

SPECIAL BUDGET MEETING

3 JULY 2019

7

PROCUREMENT POLICY

Julia Deleyev | 63/14/4-01 | #5971262

RECOMMENDATION:

That Council adopts the proposed amendments to the Procurement Policy.

EXECUTIVE SUMMARY:

Council's Procurement Policy has been reviewed as per annual legislative requirements. Following consultation with the business, reviews of other local government policies and consideration of all legislative obligations, a number of minor changes have been proposed. These changes reflect improved opportunities that were identified during organisational consultation, legal advice, as well as consideration of recent internal and external procurement audits. A summary of these changes are:

- Clarification to cumulative spend over a financial year
- More information added to clarify the meaning of Register of Prequalified Suppliers and Preferred Supplier Arrangements
- Minor word and formatting changes to improve reading ease

BACKGROUND:

Section 198 of the *Local Government Regulation 2012* obligates Council to prepare and adopt a Procurement Policy and to review this policy annually. The Procurement Policy must include the sound contracting principles under section 104(3) of the *Local Government Act 2009*, which Council will apply in the financial year for purchasing goods and services.

To ensure that this policy meets all legislative responsibilities, the Procurement team reviews all appropriate legislation and ensures that these are addressed in this Policy. Benchmarking also occurs with other Local and State Governments to determine public sector trends and identify best practice procurement activities.

A peer review of this policy is conducted annually with Council officers to ensure that it meets their operational requirements and provides all necessary information to provide quick and efficient guidance in the procurement process.

COMMENT:

Feedback was requested and received back from a number of Council Managers and Officers. This feedback has been considered and incorporated where appropriate into the updated Policy.

Note there have been no legislative changes regarding procurement in the last financial year that need to be addressed in this Policy. All changes recommended are based towards improving applicability and practicality of the Policy for Council's operational requirements.

OPTIONS:Option 1: (Recommended)

That Council adopts the proposed amendments to the Procurement Policy.

Option 2:

That Council does not adopt the proposed changes to the Procurement Policy and requests further investigation and changes to be made.

CONSIDERATIONS:Risk Management:

The Procurement Policy ensures that all legislative requirements in regards to procurement is fulfilled and that best practice procurement activities are implemented and followed to mitigate potential risks to Council.

Council Finance and the Local Economy:

In terms of delivering sound governance and economic management, the ongoing annual review of the Procurement Policy ensures responsible financial and professional practices are utilised to maintain a sustainable framework within procurement across Council. It also ensures that Council provides sound governance and economic management in monitoring and controlling the sourcing and purchasing process.

The Procurement Policy provides guidance and encouragement for the utilisation of local suppliers to ensure that the local economy is well supported by Council procurement activities.

Corporate and Operational Plans:

The process of reviewing the Procurement Policy supports the Corporate Plan Strategic Goals of:

- Economy – 'Support a strong and diverse community'; and
- Serving the Community – 'Encourage an organisational culture of continuous improvement and business efficiencies'.

Statutory:

The *Local Government Act 2009* and the *Local Government Regulation 2012* applies.

CONSULTATION:

To ensure that this policy reflects and meets current business and operational needs whilst meeting legislative requirements, Procurement has consulted and liaised with the general business and specifically a number of relevant Council Managers and Officer. Where appropriate, all feedback and suggestions have been incorporated into this Policy.

Upon adoption of this Policy, the Procurement team will implement a general training and education program regarding best practice procurement activities to all new and existing Council officers involved in a procurement or purchasing role.

ATTACHMENTS:

Attachment 1 – Procurement Policy (DM#1194484)



Geoff Burdon
Manager Procurement and Payables



Lisa Whitton
Chief Financial Officer

PROCUREMENT POLICY

- Intent:** This document sets out Cairns Regional Council's policy for the acquisition of goods and services and applies to all procurement activities of Council.
- Scope:** This policy applies to the procurement of all goods, services, equipment, construction contracts and service contracts (including maintenance). The policy:
- refers to procurement activities across the whole of Cairns Regional Council (Council);
 - applies to all materials, products and services procured by Council, including items procured by third parties (such as contractors) acting as representatives for Council; and
 - acknowledges that Council cannot achieve its quadruple bottom line (economy, environment, governance, community) on its own and will require the assistance and support of suppliers and relevant organisations.

DEFINITION OF PROCUREMENT

"Procurement" means purchase, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods, equipment and related services, construction contracts and service contracts to Council, council officers and agents unless specifically exempted under the provisions of this policy.

PROVISIONS

Introduction

All Council procurement must be carried out in compliance with the *Local Government Act 2009* and the *Local Government Regulation 2012* (the Regulation).

Objectives

Council's procurement activities aim to achieve beneficial outcomes by:

- promoting value for money with probity and accountability;
- advancing Council's economic, social and environmental policies;
- providing reasonable opportunity for local businesses to supply to Council;
- promoting compliance with relevant legislation; and
- promoting continuous improvement and best practice in procurement activities.

Responsibility

Council officers are required to:

- adhere to the "sound contracting principles" as stipulated in the *Local Government Act 2009*;
- preserve Council's integrity in the procurement process to ensure that Council acts beyond reproach in all dealings; and
- abide by Council's Code of Conduct (#931166) and all applicable policies and instructions, including declaration of any conflict of interest.

SOUND CONTRACTING PRINCIPLES

Council officers must have regard to the following contracting principles in all procurement activities:

Value for money

The concept of value for money is not restricted to price alone. The value for money assessment must include consideration of:

- contribution to the advancement of Council's priorities and strategic objectives;
- fitness for purpose, quality, services and support;
- whole-of-life costs including costs of acquiring, using, maintaining and disposal;
- internal administration costs;
- technical compliance issues;
- risk exposure; and
- benefit to the community (e.g. employment of local manpower/contractors).

Open and effective competition

Procurement must be open and transparent, and result in effective competition in the provision of all goods and services. Council must give fair and equitable consideration to all prospective suppliers.

The development of competitive local business and industry

Council encourages development of competitive local business and industry when entering into:

- contracts for the supply of goods or services, and
- contracts for the carrying out of works.

In this policy, the definition of a "**local supplier**" is a supplier which:

- is beneficially owned and operated by persons who are residents or ratepayers of the Local Government area of Council; or
- has its principal place of business within the Local Government area of Council; or
- otherwise has a place of business within the Local Government area of Council that solely or primarily employs persons who are residents or ratepayers of the Local Government area of Council.

Environmental protection

Council promotes environmental protection and responsibility through its purchasing procedures. In undertaking procurement activities Council will endeavour to:

- promote the procurement of environmentally friendly goods and services that satisfy value for money criteria;
- foster the development of products and processes of low environmental and climatic impact;
- provide an example to business, industry and the community by promoting the use of climatically and environmentally friendly goods and services; and
- encourage environmentally responsible activities.

Council may also consider the following:

- the environmental performance of prospective contractors or suppliers;
- the selection of products that may have a reduced impact on human health and / or the natural environment; and
- the environmental impact and performance of a requested product, such as energy and / or water efficiency rating, fuel efficiency, durability, recycled content, toxicity, origin of any components made from wood (e.g. paper products) and end of life disposal.

Ethical behaviour and fair dealing

Council officers must behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives.

It is the responsibility of Council officers to report any actual, potential or perceived conflict of interest to their Branch Manager prior to and during any business dealings.

EVALUATION OF TENDERS AND QUOTES

These sound contracting principles are to be utilised in the evaluation of all quotes and tenders along with other selective criteria determined relevant to the procurement activity, including but not limited to experience, key personnel, methodology etc.

PROCUREMENT GUIDELINES**Procurement Thresholds**

Value Threshold*	Minimum Requirements
Less than \$2,000	Obtain at least one verbal or written quote
\$2,000 to less than \$15,000	Obtain two written quotes
\$15,000 to less than \$200,000	Obtain three or more written quotes
\$200,000 or more	Public tender required

*** All amounts are GST exclusive**

When seeking quotations, officers should consider the likelihood of exceeding the value thresholds listed above **in a financial year** (excluding GST). If there is a risk that these limits will be exceeded, then the appropriate number of quotes or a public tender should be sought. All thresholds are cumulative thresholds. If the anticipated value of goods or services of a similar nature procured from the same supplier exceeds \$200,000 in a financial year, or over the proposed term of the contractual arrangement, then a public tender is required.

Expressions of Interest (EOI)

Prior to issuing an EOI over \$200,000 ex GST, a Council resolution must be obtained.. EOIs may only be utilised to facilitate a closed tender process if Council has decided by resolution that it would be in the public interest to call for EOIs before inviting tenders and has recorded its reasons for doing so in the minutes of the meeting.

EOI's may be called under the \$200,000 threshold without a Council resolution, however the EOI process must still comply with the normal procurement threshold guidelines.

Corporate Credit Cards

Council's Credit Card is a payment method that improves payment performance, simplifies administrative processes, provides more effective cash management and enhances service delivery.

Corporate credit cards should be used where appropriate, based on risk and compliance with Council's procurement requirements. The procurement guidelines based on the thresholds above must be followed. All other purchases must be made by issuing a purchase order.

EXEMPTIONS TO PROCUREMENT GUIDELINES

Legislation obligates Council to utilise a public tender process (or a closed tender process if an expression of interest has first been called to shortlist tenderers) before making a contract for the carrying out of work, or the supply of goods or services involving a cost of \$200,000 or more, unless there is a legislative exemption.

Council officers must follow the procurement guidelines unless they utilise a legislative exemption. Exemptions to the procurement guidelines for quotes and tenders are provided for under sections 229 to 235 of the Regulation. These exemptions are:

- a quote or tender consideration plan;
- a contractor on an approved contractor list (ACL);
- a supplier on a register of pre-qualified suppliers (ROPS);
- a supplier on a preferred supplier arrangement (PSA);
- a supplier on another LGA arrangement, e.g. LGAQ (Local Buy).

Further exemptions exist if:

- Council resolves (Council resolution obtained) it is satisfied that there is only one supplier who is reasonably available (sole suppliers); or
- Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders; or
- a genuine emergency exists; or
- the contract is for the purchase of goods and is made by public auction; or
- the contract is for the purchase of second-hand goods; or
- the contract is made with, or under an arrangement with, a government agency e.g. Queensland State Government arrangements.

Refer to sections 230 to 235 of the Local Government Regulation 2012 for further details on the above exemptions.

Register of Pre-qualified Suppliers (ROPS)

Council may establish a ROPS for the carrying out of works, goods, services or ICT, by inviting public tenders. Suppliers must submit a tender response and if successful following the evaluation process, suppliers are appointed to the ROPS for a term of (usually) two years. Once the ROPS is established, further quotes or cost estimates from selected suppliers are required to ensure value for money.

Preferred Supplier Arrangement (PSA)

Council can establish a PSA where better value for money can be obtained by aggregating the demand for goods and services. Council must invite public tenders and evaluate submissions from suppliers in order for suppliers to be successfully appointed to the PSA. Prices or a schedule of rates are usually fixed for the duration of the arrangement.

Sole Suppliers

Where the required goods or services are available only from one original source or available from only one stockist, agent or supplier with relative ease of accessibility to Council, the supply of those goods and or services can be applied for under a sole supplier arrangement via a Council Resolution.

Procurement provides a report on an annual basis listing all proposed sole supplier arrangements, for the financial year, for adoption by Council. A report is presented to Council bi-annually listing expenditure on sole suppliers.

Emergencies

In recognition that full compliance with existing Council procurement procedures may not support Council's needs during a critical or emergency incident, an alternative procurement process may operate during the incident. This alternative process aims to accommodate urgent Council needs, while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration of standard procurement principles.

Any emergency procurement must be authorised by the Chief Executive Officer, once a critical or emergency incident has been declared. Such incidents are:

- A state of disaster declared under the *Disaster Management Act 2003*, or any other emergency declaration made by the State's Premier under an enactment;
- Any incident declared by the Chief Executive Officer where the safety or security of any person or property associated with the Council is threatened, and
- An external incident to which the Chief Executive Officer has authorised the provision of urgent support.

Once the immediacy of the incident has passed, purchase orders must be raised to record the expenditure in the same way as they would have been in normal circumstances.

As soon as practical upon cessation of the emergency, a report must be presented to Council to authorise the unapproved expenditure, where this expenditure exceeds delegation, and the methodology by which it was incurred. The Council Resolution must define the genuine emergency situation (such as natural disaster), as well as delegate authority.

FINANCIAL AND CONTRACTUAL DELEGATIONS

The Chief Executive Officer implements Council's policies and decisions e.g. spending in accordance with the adopted budget. All delegation amounts are GST exclusive.

Other officers may only incur expenditure on behalf of Council if:

- the officer has been granted the financial and contractual delegation by the Chief Executive Officer and this delegation has been recorded in the register of delegations, and
- the expenditure is provided for in Council's budget, and
- the officer has received training in Council's procurement systems and procedures, or
- there is a disaster/genuine emergency.

The Chief Executive Officer must approve all financial and contractual delegations by recording them in a register of delegations to enable procurement activities to occur in accordance with the guidelines as shown in Appendix 1.

Variations

For the purpose of this policy, variation refers solely to a financial deviation from original contract value. The contract can be a Council purchase order or agreement signed by a delegated Council officer with an external service provider/organisation. Other variations such as non-financial scope changes, extension of time etc. are to be managed by delegated council officers.

Variation procedures for contracts are as follows:

- Each variation can only be approved by a delegated officer up to their authorised financial and contractual delegation;
- All variations are to be approved in writing by the delegated officer; and
- Each variation requires an additional line item on the purchase order stating the change in scope and cost.

Acquisition of land

All acquisition of land must be done in accordance with the Strategic Acquisition of Land Policy #3665206. All acquisitions must be managed by Council's Property Team.

Publishing details of contracts

Council is obliged to publish details of all contracts valued \$200,000 or more. These details must be published monthly on Council's website and also on a noticeboard located in the customer service area of the Administration Building in Spence Street, Cairns. Information to be documented in these publications includes the following:

- the person/company with whom Council has entered into the contract;
- the value of the contract; and
- the purpose of the contract.

For the purpose of this obligation, a contract is defined as an approved Council purchase order.

SUSTAINABILITY AND SOCIAL PROCUREMENT

Sustainable Procurement

Sustainable procurement is the purchase of goods or services that have a reduced negative impact on the environment when compared with competing products or services that serve the same purpose. When compiling any procurement documentation including tenders, contracts, quotes or purchasing arrangements, sustainability requirements for the project must be clearly identified in a project scope.

Council's priority areas for considering sustainable products include, but are not limited to:

- Wood and paper products from sustainable sources;
- Sustainable and safe chemical based products e.g. cleaning products, pesticides, fertilisers or soil enhancers;
- Products that are durable and long lasting e.g. avoiding or reducing disposable products and single use plastics; and
- Products that consume less energy, fuel or water in their operation.

Social Procurement

Social procurement focuses on human aspects and social equity. Social procurement considers principles of diversity, ethics, acceptance, fairness, compassion, inclusiveness and access for people of all abilities and cultures. Social procurement generates positive outcomes for people and contributes towards building stronger and more resilient communities. Council's priorities include, but not limited to:

- Products and services that improve the overall quality of life in the local community; and
- Products and services that improve equity of access to services and opportunities.

Sustainable and social procurement must be conducted in line with consideration to the sound contracting principles and other legislative requirements.



This policy is to remain in force until otherwise determined by Council.

General Manager Responsible for Review:

Chief Financial Officer

ORIGINALLY ADOPTED: 19/5/2003

CURRENT ADOPTION: 25/06/2018

DUE FOR REVISION: 30/06/2019

REVOKED/SUPERSEDED:

**John Andrejic
Chief Executive Officer**

Appendix 1 – Financial and Contractual Delegations

Officers may incur expenditure on behalf of Council but only if the expenditure is provided for in Council's budget and the officer's position has been delegated the power to enter into contracts up to an amount not less than the amount of the expenditure proposed to be incurred.

Each delegation to an officer of the power to enter into contracts must be delegated by the Chief Executive Officer.

The delegation is a positional delegation and remains in force unless revoked by the Chief Executive Officer.

Any officer incurring expenditure on behalf of Council must do so in accordance with any constraints imposed by Council or the Chief Executive Officer.

OPERATIONAL EXPENDITURE

Delegation Level	Operational Expenditure within Budget	Expenditure Outside of Budget
Chief Executive Officer	Up to \$500,000 ¹ Up to \$1,000,000 ²	Utilise emergency provisions of the <i>Local Government Act 2009</i> . These require a subsequent Council Resolution.
General Managers	Up to \$200,000	Nil
Branch Managers	Up to \$100,000	Nil
Coordinators / Senior Officers³	Up to \$50,000	Nil
Supervisors / Team Leaders	Up to \$25,000	Nil
Appropriate Support Staff	Up to \$10,000	Nil

All delegation amounts are GST exclusive

¹ Council further delegates to the Chief Executive Officer the authority to negotiate, finalise and execute recurring operational expenditure, for example electricity, telephone, vehicle registration, Cairns Works internal orders and others, regardless of whether the value of the expenditure is more or less than \$500,000 (see Appendix 2).

² Expenditure of this value can only be incurred with Mayoral approval.

³ Senior Officers - those positions that may or may not supervise staff, but may need financial and contractual delegation to meet positional requirements.

CAPITAL EXPENDITURE

All expenditure capital in nature must be attributed to a Capital Project.

All capital projects require Project Launch Approval (PLA) in order to proceed past the initial scoping/planning phase.

Delegations to approve PLA's are set out in the table below.

Reasonable expenditure may be incurred prior to PLA in order to adequately scope and design the capital project and develop reliable cost estimates. In addition, early ordering of long lead time materials, service relocations and early works may be approved in some circumstances.

Projects with a PLA in excess of \$1,000,000 must be approved by Council unless such approval has been previously delegated.

Delegation to approve individual expenditure items are set out below.

Delegation level	Pre PLA	PLA Approval	Capital Expenditure within PLA
Chief Executive Officer	Reasonable expenditure	Up to \$1,000,000	Up to \$1,000,000
General Managers	Reasonable expenditure up to \$200,000	Up to \$200,000	Up to \$200,000
Branch Managers	Reasonable expenditure up to \$100,000	Nil	Up to \$100,000
Coordinators / Senior Officers⁴	Reasonable expenditure up to \$50,000	Nil	Up to \$50,000
Supervisors / Team Leaders	Reasonable expenditure up to \$25,000	Nil	Up to \$25,000
Appropriate Support Staff	Reasonable expenditure up to \$10,000	Nil	Up to \$10,000

All delegation amounts are GST exclusive

⁴ Senior Officers – those positions that may or may not supervise staff, but may need financial and contractual delegation to meet positional requirements.

Appendix 2 – Examples of recurring operational expenditure

<u>Utilities</u>	
Ergon Energy	Electricity
Telstra	Telephones/internet
<u>Insurances</u>	
Jardine Lloyd Thompson	Insurance
Qld Local Government Work Care	Workers compensation
LGM Queensland	Public liability
<u>Information Services Licenses</u>	
Civica	Authority annual licence renewal
Dimension Data	Various hardware and software licences
Frontier Software	Annual Chris 21 licence renewal
Microsoft products	Microsoft annual licence renewal
Oracle	Oracle annual licence renewal
Technology One	Annual licence renewal
<u>Miscellaneous</u>	
Australia Post	Postage, payment of rates, water, animal registrations, parking infringements, etc.
Cairns Airport	Lease, Greenbank Road
Cairns River Improvement Trust	Repair of creek banks
Department of Human Services	Centrelink Centrepay (payment of rates)
Department of Transport and Main Roads	Vehicle registration
Department of Natural Resources and Mines	Property valuations, Spatial Imagery Subscription Plan (SISP)
Electoral Commission of Queensland	Election cost
Far North Queensland Regional Organisation of Councils (FNQROC)	Regional Procurement Coordinator Secretariat
Local Government Association of QLD	Memberships
Other government agencies and authorities	
Queensland Audit Office	State Government Auditing

Note, the above list is indicative only and not exhaustive.

Appendix 3 – Reference Documents

The Procurement Policy consists of this General Policy and is supported by the following:

Part 1 – Acquisition of Goods and Services

Procedure for purchasing with purchase order - quotations and purchasing arrangements - **#3218823**

Part 2 – Procedures for Calling Tenders and Administering Contracts

Procedure for tendering including Expressions of Interest - **#3218819**

Part 3 – Engagement and Management of Consultants

Procedure for engaging and managing consultants - **#3218827**

Part 4 – Purchase Card Procedures

Procedures for approved cardholders - **#3218800**

PROCUREMENT LEGISLATION

Local Government Act 2009

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LocalGovA09.pdf>

Local Government Regulation 2012

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LocalGovR12.pdf>

Relevant Sections relating to this Policy:

Section 198 Procurement policy

Section 225 Medium-sized contract – quotes needed first (up to \$200,000)

Section 226 Large-sized contract – tenders needed first (\$200,000 or more)

Section 227 Valuable non-current asset contracts – tenders or auction needed first

Section 228 Tender process

Section 230 Exception if quote or tender consideration plan prepared

Section 231 Exception for contractor on approved contractor list

Section 232 Exception for register of pre-qualified suppliers

Section 233 Exception for a preferred supplier arrangement

Section 234 Exception for LGA arrangement

Section 235 Other Exceptions

Section 236 Exceptions for valuable non-current asset contracts (including land)

Section 237 Publishing details of contracts worth \$200,000 or more