

Merri Creek Management Committee

Policy on Contracts^{1 2}

As amended to 17/2/2000³

Introduction

When MCMC first started, its revenues consisted entirely of direct grant funding. MCMC's Statement of Purposes specifically states that one of MCMC's purposes is "... to seek additional funding from external sources for these purposes". Given the current climate where the State Government is requiring municipalities and other authorities to tender out works, member agencies requests to undertake contract work, together with uncertainty from various other sources of funding, the Committee has had to adopt a flexible approach to generating income. The Committee believes that it is desirable for MCMC to pursue relevant tenders and other contracts to assist in providing adequate operating budgets, to ensure continuity for staff and because MCMC will do a better job than other contractors.

The term "contracts" is interpreted to mean any agreement by MCMC to undertake the provision of goods or services in exchange for monetary or other consideration.

Powers

MCMC as an incorporated association may only engage in activities permitted by its statement of purposes or which are permitted by the Associations Incorporation Act 1981 (the Act). Section 16(1) of the Act permits an incorporated association to do all such other things as are incidental or conducive to the attainment of the purposes and the exercise of the powers of the incorporated association. In addition the Act expressly prohibits an incorporated association from engaging in certain activities. Relevantly, Section 51 of the Act prohibits an incorporated association from trading or securing profit for its members.

MCMC's statement of purposes permits MCMC to engage in activities relating to "the preservation, restoration, environmental protection and ecologically sensitive development and maintenance of the Merri Creek and adjoining catchment areas.

Six additional specific purposes are also included, the most relevant of which is "5. Regional approach - to promote and conduct programs and activities to achieve integrated catchment and parkland management, community education, resource sharing and information exchange on a regional basis involving the key stakeholders - municipal councils, State Government agencies, community groups and landholders. To assist other organisations to achieve sustainable environmental development of the Merri Creek and adjacent catchments."

MCMC is not permitted to "trade", however by S3(2) of the Act, certain activities are deemed not to be trading. Trading does not occur just because:

- the incorporated association makes a monetary profit (S3(2)(a)); or
- the incorporated association buys or sells or deals in or provides goods or services when those transactions are ancillary to the principal purpose of the incorporated association (S3(2)(b)).

¹ The policy was originally approved by the Committee in item 5.1.1 of 20/2/97

² The amount which the Executive Subcommittee could approve was increased from \$50,000 to \$100,000 in item 5.1.2 of 20/5/1999.

³ The Committee of Management replaced the text under the Policy heading with new text on 17/2/2000 under item 5/2/1

Signing

A person acting under the express or implied authority of an incorporated association may make, vary or discharge a contract in the name of or on behalf of the incorporated association in the same manner as if that contract were made, varied or discharged by a natural person (S19(1)).

A document or proceeding requiring authentication by an incorporated association may be authenticated by the signature of the public officer of the incorporated association and need not be authenticated under the common seal of the incorporated association (S19(6))

The Common Seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the Common Seal shall be attested by the signatures either of two members of the Committee or of one member of the Committee and the Public Officer of the Association (Rules S14(2))

Policy

MCMC will only enter into contracts which fulfil or are ancillary to the principle purposes of the MCMC. This is interpreted to mean contracts which:

- have at least 90% of their monetary value within the geographic area of the Merri Creek and adjacent catchments, that is the Merri, Darebin and Moonee Ponds Creeks and nearby parts of the Yarra River; and
- which entail activities to promote and conduct programs and activities to achieve integrated catchment and parkland management, community education, resource sharing and information exchange on a regional basis involving the key stakeholders - municipal Councils, State Government agencies, community groups and landholders or which assist other organisations to achieve sustainable environmental development of the Merri Creek and adjacent catchments; or
- which are allowed by other sections of the statement of purposes.

Process:

1. If at all possible all contracts should be referred to the MCMC Committee of Management for approval.
2. The entering into individual contracts with a monetary value of over \$150,000 will be discussed and approved at an MCMC Committee of Management meeting . They will be made by the affixing of the common seal or made, varied or discharged by the signature of the Public Officer. In the case of unexpected tenders a special MCMC meeting may have to be called.
3. The entering into individual contracts with a monetary value between \$50,000 and \$150,000 will be approved by the Public Officer or discussed and approved and minuted at an Executive subcommittee meeting, with a report going to the Committee of Management, or approved at an MCMC Committee of Management meeting. Such contracts will be made, varied or discharged by the signature of the Public Officer or the Manager or delegated by the Manager to the relevant program manager.
4. The entering into individual contracts with a monetary value less than \$50,000 will be considered and approved by the Manager, with a report going to the next executive subcommittee meeting. Such contracts will be made, varied or discharged by the signature of the Manager or delegated by the Manager to the relevant program manager or coordinator.”