifts and benefits registers (Central Goldfields being the one council which did not). Those registers generally included details of the person who gave and received the gift, what it was and its estimated value, however there was no indication that those councils reviewed the information in their registers to identify employees who may be regularly subject to improper influences or suppliers who may be attempting to influence decisions.

Only Greater Dandenong recorded offers of gifts and benefits declined, although Whitehorse has since advised it has adopted such an approach to monitoring its gifts and benefits.

Developing and maintaining a gifts and benefits register is only the first step in identifying and monitoring possible attempts to influence employees. IBAC encourages councils to require that all offers and approaches above a certain value are recorded in the register (including offers that are declined) and regularly review that information to identify patterns, such as particular suppliers or potential suppliers attempting to influence staff. For example, the Dandenong 2014–15 gifts register indicates that one organisation provided bottles of wine to 27 staff members employed in council's planning or building services. While the individual amounts are relatively small (under \$50), an analysis of the register suggests that a company involved in developing property within the municipality sent gifts to a wide range of planning and building employees, which could be perceived as an attempt to influence council decisions – increasing the risk of conflicts of interest in council's planning and building area.

Organisations also need to recognise the importance of their communications with suppliers, to ensure tender and contractual specifications and requirements are clearly understood, and to convey appropriate probity information. Dandenong provided its suppliers with a code of conduct to outline expectations around behaviour. Good practice includes advising suppliers of what they can expect of council employees and reporting mechanisms if concerns need to be raised.

3.7 Future directions in contract management and review

In its 2014 Global Economic Crime Survey, Corruption: From the backroom to the boardroom, PricewaterhouseCoopers noted that 33 per cent of Australian respondents had experienced procurement fraud in the past 24 months.⁷⁸ The report suggests that while vendor vetting and selection was the primary point at which procurement fraud occurred globally, for Australian respondents, the contracting and maintenance stage is emerging as the primary place where procurement fraud occurs.⁷⁹

There is recognition within the broader Victorian public sector that there is a need for greater focus on managing the procurement cycle from the start of the process, namely planning of procurement activity through to the management of the contract. This is reflected in reforms being implemented by the VGPB to apply to departments and other mandated entities, and HPV in relation to public hospitals and other health service agencies.

Under these reforms, individual agencies will be responsible for determining the appropriate approach to procurement based on a range of factors including a consideration of the market and an assessment of risk factors, rather than complying with centrally mandated policies and procedures. There will also be a greater focus on improving contract management, by ensuring that chosen providers fulfil the terms of agreed contracts to the specified standards through quality checking and review of contract timelines.

While these reforms do not currently cover local government, councils may wish to consider the new VGPB policy framework and consider increasing oversight in relation to contract management and quality reviews to ensure that goods, services and works are in fact delivered in a manner and to a standard consistent with the specifications in contract.

⁷⁸ PwC, 2014 *Global Economic Crime Survey Corruption: From the backroom to the boardroom*, p 13

⁷⁹ PwC, 2014 *Global Economic Crime Survey Corruption: From the backroom to the boardroom*, p 13

3.8 Controlling risks: practice insights

As indicated throughout this chapter, the LGV Procurement Guide outlines best practice in relation to procurement. Key elements relevant to this review have been highlighted, as has good practice drawn from other sources including interstate anti-corruption agencies.

Policies and procedures

All policies, procedures and systems should be marked for regular review to identify current risks and mitigation strategies, as well as to maintain active focus on and awareness of corruption risks attached to procurement. This is also relevant to the other issues considered in this review (namely, management of small plant and equipment and bulk consumables). The Local Government Act requires councils to annually review their procurement policies. A similar approach may be taken to other policies and procedures, or upon the identification of new issues or risks that must be addressed.

Tendering

Some of the good practices identified by the review in relation to tendering included the following:

- development of detailed evaluation plans for high-value procurements prior to tender
- preparation of detailed tender evaluation reports that:
 - outline the expertise and experience of panel members relevant to the particular tender
 - explain the rationale for the panel's overall recommendation
 - detail individual member comments in addition to the overall recommendation
 - attach signed confidentiality and conflict of interest declarations (that state the name and position of all members) completed prior to commencing a tender evaluation
- providing information to prospective tenderers to convey a council's expectations of suppliers.

Quotation and general purchasing

The review also identified a number of good practices in relation to procurement more generally including:

- the use of electronic procurement systems which can build in internal controls
- providing information to suppliers that conveys council's expectations of contractors, such as a contractor code of conduct
- controls around adding new suppliers to the procurement system, such as counter-signatures from two employees
- standardised documented processes for seeking exemptions from competitive procurement
- segregation of duties around the raising and approval of purchase orders.

Training

Training is a key element of managing risks associated with procurement. Training should:

- address ethical issues such as conflicts of interest and staff responsibilities in relation to managing public funds
- highlight relevant governance practices (such as the reasons for segregating responsibilities and conducting audits) to ensure that staff understand the rationale behind council's procurement policies.

Most councils advised that their procurement training program focused on the procedural requirements of the procurement system. There was little indication that training addressed ethical and probity issues.

The Western Australian Corruption and Crime Commission (CCC) highlighted the importance of mandatory training for staff involved in procurement, including training on identifying and responding to fraud and corruption risks associated with procurement.⁸⁰ Their report, *Fraud and corruption in procurement in WA Health: dealing with the risks*, noted that such training is an important component of an organisation's early detection system for fraud and corruption.

In *Corruption risks in NSW Government Procurement*, ICAC suggested that training be complemented by 'mentoring, pre-procurement guidance, debriefs following procurement actions and frequent management communications [that can] build the tacit knowledge and expertise of staff in a way that training cannot'.⁸¹ Training should be conducted regularly and not only upon induction. Training may be conducted face-to-face and/or online, and consideration should be given to incorporating some form of testing to ascertain participants' level of understanding.

In Operation Fitzroy, IBAC highlighted the importance of training employees involved in procurement to identify risks associated with fraud and corruption and take appropriate action when risks are identified. Recognising that employees involved in procurement are best placed to detect anomalies, councils should endeavour to ensure that employees are aware of potential indicators of fraud, know how to report those concerns and feel confident to do so.

80 WA CCC, *Fraud and corruption in procurement in WA Health: dealing with the risks*, June 2014, p 19

81 NSW ICAC, *Corruption risks in NSW Government Procurement: The Management Challenge*, November 2011, p 24

4 Small plant and equipment

Key findings

- While all of the councils involved in the project had asset management plans, few governed all assets from small plant and equipment through to major assets.
- All councils had some form of register of small plant and equipment.
- There was a lack of regular and random audits to confirm small plant and equipment under the control of the council and assist in council's broader asset management.
- The theft or loss of plant and equipment did not consistently appear on risk registers.
- Theft, loss and fraud reports focused on internal instances of fraud and did not reflect theft by external parties.

Practice insights

- All small plant and equipment should be appropriately marked as council property.
 - Small plant and equipment should be stored securely noting unrestricted access to small plant and equipment presents a significant risk in terms of theft and/or loss.
 - Small plant and equipment should be subject to both regular and random audits.
 - Allowing staff to hire council plant and equipment for personal use is not good practice, due to the risk it presents to councils.
 - Disposal arrangements for small plant and equipment should be documented and outline details such as the officers who can approve disposal.
 - Councils should actively encourage staff to submit theft and loss reports for all losses including theft by external parties.
 - A central register of fraud incidents is a valuable tool to facilitate monitoring of trends and identification of systemic issues.
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4.1 Introduction

Depots are repositories of a considerable amount of plant and equipment which is used by depot employees to undertake civil works, parks and gardens works, street cleaning and other duties.

This review focused on small plant and equipment which is generally mechanical in nature.⁸² Examples of small plant and equipment include chainsaws, brushcutters, edgers, blowers and mowers. For the purposes of this project, it does not include hand tools such as sledgehammers, shovels, spades, handsaws, picks and crowbars.

Although an individual item of small plant may be only worth a few hundred dollars, the total value of small plant and equipment held by a council can be significant. The way in which councils estimated the value of their small plant and equipment differed and therefore the aggregated estimate varied. For example, one of the metropolitan councils, Greater Dandenong City Council, estimated that its small plant and equipment had an aggregate value of \$1.9m⁸³, while one of the large rural councils, Corangamite Shire Council, estimated the value of their small plant and equipment to be approximately \$100,000.⁸⁴

4.2 Key corruption risks

All physical resources of an organisation present a corruption risk, for example in relation to unauthorised private use and theft. Low-value resources such as small plant and equipment present a particular corruption risk for two key reasons:

- they are portable and attractive items
- they may be subject to less oversight than major equipment primarily because it is less valuable, evident in some councils treating small plant and equipment as a consumable item for accounting purposes, rather than an asset.

In the depot context, small plant and equipment may be considered 'hot products' as defined by Ronald Clarke:

Some of the key attributes of hot products [include] their value, size and portability. These attributes are summarised by CRAVED, an acronym referring to six elements making products attractive to thieves: hot products must be concealable, removable, available, valuable, enjoyable and disposable.⁸⁵

In Operation Continent, it was alleged that both high- and low-value items were stolen from the Broadford depot including small plant and equipment such as chainsaws and generators. Mitchell Shire Council did not maintain a plant and equipment register which undermined its ability to report on the plant and equipment it owned and identify items that were missing. Since the investigation, the council has developed a register of small plant on its asset management software which is used to record all plant and equipment valued at under \$1,000. It is also committed to undertaking random audits of plant and equipment.

82 Moving parts, motorised – but not always, eg. slope laser

83 Comprised of blowers, brushcutters, chainsaws, generators/pumps, mowers, slashers and turf wicket rollers

84 Comprised of equipment such as chainsaws, brushcutters, pole saws, laser levels and push mowers. It does not include such propelled equipment such as ride-on mowers

85 Ronald V. Clarke, 'Hot Products: Understanding, Anticipating and Reducing Demand for Stolen Goods', Police Research Series, Paper 112, 1999, p vi

4.3 Regulatory and policy frameworks

4.3.1 Legislation and guidelines

The Local Government Act outlines principles of sound financial management, including that councils must manage financial risk including the management and maintenance of assets prudently, having regard to economic circumstances.⁸⁶

Local Government Victoria has developed a range of guides relating to asset management by local government. These guides have a significant focus on management of infrastructure assets such as roads, drains, footpaths, bridges, buildings and parks, which are the responsibility of local government to maintain.

Guidelines issued in 2004, Asset Management Policy, Strategy and Plan, relate primarily to infrastructure assets but include a section on the keeping of asset records that is relevant to small plant and equipment. The guidelines highlight that:

- an asset record that includes information on acquisition, maintenance, renewal and disposal will significantly assist asset management
- recording maintenance information for each asset may help to achieve a better return upon disposal
- where assets are used for activities which have a user charge, the information from asset records can assist in the setting of prices.

Accounting Standard, Accounting for non-current physical assets under AASB 116, covers plant and equipment such as graders, tractors, front end loaders, lathes, welders and motor vehicles. It details how to account for such assets upon and after acquisition, and valuation of the assets.

The new local government performance framework, effective 1 July 2014, covers governance and management. One indicator under the governance and management 'dimension' is planning. One measure under planning is the existence of asset management plans that set out asset maintenance and renewal needs for key infrastructure asset classes for at least 10 years.

4.3.2 Council policies

No council reviewed had a standalone policy on the management of small plant and equipment.

Three councils – Whitehorse City Council, Corangamite Shire Council and Greater Dandenong City Council – provided asset management policies or plans which outlined frameworks for management of fleet assets. Whitehorse and Dandenong's policies and plans defined assets in a way that included small plant and equipment, however the focus of the frameworks was on major plant and equipment including passenger vehicles and machinery such as loaders and trucks. Aspects of the policies and plans that were relevant to small plant and equipment tended to relate to maintenance requirements and desired condition for small plant and equipment.

The definition of small plant and equipment was not contained in any policy and councils varied in the way they defined small plant and equipment. Corangamite advised that they do not distinguish plant and equipment by size, noting that records of all such assets are maintained on the council's plant and equipment asset register, regardless of value. Whitehorse stated that, under its accounting rules, plant and equipment was defined as items with a value greater than \$200. The four other councils advised that they considered small plant and equipment to be items that did not exceed a couple of thousand dollars, although there was no indication that these were strictly defined.

Treatment of small plant and equipment as a consumable or expense rather than an asset may limit the applicability of the legislative and policy framework principles.

86 Local Government Act 1989, ss 136(1), 136(2)(a) and 136(3)(c)

4.4 What the review found

4.4.1 Acquisition process

The review considered processes in place around acquisition of small plant and equipment to identify how rigorous such processes are. If acquisition processes are lax, there is a risk that an employee could steal an item, claim it has been lost or damaged, and simply arrange the purchase of a replacement item.

Whitehorse City Council advised that if a request was made to purchase new plant or equipment due to existing equipment being damaged, an assessment of the old item would be undertaken by the workshop. The item would need to be assessed for write-off before the purchase of a new item could be progressed.

The majority of councils indicated that, because of the low value of small plant and equipment, minimal written justification of a purchase of an item is required. They also talked about replacement of small plant and equipment occurring within the parameters of replacement programs, which removes discretionary purchasing of items.

Of course, there are acquisitions that occur outside of the replacement schedule, for example if a chainsaw allocated to a crew is damaged beyond repair. In these cases, approval would be given either verbally or via email by a supervisor and purchasing would occur in accordance with the council's procurement policy.

The exception to this was Whitehorse, which in some cases required a business case to support acquisition of new plant. This reflected the higher value applied to small plant and equipment by that council. For instance, Whitehorse provided an example of the purchase of small plant involving a new street sweeper which was valued at approximately \$27,000. A solid business case was written to justify the purchase, which was then approved by the appropriate financial delegate.

A council which was not part of this project advised separately that it is investigating whether its asset management system can record orders of plant and equipment against individual employees, as another way of monitoring possible misconduct. Such an approach may be worthy of consideration by other councils.

4.4.2 Storage

Small plant and equipment was stored in a variety of ways at the depots visited. At any one time, it could be found in the depot's central stores area, in the yard, on work trucks and vehicles, or out at jobs where – according to the size and location of the job – the plant and equipment could be stored overnight in secure containers. Councils were conscious of the need to secure plant and equipment but were also focused on the need for crews and individual workers to be able to conveniently access equipment as needed.

Small plant and equipment stored in the stores area was not necessarily secure. For example, at Benalla Rural City Council, access to the stores was unrestricted as illustrated in Figure 1. At Greater Dandenong City Council, while small plant and equipment was stored in locked cages within the stores, as shown in Figure 2, all depot employees had access to the keys. Central Goldfields Shire Council had a more robust system, requiring people taking tools and other items out of the store to do so via a storeman and to log details on a manual register which was checked fortnightly to ensure items were returned.

Small plant and equipment used frequently by particular work crews were sometimes allocated to the vehicle used by a particular crew and sometimes allocated to individuals. For example, at Whitehorse City Council small plant is allocated to individuals in an effort to improve accountability for the items. In comparison, Glenelg Shire Council allocates small plant and equipment to works trucks, but noted that the council's expectation is that the equipment is effectively under the control of the truck driver.

Three councils had experienced theft or loss of small plant and equipment from their depot over the last year or so. At Whitehorse a hedge trimmer was stolen, Benalla lost two pressure washers, and Dandenong advised that items of small plant had been stolen off the back of council trucks. In addition, three councils had experienced other thefts (a prime mover at Corangamite, a digger at Dandenong and a small amount of money following a break-in at the Central Goldfields depot).

Figure 1: Benalla small plant stored in work shed



Figure 3: Whitehorse Operation Centre's security camera



Figure 2: Dandenong locked stores cages of small plant

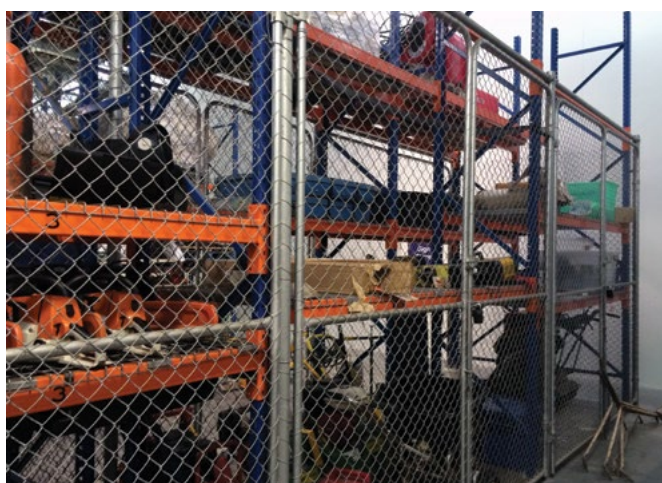


Figure 4: Benalla's security gate at the depot



As expected, the security arrangements at the metropolitan councils were more extensive than those observed at the councils in rural areas. Both metropolitan councils had security cameras in operation. Whitehorse had a system of 22 cameras which could be monitored in real time by designated staff and stored high resolution images for 60 days (see Figure 3). None of the rural councils had cameras in use at their depots although both Benalla and Central Goldfields were investigating their purchase. It is noted that the presence of security cameras is not necessarily a deterrent to criminal activity: both Whitehorse and Dandenong had experienced significant break-ins while cameras were in use.

Standard security arrangements in place at rural councils appeared to be a wire chain link fence around the perimeter of the depot and some form of night lighting. In addition, Benalla had installed a new security gate at its depot (see Figure 4) within the previous 12 months, which restricted access to staff with swipe cards. Glenelg has since advised it is considering the installation of similar security gates at its depot sites.

All councils had fraud policies in place which required suspected or actual incidences of fraud to be reported internally. And each council had a practice of reporting loss or suspected theft of small plant and equipment to Victoria Police.

However, there appeared to be little emphasis on raising awareness of fraud and the importance of reporting suspicions. Whitehorse advised that it did not expect depot staff to be across the detail of council's fraud policy but that they should be aware of the need to report missing plant and equipment to their immediate supervisor.

Only Dandenong had a reporting form which had been tailored for thefts and losses. The other councils relied on forms used for reporting occupational health and safety incidents. There is merit in developing a dedicated form for the reporting of thefts and losses: such forms would encourage a more systematic approach to theft and loss reporting, including the placement of such reports on a central register to help identify trends and identify areas of exposure.

Whitehorse was the only council which maintained a central register of fraud incidents. However that register did not appear to capture all instances of possible fraud as it only listed nine incidents going back to 2010, none of which related to the Operations Centre. In response to the draft report, Whitehorse advised that it considers its processes for dealing with instances of fraud involving staff as adequate. It also advised that instances of external theft are consistently reported to Victoria Police, as required by its fraud policy.

Dandenong stored information on individual fraud allegations on its electronic information management system, however, there was no central list which could be reviewed to monitor trends.

None of the rural councils maintained a fraud incident register. A senior officer at Central Goldfields said that such a register was not necessary as the senior management team was aware of fraud incidents that had taken place. Reliance on individuals rather than a central written register is clearly problematic.

A central register of fraud incidents is a valuable tool to facilitate monitoring of trends and identification of potentially systemic issues.

4.4.3 Registers and tagging of small plant and equipment

Unique identification numbers and council branding on small plant and equipment are critical to enable councils to identify items that they own. All six councils had a practice of placing a unique number on small plant and equipment. Techniques included plant numbers:

- engraved onto identification plates branded with the council's name and pop-riveted onto plant and equipment at Corangamite Shire Council
- engraved directly onto plant and equipment at Whitehorse City Council (see Figure 5), Greater Dandenong City Council, and Glenelg Shire Council
- written directly onto plant and equipment using permanent marker at Benalla Rural City Council (see Figure 6)
- created on Dymo labels and stuck onto plant and equipment at Central Goldfields Shire Council.

With the exception of Corangamite, most councils did not consistently brand small plant or equipment with their name or logo to indicate that it was council property, which could hinder police efforts to recover lost or stolen items.

In addition, Dandenong indicated a concern had been raised about engraving small plant, asserting it could adversely affect the structural integrity of the item and noting alternate approaches may be considered.

During consultations IBAC noted the Dymo labels used by Central Goldfields could be easily removed. As such, it was suggested engraving, permanent markers or identification plates be considered as alternatives.

Registers of small plant and equipment were maintained by all of the councils however systems varied. For example, Whitehorse recorded its small plant on an electronic asset management system that was fully integrated with its corporate purchasing, inventory and general ledger software systems.⁸⁷

Its small plant and equipment register included details of the unique identification number, model number, purchase date and price, the expected life and date of disposal where relevant which allows the council to generate reports on active and decommissioned equipment. Whitehorse also indicated it was committed to adding photographs of small plant and equipment to the system in the near future.

Figure 5: Whitehorse small plant with item number engraved



Figure 6: Benalla small plant with item number written on



87 Whitehorse City Council uses Hansen 8

Corangamite also recorded details of all assets including small plant and equipment in a register that was fully integrated with its purchasing and inventory systems as well as the general ledger.⁸⁸ Information recorded in relation to small plant and equipment included the unique identification number, model number, purchase date and price, and expected life. The council also maintained a hard-copy register which included photographs of each item of small plant and equipment, noting that they were moving to attaching photos to the electronic register.

Benalla maintained a hard-copy register for small plant, which recorded a range of details including the unique identification number, registration number (if appropriate), VIN number, purchase date and price, life cycle and residual value. A photograph of the item was attached to each entry in the register. The information on the register was drawn from electronic records kept on its system. A number of councils noted that maintaining an asset register is not only important in terms of preventing fraud and corruption, but is also good business practice that assists councils to conduct appropriate life cycle planning for its plant and equipment.

IBAC checked a random selection of small plant located on site at depots, as part of each review. All items appeared on the registers, with only minor discrepancies identified. For example, in two instances, earlier versions of the asset were recorded on the register (eg. a brushcutter marked as 330.05 appeared on the register as 330.02)⁸⁹. A better approach would be to allocate a completely new number to each item of plant and equipment, rather than creating versions.

4.4.4 Use of plant and equipment out of hours

The review identified that Central Goldfields Shire Council had a practice of allowing depot employees to hire depot plant and equipment for personal use. The only written procedure which outlined the parameters of this practice was a memorandum issued by the depot manager in January 2013. This memorandum outlined the approval process to be followed for personal hire, including that hire of all vehicles including utes and trucks needed the approval of the manager, and that

payment was to be made within two weeks of hire. The rate charged for hire was the hourly rate attached to each item of plant for internal accounting purposes.

A register of private hire was maintained, which included details of the item of plant hired, the approval, the amount of time the equipment had been used (as nominated by the employee), the amount charged, and the receipt number (issued by the cashier at council's civic offices) to indicate payment had been made.

A check of the register indicated that:

- appropriate approvals were not obtained in a consistent manner that complied with stated policies
- the rates paid by employees appeared to be nominal and did not appear to include travel time or fuel consumption for period during which the equipment was used, eg. one entry showed a tipper truck being used for half an hour resulting in a charge of \$19.75
- major pieces of equipment could be hired for personal use, such as backhoes, although the General Manager believed the practice was limited to small plant and equipment
- there were instances where no receipt number was recorded (for hire two and three months previously) which could indicate failure to pay.

IBAC highlighted concerns with this practice including negative community perceptions, the possibility that council equipment could be used for secondary employment, the council potentially failing to comply with its competitive neutrality obligations, fringe benefit tax liability implications and insurance issues, and the possibility that equipment would not be available in emergencies.

Central Goldfields acknowledged the issues raised and issued an immediate directive to cease the practice.

The other councils advised that they did not allow their staff to hire council plant and equipment for personal use including Corangamite Shire Council who advised that borrowing equipment had been a common practice some years ago, however staff are now aware that it is unacceptable and that serious penalties apply if someone uses equipment for personal use.

⁸⁸ Corangamite Shire Council uses Tech One

⁸⁹ Central Goldfields Shire Council

4.4.5 Disposal of small plant and equipment

It is important that councils have in place disposal processes for small plant and equipment. Records should be maintained to show what has been disposed of and the approach used (for example sale via an auction house), and the relevant register should be updated to designate the item as non-active. Without these basic controls, plant and equipment can be disposed of inappropriately by employees for personal gain.

The Whitehorse City Council policy on asset disposal (including small plant and equipment) details the different methods of disposal and how to select the most appropriate method, as well as the officer responsible for agreeing any reserve price. Whitehorse requires its infrastructure General Manager to sign a 'disposal of asset' form (which included the reserve price where appropriate) before the disposal can proceed.

Greater Dandenong City Council also has an asset disposal policy but its application is limited to major plant and equipment. The other councils did not have a separate policy, but had clear processes in place for asset disposals.

Most councils dispose of their unwanted small plant and equipment via an auction house. Auctions are favoured because they are considered to provide a better return for councils than trade-ins, and because small plant and equipment usually sell quickly through auction houses. In addition, the process is transparent and neutral.

Benalla Rural City Council has a process of collecting plant and equipment at the end of its useful life, as well as other items no longer needed by the council (such as old office furniture) and engaging an external provider to conduct a clearing sale approximately every two years. Items not sold are either donated to charity or thrown away. Employees are not permitted to take any items left over. Details of disposed small plant and equipment are recorded in the appropriate asset register.

Although the practices in place at these councils appeared sound, it would be good practice to document disposal arrangements including the:

- method of disposal for different classes of assets, including small plant and equipment
- position with delegated responsibility for approving an item for disposal
- process for setting reserves on items going to auction
- requirements for recording disposal details on relevant systems.

At the time of IBAC's review, Central Goldfields Shire Council operated a different system. Its usual practice was to dispose of small plant and equipment via a silent auction open to staff members only. IBAC highlighted concerns with this approach including council staff receiving a benefit not available to members of the public. It is noted that at least one other council explicitly prohibited the sale of assets exclusively to staff or councillors except by way of public auction processes.⁹⁰ Central Goldfields acknowledged these concerns and agreed to take steps to dispose of small plant and equipment through a commercial auction open to the public.

The disposal of scrap was discussed with each of the councils. Corangamite Shire Council advised that until 2013, staff had a practice of reclaiming and selling scrap metal with the proceeds going to the Camperdown and Cobden depot social clubs to help fund social functions. This practice had existed since at least 1994 when it was endorsed by senior management. When it came to the attention of the current CEO, a directive was issued that the practice was to stop immediately and that scrap was to be disposed of under the scrap metal contract, with the funds raised going to council. To explain why the practice was unacceptable, the CEO visited the depot to discuss the decision with relevant teams.

The other councils reported that they effectively had a blanket ban on staff taking scrap for personal use or benefit. Whitehorse gave an example of refusing to allow a depot employee to take a damaged park bench, instead choosing to throw the bench away. Similarly small plant and equipment that is too damaged to be sold at auction will be salvaged for parts and disposed of as scrap metal. Again, it is sound practice to document the policy in relation to scrap, in a broader asset management or disposal policy, to ensure processes are unequivocal and that staff clearly understand the approach.

4.5 Controlling risks: practice insights

Develop a policy to address risks associated with small plant and equipment and/or define assets to include small plant and equipment

Councils varied in how they defined small plant and equipment. The value under which an item or asset is considered to fall into this category should be clearly identified and communicated. Councils may consider the development of a standalone policy that covers the acquisition, storage, security, use and disposal of small plant and equipment.

Alternatively, councils may prefer to include small plant and equipment in their broader asset management plans, which should document processes for:

- acquisition of small plant and equipment
- outlining maintenance and renewal needs for items
- disposal methods of small plant and equipment, including how to select the most appropriate method for a particular item or asset⁹¹
- maintaining accurate records, including appropriate processes for recording disposals
- identifying positions with delegated responsibility for approvals
- processes for setting reserves (if items are disposed of via public auction).

This plan and the rationale underlying the processes identified should be communicated to staff.

Maintain accurate registers and asset records

Registers of small plant and equipment must be maintained and kept up to date to facilitate effective audit processes.⁹² These registers may identify custodians of particular items, attaching responsibility for that item to a particular individual.⁹³ Photographing items and including these in the register can also be useful.

91 Queensland Crime and Misconduct Commission 2002 *The Public Scrapbook: Guidelines for the correct and ethical disposal of scrap and low-value assets*, p 28

92 DJK Consulting 2014 *Glenelg Shire Internal Audit Review: review of Council's fixed assets, verification and validation processes, controls and systems*, p 6

93 DJK Consulting 2014 *Glenelg Shire Internal Audit Review: review of Council's fixed assets, verification and validation processes, controls and systems*, p 6

Store assets securely

Councils adopted varied approaches to storage of small plant and equipment. Storage options should balance the need for security with the need to easily access equipment. Councils must decide what approach works best for them, but consider that unrestricted access to small plant and equipment presents a significant risk in terms of theft and/or loss. Requiring staff to log the use and return of small plant and equipment on a register that is regularly checked is one option for ensuring the security of larger, more valuable items. Items can also be checked in and out via a storeperson. Equipment can be allocated to a specific council vehicle or staff member for increased accountability.

An appropriate level of onsite security should also be considered by organisations. Measures include adequate site lighting, CCTV cameras, installing secured access via swipe cards, and installing and maintaining adequate wire fencing. Keys for equipment should also be stored securely. It should be noted that none of these practices are foolproof, and installation is dependent on individual council budgeting priorities. Opportunity reduction models suggest that careful design of the site, where possible, can also decrease the likelihood of theft occurring.

Add identifying markers for small plant and equipment

Identifying labels may be pop riveted to items, applied with indelible marker or engraved. Some commercial suppliers also specialise in particular theft-reduction strategies for small items such as tools, eg. Stihl maintains a national register of lost and stolen Stihl tools. Councils should be aware of these types of theft minimisation approaches.

Reporting and recording of lost or stolen plant and equipment

Staff should be made aware of the importance of reporting the theft or loss of small plant and equipment. To support this, it may be useful to develop a reporting form specific to the reporting of the theft or loss of plant and equipment. Staff should also be encouraged to report suspicions of theft or loss.

The capture of suspected and actual incidents of fraud, including those involving small plant and equipment, on a central fraud incident register would assist to identify particular trends and vulnerabilities at a specific site, or attached to particular activities.

Establish clear communication about policies around staff use of small plant and equipment

Some councils involved in this review allowed staff to hire small plant and equipment from the council for personal use. In general, a good-practice approach would not support this policy because of the following risks:

- negative community perceptions of council staff unfairly benefiting from public assets
- possible breaches of competitive neutrality
- possible occupational health and safety risks attached to the use of equipment
- equipment being damaged or unavailable when council requires its use
- possible fringe benefit tax liability.

Council policy must be underscored by regular communication to staff about the policy's content and its rationale, especially following any changes to existing policy. Communication to staff may include targeted training sessions, inclusion of information in newsletters or on notice boards, utilising 'toolbox' meetings to discuss the issues and/or place signs and reminders up around the premises. Such policies should also outline the consequences of a policy breach.

Conduct audits

Small plant and equipment should be subject to both regular and random audits, to confirm that it is still under the control of the council while also assisting in broader asset management (eg. by assessing the condition of the item). Audits may also deter theft.

There was a mixed approach to audits by the six councils. Whitehorse City Council advised it conducts regular audits which require depot staff to present equipment for which they are responsible, for checking against the register. The condition of items is also checked and items that need to be replaced are identified. Central Goldfields Shire Council and Corangamite Shire Council also had a practice of conducting a stocktake of plant and equipment on an annual basis.

Greater Dandenong City Council did not have a practice of conducting audits of small plant and equipment, but was committed to such an audit by the end of the year primarily for the purposes of identifying council's needs in relation to minor plant.

Benalla Rural City Council advised that it did not have a practice of auditing small plant and equipment against its register. Interestingly, two pressure washers were identified as missing when depot staff went to use them, not through an audit.

The frequency of audits should be determined by a risk assessment associated with theft and loss of small plant and equipment. Records should be amended and signed following physical inspection and there should be appropriate reports made and investigation procedures to follow up on any discrepancies identified. Staff responsible for auditing should be familiar with equipment so that they are able to readily identify damaged or poor-quality items, and should be accompanied by an independent person from an area such as finance. The use of photographs attached to registers can assist the audit process.

Identify and include loss or theft of small plant and equipment on risk registers

The theft or loss of plant and equipment did not consistently appear on risk registers maintained by the six councils. It is important that the councils identify the risks associated with plant and equipment, including lower-value items, to support an emphasis on the active management of these risks.

Whitehorse recorded asset theft or fraud as a risk relevant to the infrastructure area, and identified controls including annual and spot audits of plant and equipment, updates to the Operations Centre camera system and policy compliance. Central Goldfields also identified theft as a depot-related risk on its risk register. Nominated controls were stock control, key control, audits, and finance and purchasing systems.

It is suggested that councils give consideration to a similar risk approach to theft of small plant and equipment, with controls focused on risks associated with theft and loss, incorrect disposal and misuse of small plant assets and equipment.

5 Bulk consumables

Key findings

- Bulk consumables are generally considered to be low value and commensurately low risk.
- Attractive items like fuel and personal protective equipment tend to be relatively well regulated, however there is a lack of comprehensive policies and procedures governing the purchase, use and disposal of other bulk consumables.
- Storeroom items are reasonably secured, however yard items tend to be more accessible.
- Stocktakes of bulk consumables are not commonly conducted.
- When stocktakes and reconciliations took place, vulnerabilities were exposed and opportunities for system improvements were identified.
- Theft and/or loss of bulk consumables did not appear on any of the councils' risk registers.

Practice insights

- Policies and procedures should include details of the mechanisms for compliance including record-keeping requirements, stocktakes and random sample testing.
 - Policies and procedures should also clearly state expectations of staff and the consequences for non-compliance. Those policies and procedures should be communicated to staff in a variety of ways to ensure that they are well understood.
 - Stores of bulk consumables should be limited where possible.
 - Segregation of duties is an important mechanism to ensure individuals are not responsible for approving their own usage or purchasing of resources. Compliance should be monitored by management and supplemented with other controls including appropriate financial delegations and spot checks.
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5.1 Introduction

The main types of works undertaken by the depots involved in this project included road maintenance, parks and gardens works, and the upkeep of council amenities, albeit with slightly different emphases at each council.

These works require a wide range of bulk consumables such as:

- fuel, including diesel and petrol
- personal protective equipment (PPE) such as shoes, gloves, safety goggles, sunscreen and first aid kits
- mechanical supplies such as oils and spare parts
- road material, including gravel, crushed rock, concrete and bituminous material
- gardening supplies such as soil, sand, toppings, and insecticides
- cleaning supplies such as chemicals, sponges, toilet paper and garbage bags.

In general, the review found that there were reasonable processes in place in relation to fuel and PPE but there were less stringent arrangements around other bulk consumables. This may reflect councils' past experience of misappropriation of fuel and PPE, the availability of systems to accurately monitor fuel use and replace lost or worn personal gear, and a greater general awareness that fuel and PPE are attractive commodities.

In comparison, other bulk consumables such as soil and gravel are more difficult to measure accurately, and the ways in which different work crews use the same resource may differ substantially within one depot, making it difficult to apply one clear process. For instance, soil might be ordered specifically for a job and delivered directly to site for major work, held at the depot temporarily for a particular job, or maintained at a certain level as a stock item in the depot stores for everyday maintenance activities.

5.2 Key corruption risks

The combination of availability, varied use and minimal oversight all contribute to the risk of misuse of bulk consumables.

While a single jerry can of fuel or a slab of concrete may not be considered worth pursuing on a cost-recovery basis, it is important to remember that 'to the extent that resources are misused, the community is being cheated – it is paying too much for the quantum and quality of services it is receiving'.⁹⁴

The misappropriation of bulk consumables has been identified as a corruption risk in numerous investigations and research conducted by integrity agencies. Examples include:

- misappropriation of bulk consumables such as fuel for personal use⁹⁵
- using bulk consumables when undertaking secondary employment⁹⁶
- taking surplus materials without permission⁹⁷
- other kickbacks associated with ordering bulk consumables.⁹⁸

94 NSW ICAC, ICAC and *Local Government, No Excuse for Misuse*, Guidelines, November 2002, p 4

95 This was suspected in Operation Continent. The investigation found that haphazard fuel records indicated a significant deficit to the extent that opening and closing balances differed without fuel being allocated to any council resource

96 NSW ICAC, ICAC and *Local Government, No Excuse for Misuse*, Guidelines, November 2002, p 13. See case study in which a council employee used his position as curator of a sports oval to run a private landscaping business, ordering supplies for his business through council as well as using council equipment and staff

97 Qld CMC, *The Public Scrapbook*, p 17. See case study in which an overseer regularly over-ordered turf for council works then misappropriated them for private use

98 WA Corruption and Crime Commission, *Report on the investigation of alleged public sector misconduct in relation to the purchase of toner cartridges in exchange for gifts outside government procurement policies and arrangements*, November 2011, and Ombudsman Victoria, *Corrupt conduct by public officers in procurement*, June 2011, both of which investigated over-ordering of toner by state bodies outside the state purchase contract in exchange for gifts, and NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers* (Operation Jarek), October 2012, which investigated allegations that local council and other public servants accepted secret benefits from suppliers and that staff from two local councils facilitated payments of false invoices from suppliers

The misuse of bulk consumables can occur through a combination of poor management⁹⁹ and manipulation of weak or inadequate ordering and stock controls, which may include destroying or altering records to hide misuse of resources,¹⁰⁰ deliberate over-ordering,¹⁰¹ or fraudulent purchasing.¹⁰²

When everyday items are stocked in large, unregulated quantities they are particularly susceptible to misappropriation. Operation Continent investigated allegations that fuel (diesel and unleaded petrol) had been stolen from Mitchell Shire Council's bulk supply, which many employees accessed for council passenger vehicles, as well as plant and equipment. However, because the fuel was poorly managed using an incomplete, hand written ledger, it was not possible to identify or prosecute any individuals, rendering the council liable for the losses.

Since that investigation, Mitchell ceased storing bulk fuel on site and introduced a system of fuel cards for all vehicles and motorised plant and equipment. However, systems in isolation are no panacea for misuse of bulk consumables. Any monitoring system is only as strong as the information that it contains and the rigour with which that data is interrogated. Record-keeping requirements must be enforced, errors and anomalies must be pursued, and the data must be actively reviewed to identify trends and patterns.

5.3 Regulatory and policy frameworks

5.3.1 Legislation and guidelines

The Local Government Act outlines principles of sound financial management, including that councils must manage financial risk, including the management and maintenance of assets prudently, having regard to economic circumstances.¹⁰³

In terms of identifying and reporting misconduct, section 4(2)(f)(i) of the *Protected Disclosure Act 2012* defines improper conduct as including conduct of a public officer in his or her capacity as a public officer (or a public body in its capacity as a public body) that involves substantial mismanagement of public resources, indicating that substantial mismanagement of public resources is considered a serious issue.

In *No Excuse for Misuse*, ICAC provides practical advice to assist councils in managing a range of risks around misuse of resources, including bulk consumables. As a starting point in relation to asset management, ICAC recommends that councils:

- review their policies to ensure all appropriate areas are covered
- decide whether they will have a single policy for all identified resources or deal with certain areas of resource misuse in separate policies
- ensure that relevant people using council resources in an official capacity understand that they have a duty to the public
- explain what a conflict of interest is, how it can occur and how it should be managed.¹⁰⁴

99 Old CMC, *The Public Scrapbook*, p 21. See case study in which management failed to take action in response to an audit that found staff were using leftover materials due to concern it would disrupt the workplace culture creating large problems for the council

100 WA Corruption and Crime Commission, *Report on the investigation of alleged public sector misconduct in relation to the purchase of toner cartridges in exchange for gifts outside government procurement policies and arrangements*, November 2011, and Ombudsman Victoria, *Corrupt conduct by public officers in procurement*, June 2011

101 Operation Continent found evidence that tended to demonstrate gross over-ordering of concreting materials could occur. Also see *Herald Sun*, 'Former Stonnington Council worker jailed for at least 18 months for swindling more than \$600,000 of alcohol', 5 November 2014, which notes that a former Stonnington Council employee pleaded guilty and was sentenced to three years and 11 months' jail for fraudulently over-ordering and re-selling alcohol totalling more than \$600,000 over seven years

102 Operation Continent established that a staff member was purchasing spare parts to aid a relative using council's procurement system then altering invoices and authorising payment as if it were a legitimate council purchase

103 *Local Government Act 1989*, ss 136(1), (2)(a) and (3)(c)

104 NSW ICAC, ICAC and Local Government, *No Excuse for Misuse*, Guidelines, November 2002, p 10

The guidelines also discuss factors that can leave a council vulnerable to resource misuse including lack of a strategy to deal with risks such as fraud, theft and resource misuse, failing to provide clear guidance to staff, inadequate information and compliance regimes, and a culture where management does not lead by example in terms of its commitment to organisational integrity.¹⁰⁵

The guidelines further recommend that councils explicitly address the responsibilities that employees have as the custodians of official resources within their staff code of conduct.¹⁰⁶

5.3.2 Policy frameworks

The staff codes of conduct for five of the councils – Greater Dandenong, Corangamite, Central Goldfields, Glenelg and Whitehorse – all remind employees that resources must be used effectively and economically.¹⁰⁷ Dandenong and Corangamite explicitly state that this is because council employees are responsible to the community for their use of public resources. However, only Corangamite's code of conduct defines resources in a way that clearly contemplates bulk consumables by stating that resources include materials, supplies, fuel, spare parts and accessories.

While many codes of conduct note that behaviour that causes some kind of detriment or risk to the council is not acceptable, only Dandenong and Corangamite specify that resources must not be used for personal gain or misused in some other way, adding that such misuse may result in disciplinary action.

Three staff codes also discuss the use of council resources in the context of secondary employment. Glenelg's code notes that if an employee conducts their own business, any work associated with that business must not be done during council working time and council resources must not be used.¹⁰⁸ Similarly Corangamite's code states that council resources must not be used under any circumstances in relation to a second job or other business, and that surplus material is not to be used for private purposes or sold for private gain.¹⁰⁹ While it does not explicitly forbid the use of council resources, Central Goldfields' code states that staff must ensure any secondary paid work will not affect council time or resources.¹¹⁰

Corangamite, Dandenong and Whitehorse have also adopted policies that govern fleet management including fuel use for passenger vehicles and/or large plant and equipment.¹¹¹ However, most councils did not have policies in place to govern other bulk consumables. Indeed Corangamite acknowledged that its participation in this project had highlighted the need to ensure its processes around bulk consumables were properly and comprehensively documented.

Only Glenelg provided any written policies in relation to bulk consumables other than fuel. However, the policy (which concerned the purchase of bituminous material) did not outline accountability requirements such as record-keeping, stock management or other monitoring mechanisms for those resources.¹¹² In response to the draft report, Glenelg advised that a new procedure in relation to bulk consumables will be drafted.

¹⁰⁵ NSW ICAC, ICAC and Local Government, *No Excuse for Misuse*, Guidelines, November 2002, p 11

¹⁰⁶ NSW ICAC, ICAC and Local Government, *No Excuse for Misuse*, Guidelines, November 2002, p 11

¹⁰⁷ While Benalla's staff code of conduct makes general references to appropriate use of council 'assets' (discussed in terms of property and equipment), no mention is made of resources, nor does the code prohibit misuse of council stock or material

¹⁰⁸ Glenelg, Staff Code of Conduct, November 2009, p 8

¹⁰⁹ Corangamite, Code of Conduct for Staff, June 2013, p 13

¹¹⁰ Central Goldfields, Staff Code of Conduct, January 2012, p 9

¹¹¹ Whitehorse, Fleet fuel reporting and processing procedures; Corangamite, Vehicle fleet policy and procedures; Dandenong, Motor vehicle code of practice

¹¹² Glenelg, Bitumen receivable procedures, chapter 4, Procurement

5.4 What the review found

5.4.1 Fuel management

Fuel was purchased and managed in a variety of ways at the six councils including a mix of fuel cards, accounts with petrol stations and on-site bulk storage. The majority of fuel was used for vehicles including large plant and equipment, and passenger vehicles, with a small amount used for motorised small plant and equipment such as lawn mowers and chainsaws.

To provide an indication of the amount of fuel used, Central Goldfields Shire Council advised they use approximately 20,000L of diesel per month, Greater Dandenong City Council in excess of 7,000L of diesel per week, and Whitehorse City Council advised its annual expenditure on fuel is approximately \$880,000 with the majority expended by the infrastructure department (which is responsible for plant, equipment and fleet).¹¹³

In terms of refuelling small plant, a number of councils noted that relatively small amounts of fuel are purchased for those items. For instance, Benalla Rural City Council stated that no more than 60L would generally be purchased at any one time for small plant. Records provided by Central Goldfields suggest that refuelling of small plant does not generally exceed 20L of petrol or premixed fuel for two stroke engines.¹¹⁴

5.4.1.1 Fuel cards

All of the councils visited used fuel cards to some extent for passenger vehicles, plant and/or equipment.¹¹⁵ The main controls used by Greater Dandenong City Council and Whitehorse City Council included programming cards so that the holder can only purchase fuel that is relevant to the vehicle or items of plant allocated to them, reconciling regular supply reports with distance travelled (for vehicles with odometers) to identify unusual usage patterns, and applying unique PINs to fuel cards (noting that this was only used at Whitehorse).

As previously noted, three councils – Corangamite, Dandenong and Whitehorse – have policies governing the use of fuel cards for passenger vehicles.¹¹⁶ In addition, Corangamite's staff code of conduct warns employees that 'accurate odometer readings must be given to the attendant at the time of purchase [and that] inappropriate use, or use for private purposes will result in disciplinary action'.¹¹⁷

Whitehorse's procedures regarding fleet fuel usage detail the process for obtaining and reconciling fuel reports as well as providing guidance on identifying fuel misuse.¹¹⁸ Those procedures indicate that fuel usage is analysed monthly and discrepancies are pursued with the relevant manager of the driver.

The monthly reports include data on overall usage during the period by vehicle, fuel expenses incurred out-of-hours by non-private fleet vehicles, variations in fuel purchases of more than 20 per cent, and average litres used by each vehicle per 100km.¹¹⁹

¹¹³ Whitehorse, Fuel Card Review, November 2013

¹¹⁴ Central Goldfields, Fuel register (see CGSC7)

¹¹⁵ Benalla, Dandenong and Whitehorse use fuel cards for passenger vehicles and all plant and equipment, Corangamite only use fuel cards for passenger vehicles, Glenelg only use fuel cards for light plant (ie. utes), and Central Goldfields only have one fuel card for small plant

¹¹⁶ Whitehorse, Fleet fuel reporting and processing procedures; Corangamite, Vehicle fleet policy and procedures; Dandenong, Motor vehicle code of practice

¹¹⁷ Corangamite, Code of Conduct for Staff, p 14

¹¹⁸ Whitehorse, Fleet fuel reporting and processing procedures, January 2014, p 14 119

¹¹⁹ Whitehorse, Fuel Card Review, November 2013

While procedures had not been documented, Dandenong was able to demonstrate a similar process which involves uploading weekly fuel reports into an asset management system which can then generate exception reports to identify over or under consumption of fuel, as well as incorrect or missing odometer readings. In comparison, Benalla Rural City Council advised that while it receives fuel card statements from its petrol supplier, that information is not reconciled with other records.

The four councils that use fuel cards for small plant and equipment all had different processes in place.

Whitehorse has set up its fuel cards so that each employee is only able to purchase fuels that are relevant to their allocated work vehicle and work requirements. For example, a gardening crew member might be able to purchase diesel for the work vehicle and unleaded petrol for small plant and equipment.

Dandenong assigns a fuel card to each vehicle and issues separate fuel cards to employees who require other fuel for small plant and equipment. The council noted that reports are provided by the supplier in relation to small plant, however, unlike passenger vehicles and large plant it is more difficult to reconcile usage because there is no mileage on small plant, the amounts are small, and the records do not always indicate the item of plant for which the fuel was purchased. Moreover, in terms of record-keeping, the council noted that staff generally record how long they worked, rather than the length of time they used each item of small plant, making it difficult to calculate average fuel usage on an hourly basis.¹²⁰

Central Goldfields Shire Council has one small plant fuel card, held by the storeman who maintains a stock of petrol in jerry cans at the depot to refuel small plant. The storeman also allows employees to check the card out to refuel specific item such as street sweepers; when this occurs, the storeman records details on a hard-copy register. This includes the name of the person who has taken the small plant fuel card, the plant number, and the date that it was checked in and out of the store (usually the same day). The storeman also records when he fills jerry cans for the depot. That petrol is stored in a locked shed and to access it, staff complete a separate paper register which details their name, the date of issue, the item refuelled, and how much petrol was issued. While there is a field for the storeman to sign that log, there was no indication on the form that the usage details had been approved or reviewed by the storeman. Following IBAC's visit, the General Manager Technical Services indicated that an additional control would be implemented by the storeman, namely a monthly report to monitor fuel usage against each item of small plant so that any anomalies can be brought to the General Manager's attention.

Benalla holds a fuel card at the local petrol station, where it can be accessed by any employee who needs to refuel small plant. The council noted that employees are required to submit receipts for refuelling small plant to their team leader, however, the council does not reconcile use with different items of plant or equipment. IBAC noted that this approach may increase the risk of misuse and suggested that Benalla consider securing the small-plant fuel card at the depot, implementing systems to monitor its use, and reconciling statements with receipts.

120 Dandenong's fuel reports do not record identification numbers for small plant

5.4.1.2 Accounts with petrol stations

Instead of using fuel cards or storing petrol at the depot, Corangamite Shire Council maintains accounts with five local suppliers for the purpose of refuelling small plant and equipment.¹²¹ The council noted that employees are required to obtain a receipt which they must sign, noting the plant number. Those receipts are then sent to accounts where they are reconciled with the petrol station invoices.

5.4.1.3 Bulk fuel

The three councils that stored bulk diesel fuel on site – Glenelg, Central Goldfields and Corangamite – all used an electronic fuel management system to monitor at least some of their fuel use. Like Mitchell Shire Council during Operation Continent, at the time of the site visits Glenelg used an electronic fuel system at one site and paper log books for bowzers at other sites (see Figures 8 and 9). However, Glenelg has since advised that all bowzers were decommissioned in March 2015 and have been replaced with fuel cards.

Figure 7: Corangamite diesel bowser with electronic monitoring system



Electronic fuel management systems used by the councils visited included Datafuel (see Figure 7) and Smart-Fill (see Figure 8).¹²² Both programs are accessed via magnetic keys and touch pads, and record details of the date, time, registration/plant numbers, employee who took receipt of the fuel, quantity of fuel taken, and the mileage of vehicles at the time of refuelling. A person at the depot (usually the storeperson or a manager) conducts regular tank dips to manually check the level of fuel in the tank,¹²³ and central office enters those figures into the system to reconcile with electronically recorded details of fuel use. Corangamite advised that while its system was previously set up to restrict access to certain times and days of the week, access is now unrestricted following an emergency in which staff were unable to obtain fuel. However, out-of-hours use is monitored.

Figure 8: Glenelg diesel bowser with electronic monitoring system at the Heywood site



¹²¹ Corangamite Council uses fuel cards for passenger vehicles and stores bulk diesel at the depot for large plant and equipment

¹²² Datafuel at Corangamite and Smart-Fill at Glenelg

¹²³ Corangamite advised that daily dips are conducted at the main depot and weekly dips are conducted at council's other depot sites. Central Goldfields advised that weekly dips are conducted prior to each refill

The two councils that use an electronic fuel management system for all bulk fuel – Corangamite and Central Goldfields – advised that they regularly review fuel stock levels and average use for different vehicles to identify anomalies. In particular, the person responsible for monitoring fuel at Corangamite advised that all missing and incorrect details (such as odometer readings) or unusual accesses (such as refuelling out of hours) are pursued with employees.

At Glenelg diesel is purchased in bulk and stored in bowzers (to refuel large plant) (see Figure 9) while unleaded petrol is purchased in bulk and stored in jerry cans stored in a locked storage facility (to refuel small plant and equipment). Electronic and paper recording systems were used at different depot sites, and varied considerably in terms of details and accuracy. While the paper log inspected during the visit included a range of fields (the date, registration number, the name of the person who took receipt of the fuel, litres, mileage, plant number), those records did not appear to be reconciled.¹²⁴

However, Glenelg also advised that they are in the process of introducing fuel cards for all vehicles, plant and equipment and subsequently provided an asset control action plan which indicates that they aim to move from underground and portable fuel tanks to fuel cards at all depots within the next 12 months.¹²⁵

Operation Continent highlighted the risks associated with employee access to bulk fuel stored onsite, exacerbated by inadequate maintenance and review of records. If a decision is made to retain bulk fuel onsite, as opposed to moving to fuel cards, electronic fuel management systems should be implemented and records integrated to identify possible misuse of fuel.

Figure 9: Glenelg diesel bowser without electronic monitoring system at the Casterton site



¹²⁴ Glenelg paper record included reference to daily dip readings in the margins. No paperwork was provided to demonstrate how usage was reconciled with orders

¹²⁵ Glenelg, Asset Control Action Plan, provided 15 September 2014

5.4.1.4 Mobile refuelling vehicles

Four of the councils involved in the project – Benalla Rural City Council, Central Goldfields Shire Council, Corangamite Shire Council and Glenelg Shire Council – used mobile refuelling vehicles to refuel large plant and equipment kept onsite during a project, such as graders, tractors and rollers. An example of a mobile refuelling vehicle is shown in Figure 10. While Benalla uses fuel cards, the other three councils that use mobile refuelling vehicles all stored bulk fuel on site at the time of the site visits.

Central Goldfields and Corangamite monitor access using separate magnetic keys for mobile refuelling vehicles and maintain paper registers to keep track of the plant items to which that fuel is allocated. For instance, Corangamite's register included details of the date, plant number for the item being refuelled, litres allocated to the item of plant, kilometres (mileage of the item of plant at time of refuelling), signature of the receiver and bowser meter reading.

Figure 10: Glenelg mobile refuelling vehicle



Benalla advised that the fuel card for the relevant item of plant is used at the bowser and the mobile vehicle is treated as a temporary repository. For instance, if the mobile refuelling vehicle is being used to refuel a particular grader, the fuel card for that grader is used by the driver of the mobile refuelling vehicle at the petrol station.

Glenelg advised that they have two different approaches to mobile refuelling. At the Heywood depot (where fuel is accessed via an electronic monitoring system), mobile refuelling vehicles draw on the depot's bowsters using magnetic keys in a similar manner to Central Goldfields and Corangamite. At Casterton, Glenelg advised that mobile refuelling vehicles are filled by a supply contractor, with quantities recorded on delivery dockets. Regardless of the manner in which fuel is accessed by the mobile refuelling vehicle, Glenelg advised that allocation to individual items of plant is recorded in fuel dockets on a weekly basis. Those dockets include details of the plant item, quantity of fuel taken, the data on which fuel was taken and the mobile refuelling vehicle that supplied the fuel. In response to the draft report, Glenelg advised that electronic fuel monitoring devices had been purchased for mobile refuelling vehicles.

5.4.2 Other bulk consumables

Depots stock a wide range of materials. Most of the councils employed a storeperson who is responsible for ordering most, if not all stock, and reconciling purchase orders with delivery dockets on receipt of the goods. However, at Whitehorse City Council team leaders could also order particular stock that is used exclusively by their teams, while the process was completely decentralised at Benalla Rural City Council where each team leader is responsible for ordering stock when required rather than maintaining a storeperson.

All six councils also advised that a proportion of their consumables are ordered for specific jobs and delivered directly to the site. This usually occurs in relation to large jobs.

For bulk consumables that are maintained as stock items at depots, the three main areas where they are housed included storerooms, mechanics workshops and open bays in depot yards; each involving different storage and recording processes which are discussed in turn below.

5.4.2.1 Storerooms

For items held in the storeroom (such as cleaning chemicals, bags of cement and fertilisers), the process for accessing items generally involved completing details in a register.

At five councils, a stock register or stock request form was maintained to keep track of storeroom items used by staff. The sixth council, Glenelg Shire Council, advised that they did not maintain stock (other than fuel and bituminous products) of this kind and did not, therefore, have a stores maintenance system in place.

All five registers included details of the:

- date
- type and quantity of each stock item being signed out
- job description, work number, business unit or account the stock is being allocated to
- name and signature of either the staff member or the authorising officer.

In addition, Whitehorse City Council's register included stock reference numbers, while Greater Dandenong City Council included details of the time the stock was accessed as well as the depot 'shelf' location.

At three councils – Whitehorse, Corangamite and Central Goldfields – the stock register was kept at the front desk where the storeman sat and the stock was kept in a locked room (which could generally be accessed via the storeman's office or the loading dock). In addition, the storeman at Central Goldfields maintained stock cards for a range of storeroom and yard items, providing a running balance sheet to monitor stock levels.

In comparison, the stock register at Dandenong was located within the storeroom, away from the main entry. As such, employees had to enter the storeroom and seek out the register in order to complete the details. That council noted that they recently employed a new storeman who had already improved processes by introducing the current stock register process. Further, one key performance indicator for 2014-15 is to develop a better system for its stores.

While all of the storerooms were lockable, the level of security varied. The storerooms at Whitehorse and Corangamite displayed signage to indicate that staff could not enter without approval from the storeman. In addition the main doors were locked and there were discrete locked sections within the storeroom at Whitehorse and Central Goldfields (see Figure 11).

In comparison, Dandenong and Benalla had open access or multiple keys, making it difficult to monitor employee access to those areas. Team leaders at Benalla were responsible for ordering stock when required and while daily stock registers were maintained, no individual had responsibility for those records as the council did not employ a storeperson.

There were a variety of approaches to stocktakes of stores. Corangamite and Benalla advised that they conduct an annual stocktake or reconciliation of storeroom items, which involves reviewing the items used as recorded in the register, viewing the items in stock and reconciling those details against orders.

Figure 1 1: Corangamite yard stock at Lismore site



Benalla provided details of its most recent reconciliation which indicated that a substantial adjustment may be required for 2013-14. In that instance, the council identified that data entry was an issue (eg. on occasion different units of measurement were being used and certain information was missing) suggesting that further training and improvements to record-keeping practices were required. While this suggests Benalla needs to do further work to strengthen its stores recording and reconciliation process, it also demonstrates how reconciliations can help councils identify vulnerabilities in their practices and ultimately improve their accountability.

At Corangamite opening and closing balances are reconciled as at 30 June each year. The council explained stock register details are entered into a computerised inventory system throughout the year and a report is run annually to facilitate a stocktake.¹²⁶ The same information is also copied into council's finance system where balances can be reconciled. Corangamite noted it intends to move to a system where the information is entered directly into the council's finance system, eliminating the potential for error that can arise from double handling.

Central Goldfields also advised that stock register details are entered into an electronic system, however, it appears that the council does not currently perform a reconciliation or conduct any kind of stocktake.¹²⁷

While Dandenong does not conduct reconciliations, the council explained that they do not do so because the amounts involved are not considered large enough. Instead, the council advised that its general approach to managing the risk of misuse is to minimise stock held at the site, noting that this option is available to them as a metropolitan council located in an area where staff can easily access bulk consumables at nearby stores if the work need arises.

Personal protective equipment (PPE) such as boots, sunglasses, safety goggles and hats can be particularly vulnerable to theft because they can be readily used in other aspects of a person's life. A number of councils noted that they have had experiences where employees have taken boots or socks for personal use at cost to the council. As such, all six councils indicated that in general, they only issue replacement PPE upon return of the damaged or worn item. For example Central Goldfield's policy states that 'employees will be required to acknowledge receipt of new items... [and that] employees wishing to replace wrongly sized, worn, damaged apparel must present them for inspection before exchange/replacement'. In addition, Whitehorse and Glenelg demonstrated that they were aware PPE is attractive by storing these items in locked areas. Central Goldfields also noted that its storeman had identified the need to put a lock on stores in the main office specifically to secure items such as uniforms, sunscreen, latex gloves and small plant.

¹²⁶ Corangamite advised that details are first entered into MYOB which is used as an inventory system by the storeman at the depot and those details are then copied into council's finance system, TechOne

¹²⁷ Central Goldfields advised that details from the 'daily store issue' and 'stock received' logs are provided daily to finance and that the details are entered into council's finance system, Community Explorer

5.4.2.2 Mechanics workshops

All councils maintained a range of spare parts for vehicles. In Operation Continent, spare parts and associated ordering processes were monitored in such a way that staff located at the depot were able to order items for personal use.

While the primary control in relation to ordering and using spare parts relates to procurement (refer to Chapter 3), another key control available to councils involves conducting stocktakes and reconciling those records with items purchased as well as work orders. Such checks can serve to remind employees that council is actively monitoring the ordering and usage of spare parts, which may discourage misuse.

The need for stocktakes and independent monitoring systems was demonstrated in the mechanics workshop at Glenelg Shire Council where stocktakes had not been undertaken prior to IBAC's review on the basis that staff were aware of items in stock. At the conclusion of IBAC's visit, the depot manager acknowledged that audits could help to provide management with assurance that resources were being ordered and used appropriately and subsequently advised that a stocktake had been conducted and a register of parts used and orders of replacements had been established. In addition, in response to the draft report, Glenelg advised that it has improved organisation of stores used by mechanics by utilising an upper level storeroom with access limited to mechanics.

5.4.2.3 Depot yards

Items that are held in depot yards including crushed rock, gravel and soil, are generally held in bays or open spaces where they can be conveniently accessed by depot staff, as shown in Figures 12 and 13.

In terms of monitoring usage of these materials, Whitehorse City Council advised that it is more focused on the maintenance of stock levels rather than accountability for use¹²⁸, while Greater Dandenong City Council said that relevant teams are responsible for managing their own stock levels for different yard items.

However, three councils – Benalla Rural City Council, Central Goldfields Shire Council and Corangamite Shire Council – did provide documentation to demonstrate how they monitor yard stock. As noted earlier, Central Goldfields' storeman maintains stock cards which detail when orders come in and stock is taken out, as well as the amounts delivered or accessed. These stock cards provide a running balance of stock levels.

Corangamite indicated that plant operators are issued with materials/stores usage triplicate books which record details of the material collected, the site it was collected from, the project the material is to be charged to and how much was taken. Those books are returned to the main office on a weekly basis and the information is entered into the council's electronic asset management system.

Benalla maintains daily stock issue sheets that include details of the yard items (such as crushed rock), the amount taken, the staff member who took it and the type of work the consumable was being used for (coded into different categories, eg. pavement repairs, minor surface treatment or footpath maintenance).

¹²⁸ In response to this report, Whitehorse City Council advised that introducing a process to reconcile bulk consumables would require administrative changes and the employment of a 'yardman' to monitor usage, which the council did not consider economical in light of current usage

Figure 12: Whitehorse yard stock



Figure 13: Corangamite yard stock at Lismore site



In order to record usage, councils must be able to measure the amount of stock taken from the yard. In general, councils advised that vehicle capacity is often used as a guide to estimate the amount of stock taken. However, Benalla used a backhoe with a built-in weighing scale to obtain more accurate measurements. That council noted that it has been weighing most yard stock for the past 10 years and that many commercial nurseries use a similar process to measure the quantity of material purchased. However, it is acknowledged that some resources can be measured more accurately in terms of cubic metres rather than weight.

A number of councils noted that while yard stock details were not captured in the stock register system, estimates are captured in work orders. Having said this, while many work order forms and systems such as Hansen, Conquest and TechOne have the facility to record estimated materials needed and/or actual materials used, only Central Goldfields provided an example of a completed work order in which details of the actual material used were recorded (along with actual plant and labour used). Most councils noted that the work order system focuses on recording outcomes, namely what the request was and how long it took to complete. As Whitehorse noted, in general, there is no reconciliation of material ordered with material used for a job – rather it is assumed that the relevant material was used when the job is finished.

Rather than stocking large amounts of consumables at the depot, some councils indicated that they obtain certain yard materials directly from suppliers on a needs basis. For example, at Corangamite where approximately 80 per cent of depot work involved road construction and maintenance, council advised that it has contracts with a number of quarries in the area. For large jobs the material is delivered to the site and for smaller jobs, a purchase order is raised for material needed, employees attend the quarry to obtain the material, and the quarry sends the invoice to the council.

5.5 Controlling risks: practice insights

The review identified a number of good practices in relation to fuel and other bulk consumables stored at depots including:

- electronic systems for monitoring usage of bulk fuel stored onsite
- reconciling regular (weekly or monthly) fuel card reports with usage details to identify significant over or under consumption of fuel
- limiting stores of bulk consumables where possible
- applying additional control measures such as return requirements and locked storages for particularly attractive resources such as personal protective equipment
- checking purchase orders against delivery dockets and maintaining registers of stock accessed from store rooms.

In terms of other controls utilised by the councils visited, Whitehorse City Council noted that its decision to move from petrol to diesel vehicles where possible has reduced opportunities for misuse, as most passenger vehicles and small machinery such as chainsaws use petrol. Whitehorse also noted that it has budgetary controls, which monitor significant spends on different consumables. For instance, in relation to asphalt, the council has identified an average daily usage level and reviews daily usage so that any significant variances can be investigated.

While efforts are being made by particular councils in relation to some of the following areas, the issues discussed below canvas key areas of potential improvement in relation to management of bulk consumables.

Policies and procedures

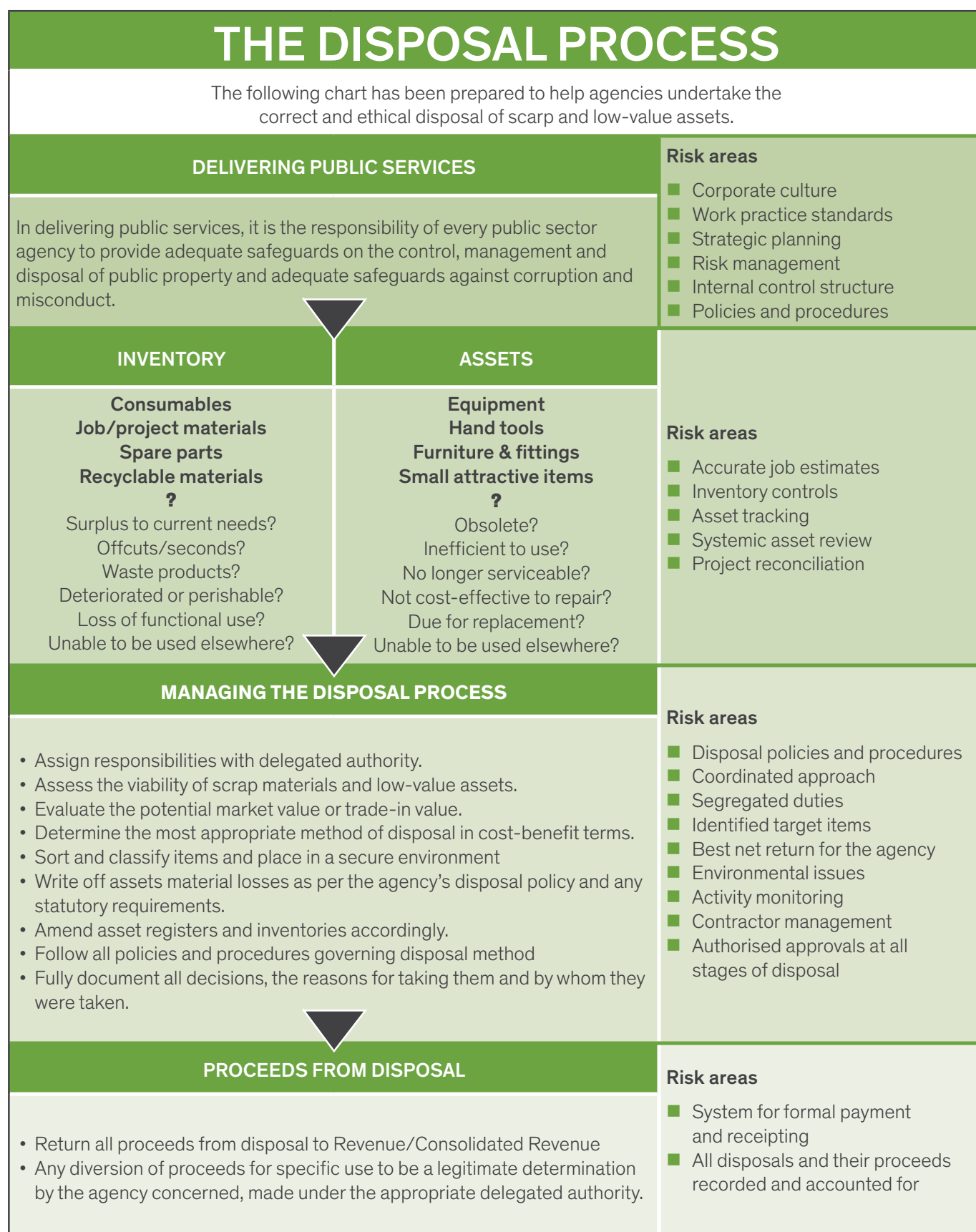
While policies and procedures alone cannot prevent misconduct or corruption, the absence of clearly documented procedures can expose organisations to corruption. Policies should clearly state councils' expectations in relation to the purchase, use and disposal of all classes of assets including bulk consumables. Failure to do so can lead to situations where common practices develop which are contrary to council's expectations, such as the use of scrap metal to fund social activities as illustrated in the former Queensland Crime and Misconduct Commission (CMC) *The Public Scrapbook*.¹²⁹

Up until 2013, depot staff at Corangamite Shire Council funded their social functions through the sale of scrap. In 2013, the newly appointed CEO articulated a clear policy to staff that this practice was no longer acceptable. The policy was supplemented with clear communication to staff including the use of the all staff bulletin to refer to examples highlighted in the former CMC Public Scrapbook. That publication outlines key elements of the disposal processes, namely in relation to delivering public services, inventory, assets, how material is disposed of, and how proceeds from disposal are treated. The publication includes a chart outlining the disposal process, as shown in Figure 14, which may assist councils strengthen their disposal processes.¹³⁰

¹²⁹ Queensland CMC, *The Public Scrapbook: Guidelines for the correct and ethical disposal of scrap and low value assets*, March 2002, p 20

¹³⁰ Queensland CMC, *The Public Scrapbook: Guidelines for the correct and ethical disposal of scrap and low value assets*, March 2002, p 66. Reproduced with the permission of the Queensland Corruption and Crime Commission

Figure 14: The disposal process (reproduced from the former Queensland Crime and Misconduct Commission publication, *The Public Scrapbook: Guidelines for the correct and ethical disposal of scrap and low value assets*)



ICAC's *No Excuse for Misuse* also highlights the importance of policies and procedures, including those that underpin compliance such as reviews, audits and random sample testing. Policies should also outline the consequences associated with non-compliance. The report provides a checklist for good policies and procedures, which includes:

- policies must provide guidance for contractors providing services to council
- policies must be available electronically and/or in hardcopy
- staff should be trained in respect to the policies
- specific staff are assigned responsibility pursuant to relevant policies.¹³¹

Risk management

The misappropriation of bulk consumables has been identified as a corruption risk in numerous investigations and integrity agency reports, as outlined in section 5.2. However, theft and/or loss of bulk consumables did not appear on any of the risk registers maintained by the six councils.

Councils must identify the risks they face in relation to bulk consumables in order to implement effective control measures to mitigate that risk. For instance, as noted above, by identifying the risks associated with using vehicles and equipment that require petrol, Whitehorse City Council was able to control the risk by moving to diesel vehicles where possible.

Other controls would include implementing systems for recording and reconciling usage of bulk consumables.

Guidelines produced by the Australian National Audit Office¹³² recommend entities conduct fraud risk assessments at least every two years and in doing so, be consistent with the Standards AS/NZ ISO31000:2009 Risk Management Principles Guidelines and AS 8001-2008 Fraud and Corruption Control when developing risk assessments and fraud control plans. Key principles from these frameworks include setting the context and the organisation's objectives, identifying the risks, documenting and assigning ownership (including a timeline for implementation), and monitoring and reviewing the risk assessment regularly.

Security

All resources should be secured using methods that are commensurate with their value and risk of theft. For example, as noted above, many councils have identified personal protective equipment as particularly attractive resources and have applied controls to reduce the risk of misuse.

Robust procedures should apply to the operation of a storeroom including limited access to keys, recording of who has accessed and taken particular stores, and both regular and random stocktakes.

Management

Segregating duties in the management of bulk consumables is an important mechanism to ensure that individuals are not responsible for approving their own usage or purchasing of resources.

One employee should have responsibility for managing stores, including monitoring and recording deliveries and usage. This role should not be allocated to a person who has responsibility for using the bulk consumables that are being ordered.¹³³

¹³¹ NSW ICAC and Local Government *No Excuse for Misuse Guidelines*, November 2002

¹³² Australian National Audit Office, *Fraud Control in Australian Government Entities Better Practice Guide*, March 2011

¹³³ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers and that staff from two local councils facilitated payment of false invoices from suppliers* (Operation Jarek), 2012, p 118

ICAC Operation Jarek found that whilst segregation of duties is an important element in reducing corruption, it should be supplemented with other controls, including appropriate financial delegations, strong oversight and audits that 'provide the manager with the final approval and access to information to carry out the oversight function and to manage delegations'.

Record-keeping

As illustrated by Operation Continent, failure to implement and maintain adequate record-keeping processes and controls can make it difficult to adequately investigate and substantiate complaints of misconduct or corruption. In turn, this can hinder a council's ability to identify and take appropriate action in relation to offenders, leaving councils liable for the costs associated with the loss of those resources.

ICAC Operation Jarek also highlighted the benefits of a well-organised store which allows management to keep high-value items and other items that may be more vulnerable to theft in secure areas that are clearly visible to staff and supervisors. That report recommended that councils organise their stores to ensure all items are clearly labelled, all movement of stock in or out of the store is recorded on an integrated inventory management system, and stock is securely stored.¹³⁴

An example of good record-keeping practice was identified at Greater Dandenong City Council where the register included details of the time the stock was accessed as well as the depot shelf location.

Stocktakes and reviews

Conducting regular stocktakes and reconciliations of bulk consumables is an important control to verify the quantities of items held in the store and identify irregularities. ICAC Operation Jarek recommended that stocktakes be conducted by staff independent of the stores, who understand the principles of stocktaking. It also recommended that councils assess the risk associated with its stores and if appropriate, conduct random checks of its inventory.¹³⁵

Benalla Rural City Council conducted a reconciliation of its bulk consumables, which identified significant discrepancies. These discrepancies required further investigation, but the council believed that data was not entered accurately suggesting further training around record-keeping was required. If irregularities are identified, it is crucial that councils act on the results of those stocktakes to address systemic weaknesses and possible corruption vulnerabilities.

Not all councils conducted reconciliations of its bulk consumables, which exposes them to the risk of theft that could go undetected. It is understood that there are challenges with measuring bulk consumables stored in the yard (such as crushed rock, gravel and soil) but practices can be implemented to underpin the recording of the ins and outs of bulk consumables.

Other regular auditing of bulk consumables, for example checking vehicle log books against fuel use, is important to make staff aware that council is actively monitoring use.

¹³⁴ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers and that staff from two local councils facilitated payment of false invoices from suppliers* (Operation Jarek), 2012, p 122

¹³⁵ NSW ICAC, *Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers and that staff from two local councils facilitated payment of false invoices from suppliers* (Operation Jarek), 2012, p 122

6 Leadership and culture

Key findings

- The 'tone at the top' is a key influence on organisational culture. The development of a constructive organisational culture complements the rules and regulations set by policies and procedures.
- The visibility of management to operational staff differed across the councils involved in this project.
- Depot staff at some councils did not have access to the same training about corruption prevention issues as general staff.
- Only some councils provided a range of incentives to recognise and reward staff for ethical conduct.

Practice insights

- Expectations around employee behaviours should be made clear by senior management.
 - Senior leaders and managers should drive positive organisational culture that is corruption resistant.
 - It is important to create open dialogue cultures and to empower employees to have discussions about issues that arise.
 - Senior managers should identify and reiterate key messages to staff, and communicate them in a variety of ways recognising that different units may have differing requirements.
 - Senior managers should create safe reporting cultures, in part by being responsive.
 - Training should be tailored to the specific needs of operational staff.
 - Corruption risks should be included in training delivered to operational staff, and resources should be devoted to development of corruption prevention tools, practices and strategies.
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6.1 Introduction

Organisational culture and leadership is an important element of corruption prevention.

Research has found that positive organisational culture which is resistant to corruption, should be supported by:

- commitment to an ethical culture demonstrated by dedicated resources and monitoring
- senior managers involved in all aspects of oversight and management of corruption prevention measures
- a sense of common purpose
- high levels of trust especially between managers and staff
- recognising individual achievement
- a strong sense of public duty and a willingness to make decisions based on agreed values
- a high level of willingness by staff to engage or participate in decision making, training, and corporate activities as well as to discuss concerns, seek advice about ethical dilemmas, and suggest improvements to processes
- confidence in organisational responses to complaints
- broad communication of organisational principles and expectations of employees, clients contractors and suppliers.¹³⁶

In relation to outdoor workers, organisations may have to work harder to promote positive organisational culture. Sub-cultures can emerge, particularly amongst depot staff, who are likely to have less frequent contact with senior managers and may feel 'outside' the mainstream organisation. Individual worksite norms can allow bad decisions and corrupt behaviours to develop.

Senior management clearly has a critical role in developing and maintaining a strong organisational culture. This was confirmed by the ANU research undertaken for IBAC, which identified the importance of senior management setting 'the tone' of an organisation as a fundamental element of an anti-corruption approach. Other research has found that where staff feel their leaders are committed to ethical practice and public duty, the likelihood of corruption can be reduced.¹³⁷

It is important to recognise that senior managers are not solely responsible for creating an organisation's culture, but as Laurie Hillis states:

Leaders need to create the conditions for the transformation of a culture. Leaders and managers do not change the culture, they merely invite their people to change the culture through day-to-day behaviours. Leaders ensure the systems and processes support the new behaviours. Modelling new behaviours must start at the top. Leaders in inspired cultures serve as watchdogs for all systems and processes. They are responsible for ensuring new cultural imperatives have teeth by aligning vision, attitudes, and behaviours.¹³⁸

¹³⁶ Graycar and Kelly (2014) *A review of integrity frameworks in Victorian public sector agencies* IBAC Research paper. Boardman C and Klum V (2001) Building organisational integrity in Lamour P and Wolanin N (eds) *Corruption and anti-corruption* Asia Pacific Press, p 85

¹³⁷ See Gorta A (1998) *Minimising Corruption: some lessons from the literature* Independent Commission Against Corruption Research Report, ICAC, Sydney; Zipparo L (1998) *Ethics: the key to good management*, Independent Commission Against Corruption Research Report, ICAC, Sydney

¹³⁸ Hillis L (undated) Culture follows the leader available at http://www.banffcentre.ca/leadership/library/pdf/culture_28-29.pdf accessed 9 October 2014

6.2 Key corruption risks

A number of corruption risks are associated with poor leadership and weak or misaligned organisational cultures.

Poor reporting cultures can result from employees not having confidence that their leaders will respond appropriately to issues when they arise.¹³⁹ Organisations should actively encourage and support reporting of misconduct or corrupt conduct by staff. Following Operation Continent, the issues identified at the Broadford depot were actively responded to by Mitchell Shire Council's executive team which promoted a zero tolerance to corruption. This resulted in an increase in reporting about broader issues and supported the development of a more positive organisational culture.

In environments where there is no shared understanding of or support for organisational values, it is easier for individuals to rationalise poor behaviours and ignore the harm that their behaviour or actions may cause. Common understanding around values can improve compliance with policies and procedures, and minimise misconduct and corrupt conduct such as theft, fraud, undeclared conflicts of interest, and misuse of council resources or information.

Poor supervision of staff can contribute to an environment which allows misconduct or corrupt conduct to occur.¹⁴⁰ This was an issue identified in Operation Continent, where the most senior members within the Operations division did not consistently or actively supervise their team members, including in relation to purchasing.

6.3 Regulatory and policy frameworks

6.3.1 Legislation and guidelines

Under the Local Government Act, CEOs of councils are required to develop, adopt and disseminate a code of conduct for council staff.¹⁴¹ They are also responsible for appointing, directing, managing, disciplining and dismissing council staff and for a range of other issues that relate to council staff.¹⁴² These include adhering to employment principles and communicating and enforcing conduct principles.¹⁴³

The Local Government Act requires CEOs to conduct annual performance reviews of senior officers. The review process provides an opportunity to reinforce expectations of leaders, especially in relation to management of corruption risks and other practices related to the development of a strong organisational culture.

A number of guidelines are available to assist leaders to develop and support positive organisational culture. The Victorian Public Sector Commission (VPSC) has produced a number of resources designed to support the development of ethical culture, principally the *Ethics Framework* and an *Ethics Resource Kit*.¹⁴⁵ The VPSC's jurisdiction is limited to the Victorian Public Sector (excluding local government) however these resources provide useful information on the components of an ethics framework, evaluating organisational performance, reinforcing ethical behaviour and a number of other elements associated with organisational health.

¹³⁹ See Australian National Audit Office and KPMG, *Fraud Control in Australian Government Entities: better practice guide* Commonwealth of Australia March 2011

¹⁴⁰ *The Institute of Risk Management 2010 Risk Culture: Resources for Practitioners*

¹⁴¹ *Local Government Act 1989*, s 94A (1)(ca), and s 95AA

¹⁴² *Local Government Act 1989*, s 94A (3)

¹⁴³ *Local Government Act 1989*, ss 94C, 94D, and 95

¹⁴⁴ *Local Government Act 1989*, s 97A(2)

¹⁴⁵ See http://www.ssa.vic.gov.au/images/stories/product_files/166_EthicsFramework.pdf

In addition, the VPSC resource *Organisational Culture* provides information, insights and advice that can inform the establishment and maintenance of positive organisational culture.¹⁴⁶ Another useful VPSC resource is *Managing a dispersed team in the Victorian Public Sector*, which provides advice and tools for managers to assist with ensuring dispersed staff remain engaged and actively managed.¹⁴⁷

The *Local Government Better Practice Guide 2014-15* touches on aspects of leadership. In particular, the *Governance and Management Checklist* requires that councils have policies outlining their commitment and approach to minimising the risks to their operations.¹⁴⁸ It also requires the development of a fraud policy and a risk management framework. It provides limited guidance on how such policies should be assembled.

6.4 Creating ethical positive organisational culture: practice insights

During consultations, IBAC observed activities and processes that represent good practice in terms of managerial commitment to positive organisational culture amongst depot staff. These processes and examples of strategies are discussed below. It should be noted that the practices were identified by management and so represent their perspectives. The impact of these activities was not validated with staff.

Visibility of management

A key aspect of leadership identified during consultations was the visible presence of managers at depots. When managers seem distant, unavailable or disinterested in particular worksites, such as depots, subcultures may emerge. This can be a challenge for councils, especially those with multiple depot sites, some of which can be some distance from council's main offices. During consultations, IBAC observed several practices that address this.

At Whitehorse City Council, several managers are permanently located at the Operations Centre, including the General Manager Infrastructure. They occasionally hold managers meetings at that site. Glenelg Shire Council includes regular visits to remote depot sites in the position descriptions for relevant managers. For instance, in response to the draft report, Glenelg advised that its CEO visits depots regularly, in addition to monthly visits by the Group Manager Assets and Infrastructure.

At Central Goldfields Shire Council, the view was expressed that it is inappropriate for senior management¹⁴⁹ to attend toolbox meetings at the depot, as it is considered inconsistent with delegating authority. However, the General Manager reported that he does visit worksites occasionally to maintain a visible, if not regular, presence.

¹⁴⁶ See http://www.ssa.vic.gov.au/images/stories/product_files/62_lpo_organisational_culture.pdf

¹⁴⁷ See <http://www.ssa.vic.gov.au/products/view-products/managing-a-dispersed-team.html>

¹⁴⁸ See http://www.dtpli.vic.gov.au/_data/assets/pdf_file/0003/259500/Chapter-6-Gov-and-Man-Checklist.pdf

¹⁴⁹ General Manager level

Corangamite Shire Council ensures that Directors are present at bi-monthly depot meetings. The council also conducts an annual 'field tour' of its depot, involving the CEO and several Directors interacting with staff and discussing current issues. High levels of staff engagement were reported as a result of these face-to-face discussions which have facilitated acceptance of significant policy shifts and was regarded as valuable by council staff consulted.

As previously noted, a practice had developed at Corangamite of depot staff selling scrap metal to fund social functions. When the new CEO discovered this practice in 2013, steps were immediately taken to stop it. A new policy was introduced clarifying the correct procedures for scrap metal disposal. To support this new policy, the CEO and relevant Directors visited the depot to advise staff that the practice was unethical as they were personally profiting from the sale of public resources. While it took time for staff to understand that the practice was unacceptable, the practice has ceased.

Other examples provided by the councils visited demonstrate that visible management helps to empower staff to actively discuss policies that affect them, such as policies restricting staff's ability to hire out council resources for personal use. The practice of management regularly attending depots helps create an 'open dialogue' environment where issues can be discussed. To help depot staff feel connected to the larger organisation, Whitehorse adopted a strategy where a human resources staff member would be present at the Operations Centre one day a fortnight so staff could consult with them about relevant issues.

Another way to be 'visible' is for senior management to become directly involved in the management of corruption prevention strategies. At Benalla Rural City Council the CEO receives reports of conflicts of interest and personally decides how those conflicts should be handled. Glenelg Shire Council reported that its CEO has actively driven the issue of declaring conflicts of interest resulting in high rates of reporting amongst staff.

Communicating expectations

Communicating consistent information to all staff was emphasised as a key strategy by several councils. Corangamite Shire Council produces a regular newsletter to inform staff about key issues and significant changes or updates to policy. The newsletter sometimes includes case studies to demonstrate how disregarding policy can result in poor outcomes. Corangamite acknowledged the need to complement the newsletter with discussions with staff (eg. at toolbox meetings) on key issues. This is especially important at worksites where some workers may have low levels of literacy. At depots, the importance of providing information in various ways was highlighted by a number of councils consulted.

Council policies are usually made available via intranets, although depot staff do not always have ready access to computer terminals. Other ways to communicate and discuss policy requirements must be found, such as toolbox meetings.

Toolbox meetings at depots provide a forum for open discussion of issues and communication of required standards and expectations. Several councils reported that senior management regularly attend these meetings to provide staff the opportunity to ask questions about issues of concern to them. Benalla Rural City Council reported that ethical behaviour is a standing item on the agenda for these meetings.

Induction processes for new staff also provides an opportunity to communicate expectations and standards. Benalla reported that its CEO drives all new staff to each of the council's facilities, taking the opportunity to talk generally about the code of conduct and the importance of integrity. Greater Dandenong City Council reported that the Director Corporate Services also addressed conflict of interest with new starters. That council did note that there was the potential for conflict of interest to be discussed in more detail.

It is particularly important that staff have direct access to information about how to report concerns. Reporting policies should be clear and provide assurances about how reports of wrongdoing are handled as well as protections they may receive if their complaint is assessed as a protected disclosure. This can assist to build confidence in reporting mechanisms.

Being responsive and inclusive

Another feature of managerial behaviour that may impact positively on organisational culture is responding promptly to issues as they arise. This is particularly relevant to instances of poor behaviour reported by fellow workers. It is critical to directly address issues as they arise, even if it involves asking questions or observing more closely to establish the facts, and to communicate the response to relevant parties, such as the complainant.¹⁵⁰

The way in which organisations respond to reports of misconduct, such as whistleblower reports or other declarations of impropriety, is critical. Visible and decisive responses will increase employee confidence in reporting mechanisms, and strengthen an organisation's culture.

This was evident in Mitchell Shire Council's response to Operation Continent. Once council became aware of the allegations, it notified IBAC. The allegations were assessed as protected disclosures under the *Protected Disclosure Act 2012* and council then worked closely with IBAC to facilitate an investigation and protect the identity of the discloser. At the conclusion of the investigation, Mitchell adopted strategies to encourage cultural change and to send a message of zero tolerance of corrupt conduct to staff. Staff participated in workshops to help them identify and respond effectively to misconduct or corrupt conduct. Mitchell subsequently reported an increase in disclosures made by staff about issues of concern.

Councils involved in this project reported prompt responses to instances of misconduct. At Corangamite Shire Council a works manager's employment was terminated following a report that he had accessed the tip to dump personal rubbish, despite repeated conversations about the required standards of behaviour. Benalla Rural City Council also sacked an employee for a similar infraction and another for stealing cement from the depot. Decisive responses indicate management's zero tolerance of misconduct or corrupt conduct.

Consulting with employees can also encourage engagement and support the development of shared organisational values. Senior and middle managers should be encouraged to seek staff feedback about their management style. One tool is 360-degree feedback surveys, although none of the six councils used this approach. Conducting staff surveys is another way of seeking staff views about what is and is not working well. Whitehorse City Council reported that it undertakes a survey every 18 months to three years, which has consistently shown high levels of staff engagement. Whitehorse also includes depot staff on its staff consultative committee as well as holding 'listening forums' to receive feedback from staff who are unable to complete electronic surveys or who have literacy challenges.

In another example of staff engagement, Central Goldfields Shire Council reported that depot staff were represented on a committee looking at improving processes around asset management.

150 See Victorian Public Sector Commission, 2013, *Managing a dispersed team* at <http://www.ssa.vic.gov.au/products/view-products/managing-a-dispersed-team.html>

Incentives for good conduct

The provision of incentives to reward good conduct can allow councils to demonstrate their commitment to ethical behaviour. Whitehorse City Council runs a rewards and recognition program. Employees are invited to nominate colleagues for some of the four awards. Award recipients are listed on the council's intranet and in a newsletter. The awards include:

- service awards – recognises length of service
- performance appraisal awards – rewards high achievers where staff have exceeded performance expectations (\$500 voucher)
- values awards – recognises staff who demonstrate council's four core values during the course of their work (\$400 voucher); involves peer nominations
- departmental awards – allow team leaders to recognise and reward good performance or conduct on the spot, with the provision of a movie voucher.

Staff training and development

The frequency and quality of training offered to staff can be used to build positive organisational culture which is resistant to corruption. IBAC observed a range of practices that could be utilised across the local government sector.

Approaches to training of depot staff differed across the councils. Greater Dandenong City Council advised that training on some issues was not generally provided for operations staff. The provision of equal access to training across the organisation would support a more cohesive culture and support the development of shared understandings, particularly in relation to the importance of corruption prevention.

Benalla Rural City Council advised that its CEO delivers training to staff about the Victorian integrity system, articulating the importance of recognising and managing risks including conflicts of interest, and also discussing the role of the code of conduct in supporting organisational values. Other councils bring in specialists to provide training to staff about corruption related issues.

Training of depot staff must be fit for purpose, and a number of challenges must be considered when delivering training. One consideration is the timing of training, both in terms of duration as well as scheduling. Councils noted that it can be difficult to gather depot staff together in one place at one time, especially when employees are spread across a large geographical area. Further, as many depot workers are early starters, scheduling training for the afternoon or off-site is problematic. It may be useful to consult with senior depot staff about the best time, place and method to deliver training, taking into account differing literacy levels.

Another consideration is training content. Some councils reported that training for depot staff often focused on how to use council systems or follow procedures. Very few offered training specific to corruption. In light of the risks present at council depots, it is important that training highlights the rationale for particular policies, as well as develops staff capacity to recognise and respond to corruption risks as they arise. Finally, it is important to make it clear to staff that policies and procedures are designed to protect them as well as council's reputation.

Driving a risk-aware culture

Senior managers can contribute to a positive organisational culture by actively developing an awareness of the importance of risk management. As noted above, Benalla Rural City Council's CEO was actively involved in delivering training to all staff about the importance of managing risk. This sets the right 'tone at the top'.

Actively informing staff about the consequences of policy or procedural breaches is another important element of embedding risk awareness.

Several councils demonstrated that senior management had direct oversight of risk registers. Awareness of current risks at Director-level and above will help to ensure individual risks are owned and understood across the organisation, and are not left to individuals to manage.

Risks around procurement, management of small plant and equipment, and bulk consumables can be impacted by leadership practices which support risk identification and management. For example, random audits and proper record-keeping can help prevent theft or loss of small plant and equipment, and bulk consumables. Communicating the message that small items have value can help staff understand the rationales behind control processes.¹⁵¹ This also applies to disposal of scrap, where the policy should clearly explain the proper procedures and why it is important that staff adhere to them. Active management of routine practices can assist to build and maintain an environment of good stewardship of council assets.

Senior managers can assist risk management by insisting that policies and procedures make accountabilities clear and putting systems in place that facilitate the enforcement of those accountabilities. Devoting sufficient resources to internal controls such as risk and audit is also important. For example, organisations may consider the value of conducting ASIC checks on potential and actual suppliers, and cross checking shareholders and directors against council employees' names and addresses. Other strategies include providing regular training to staff about corruption prevention, and purchasing relevant software packages to assist with stock management or procurement. Maintaining registers on actual and suspected fraud incidents, conflicts of interest, and offers of gifts and benefits can also assist.

Taken together, these actions indicate zero tolerance for corrupt conduct, and can significantly reduce both opportunities and motivation to commit fraud. Leaders who are willing to adapt practices in response to newly identified risks or challenges is vital if an organisation is to develop a responsive culture committed to corruption prevention.

In this review, a number of councils did take prompt action to address practices that were identified as creating risk, demonstrating their commitment to improving practices and creating more risk awareness amongst their staff.

¹⁵¹ See NSW ICAC, *No excuse for misuse: preventing the misuse of council resources*, 2002; Queensland former CMC, *The Public Scrapbook: Guidelines for the correct and ethical disposal of scrap and low-value assets*, 2000

7 Conclusion

Focusing on four key issues, namely procurement, bulk consumables, small plant and equipment, and leadership and culture, this review sought to identify common vulnerabilities in the operation of council works depots, as well as opportunities to strengthen corruption prevention approaches.

The review found that although councils' procurement policies were generally clear, there were opportunities for improvement in procurement practices. Procurement-related risks did not consistently appear in council risk registers and where such risks did appear, controls tended to lack sufficient detail. Procurement training tended to focus on procedural requirements rather than probity issues and corruption risks. While all of the councils reviewed had policies in place regarding the management of gifts and benefits, processes could be enhanced by recording details of all gifts, benefits and hospitality offered and rejected and equipping staff to confidently decline external offers of gifts, benefits and hospitality.

The review found that there were significant deficiencies in the management of small plant and equipment at depots. While all of the councils reviewed had asset management plans, few had policies to govern the life cycle of all assets including small plant and equipment, not just major assets. Moreover, there was a general lack of audits to help councils account for small plant and equipment. In addition, it was apparent that councils would benefit from a review of their approaches to reporting fraud and by maintaining central registers of all instances of suspected and actual instances of fraud to help monitor trends.

The review found that there was significant room for improvement in the management of and accountability for bulk consumables. Few of the councils reviewed had undertaken stocktakes of bulk consumables. However, those that had done so had identified vulnerabilities and opportunities for improvements in storage and recording.

The review found that one of the major challenges in works depots is to ensure visibility of management and communicate key messages effectively to the disparate and sometimes isolated works staff. While IBAC found that councils were generally aware of the different educational needs of depot staff, training content and delivery methods could be better tailored for operational staff to promote a shared understanding of organisational values and increased awareness of fraud and corruption risks.

The six councils involved in this project were generally receptive to the practice insights discussed in this report, with all six noting that they either had or would take action to address various issues raised.¹⁵²

Operation Continent raised significant concerns with management in relation to one of Mitchell Shire Council's depot sites. This review found that areas of particular concern in that investigation – procurement, bulk consumables, and small plant and equipment – are not isolated to Mitchell. The broader local government sector would benefit from reviewing their practices in these areas and where relevant, applying the good practice identified in this report to strengthen their corruption resistance.

¹⁵² In responses to the draft report: Benalla undertook to address issues identified in regard to its purchasing and tendering guidelines; Central Goldfields highlighted a number of procurement related issues it intended to address; Corangamite advised that it would implement identified improvement opportunities by 31 December 2015 with oversight provided by council's Audit Committee; Glenelg identified a number of specific issues that it has or will continue to address; Greater Dandenong advised it had commenced implementation of this report's practice insights; and Whitehorse advised it had acted on a number of matters and noted other recommendations for continuous improvement

