

5.11. PROCUREMENT POLICY

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DEPARTMENT Finance and Corporate Services

RECOMMENDATION

That Council adopts the Procurement General Policy for the 2021/22 financial year.

EXECUTIVE SUMMARY

This report represents Douglas Shire Council's policy for the acquisition of goods and services and adherence to "sound contracting principles" as stipulated in *section 104 of the Local Government Act 2009* and *section 198 of the Local Government Regulation 2012*. This policy is required to be re-adopted by Council on an annual basis.

BACKGROUND

Council previously adopted the Procurement Policy on 26 May 2020. This policy outlines the responsibilities of officers regarding procurement and sound contracting principles as determined by legislation. A review of the policy has been undertaken by staff and the policy is presented to Council for re-adoption with minor administrative corrections, including removing reference to 'General Managers' and 'Executive Managers' and rewording the process for variations to purchase orders (highlighted in yellow).

PROPOSAL

That Council adopts the Procurement General Policy for the 2021/22 financial year.

FINANCIAL/RESOURCE IMPLICATIONS

There is a legislative requirement for Council to have in force a Procurement General Policy and there are no budgetary implications in reviewing the policy on an annual basis.

RISK MANAGEMENT IMPLICATIONS

Complying with legislative requirements ensures Council mitigates any regulatory or reputational risk.

SUSTAINABILITY IMPLICATIONS

Economic: The development of competitive local business and industry is addressed in the policy outlining Council's commitment to this principle.

Environmental: Council is committed to promoting environmental protection through its purchasing activities and how this will be achieved is outlined within the policy.

Social: Nil

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

Goal 1 - *We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

Goal 2 - *We will put the customer at the centre of our service delivery and process improvement as we deliver efficient and appropriate services based on community expectations.*

Goal 3 - *We will make sound financial decisions by ensuring robust strategic planning, financial management and reporting.*

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

- Builder/Owner** Council makes a significant investment every year in the infrastructure that underpins the Shire through its capital works program. Council will manage its assets with appropriate frameworks and deliver its projects through robust project management.
- Regulator** Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes-based approach that balances the needs of the community with social and natural justice.

CONSULTATION

Internal: Senior Procurement Officer, Team Leader Financial Accounting, Co-ordinator Frontline and Integrated Services

External: Nil

COMMUNITY ENGAGEMENT

Detailed legislative requirements of the *Local Government Act 2009* and *Local Government Regulation 2012* are embedded in Council's procurement processes. This proposal will fall within the 'inform' category of Council's Community Engagement Framework.

ATTACHMENTS

1. Procurement General Policy [5.11.1 - 8 pages]

8. PROCUREMENT GENERAL POLICY

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Purpose

This document sets out Douglas Shire Council's policy for the acquisition of goods and services and adherence to the "sound contracting principles" as stipulated in Section 198 of the *Local Government Regulation 2012*.

Scope

This policy applies to the procurement of all goods and services, including items procured by third parties (such as contractors) acting as representatives for Council.

Policy Content

Objectives

Council's purchasing activities aim to achieve advantageous procurement outcomes by:

- promoting value for money with probity and accountability;
- advancing Council's economic, social and environmental strategies;
- providing reasonable opportunity for competitive local businesses that comply with relevant legislation to supply to Council; and
- promoting compliance with relevant legislation.

In accordance with relevant legislation, this policy incorporates requirements regarding the procurement of goods and services and the application of sound contracting principles.

Responsibility

Council officers responsible for the procurement of goods and services must comply with this policy. It is the responsibility of Council officers involved in the procurement process to understand the meaning and intent of this policy.

Council officers are required to:

- adhere to the "sound contracting principles";
- preserve Council's integrity in the procurement process to ensure that Council may be seen to have acted beyond reproach in all dealings;
- abide by Council's Code of Conduct and all applicable policies and instructions; and
- source quotations and raise purchase orders prior to receiving goods and services.

The expected value of a contractual arrangement with a supplier for a financial year is the total expected value of all of Council's contracts, in the financial year, with the supplier for goods and services of a similar type. Accordingly, the purchase of goods or services must not be divided into unreasonable components, or order quantities reduced, to avoid the necessity to comply with the dollar limit requirements under this policy.

All relevant documentation relating to the procurement process is to be recorded in Council's record management system e.g. quotes, emails, letters etc.

Sound contracting principles

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

Value for money

Council must harness its purchasing power to achieve the best 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;
- fit 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
- the value of any associated environmental benefits.

Open and effective competition

Purchasing should 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 wishes to pursue the principle of the development of competitive local business and industry when entering into contracts for the supply of goods or services.

If a tender or quotation is evaluated using selection criteria then a local preference selection criteria with a weighting of no more than 20% (of the selection criteria total) may be utilised in the evaluation process, and where price, performance, quality, suitability and other selection criteria are evaluated as equal, then:

- Council may accept a tender submission or offer from a local supplier in preference to a comparable tender submission or offer from a non-local supplier even if the tender submission or offer from the non-local supplier has been assessed as more favourable in terms of one or more of the assessment criteria applied (including, but not limited to price), as long as the overall differences are not substantial and it is clear that the selected local supplier can meet Council's requirements at an acceptably high standard which is generally comparable to that of other submission or offers.
- Local preference is not simply a 20% price benefit to a local supplier, but also a quantitative measurement that can be utilised in recognition of location of supplier and the associated benefits that this provides to Council, such as;
 - creation of local employment opportunities;
 - more readily available servicing support;
 - more convenient communication for contract management; and
 - economic growth within the local area.

In this policy statement, a "local supplier" is a supplier which:

- is owned by persons who are residents or ratepayers of the local government area; or
- has its principal place of business within the local government area; or
- otherwise has a place of business within the local government area, which solely or primarily employs persons who are residents or ratepayers of the local government area.

Environmental Protection

Council promotes environmental protection through its purchasing procedures. In undertaking any purchasing activities, Council will:

- promote the purchase of environmentally friendly goods and services that satisfy value for money criteria;
- foster the development of products and processes of low environmental impact;
- include in procurement decision making, goods and services that contribute to achieving Council’s zero emission organisational strategy;
- provide an example to business, industry and the community by promoting the use of environmentally friendly goods and services; and
- wherever possible, encourage environmentally responsible activities

Ethical behaviour and fair dealing

Council officers involved in purchasing must behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives. Appropriate records are to be maintained evidencing decisions and terms of engagement.

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

Definition of Procurement

This policy applies to all procurement activities of Council. "Procurement" shall mean purchase, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods and services to Council, Council staff and agents unless specifically exempted under the provisions of this policy.

Procurement Thresholds

Procurement thresholds refer to the expenditure with a supplier for goods and services.

Purchase of goods and services	
Less than \$5,000	1 verbal or written quote
\$5,000 to less than \$15,000	2 written quotes
\$15,000 to less than \$200,000 (Medium-sized contractual arrangement)	3 written quotes
\$200,000 or more (Large-sized contractual arrangement)	Tender required

All amounts are GST exclusive.

It must be noted that legislation obligates Council to go to tender or call for expressions of interest if the expected value of goods and services of a similar type procured from the same supplier is \$200,000 or more (exclusive of GST) in a financial year or over the proposed term of the contractual arrangement.

Exemptions to these requirements not including requirements to go to tender

Include contracts or purchases made with:

- a contractor on an approved contractor list; or
- a supplier on a register of pre-qualified suppliers; or
- a supplier on a preferred supplier arrangement; or
- a supplier on a LGA (Local Buy) arrangement

Further statutory exemptions exist if:

- Council resolves it is satisfied that there is only one supplier who is reasonably available (sole suppliers); or
- Council resolves that due to 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 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.

When seeking quotations, staff should consider the likelihood of exceeding the \$200,000 legislative threshold relating to the requirement to seek tenders. If there is a risk, that this limit will be exceeded, then tenders should be called instead of quotations.

Budgetary Provisions

Procurement must be in accordance with the adopted annual budget or a council resolution and sufficient funds must be available to meet the full cost of the proposed procurement.

Emergencies

In recognition that full compliance with existing Council procurement procedures may not support the 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.

The alternative process is to be authorised by the Mayor and/or 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;
- An 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, a procurement action 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 so that a Council resolution can be adopted to authorise the unapproved expenditure 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.

In times of a genuine emergency, when access to Council's electronic purchasing system is not available, Council has manual purchase order books, which are distributed to operational areas of Council for the emergency period.

Financial and contractual delegation

The Chief Executive Officer implements Council's policies and decisions e.g. spending in accordance with the adopted budget. Refer also to Appendix 1.

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.

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. Other variations such as non-financial scope changes, extension of time etc. are to be managed by the delegated Council officers.

Variation procedures are as follows:

- All variations are to be approved in writing.
- Each variation shall require separate approval attached to the original purchase order stating the scope and cost; or alternately an additional purchase order raised/approved.
- An officer, where the total amended costs do not exceed their authorised financial and contractual delegation and the value of the variation is less than the values detailed below, can approve each variation.
- For an original purchase order involving a cost of greater than \$15,000 but less than \$200,000. If the cumulative value of variations exceeds 20% of the value of the original purchase order or \$15,000 whichever is the lesser, the variation and all further variations must be authorised by a Manager.
- For an original purchase order, involving a cost of \$200,000 or more all variations must be considered by Council's Management Team. If the cumulative value of variations exceeds 20% of the value of the original purchase order (or a lesser value at the Management Team's discretion), a consolidated report of all these variations will be presented to Council on a regular basis.

Publishing details of contracts

Council is obliged to publish details of all contracts worth \$200,000 or more (exclusive of GST). These details must be published monthly on Council's website and on a noticeboard located in the customer service area of the Council's Administration Building in Front Street, Mossman. 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
- the purpose of the contract

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

Related Legislation

Local Government Act 2009

Local Government Regulation 2012

Policy Review

This policy is to be reviewed annually as stated in Section 198 (3) of the *Local Government Regulation 2012*.

Policy Details

Policy Name	Procurement General Policy
Policy Number	8
Policy Version	8
Document Number	814364
Endorsed by	Chief Executive Officer
Policy Type	Statutory
Approval Authority	Council
Date Adopted	30/03/2021
Time Period	Annually
Review Date	1/03/2022
Policy Department	Finance and Corporate Services
Link to Corporate Plan	Robust Governance and Efficient Service Delivery
Revoked/Superseded	

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

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 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.
- The Chief Executive Officer must approve each delegation to an officer of the power to enter into contracts.
- The delegation is based on an officer’s position within Council and can be delegated to their back-up if the incumbent is on leave. The delegation lapses if the delegate is transferred or promoted to a different position.
- Any officer incurring expenditure on behalf of Council must do so in accordance with any constraints imposed by Council or the Chief Executive Officer.

Delegation level	Operational expenditure within budget	Capital expenditure within budget	Expenditure outside of budget
Chief Executive Officer	Up to \$200,000*	Up to \$200,000*	Utilise emergency provisions of the Local Government Act. These require a Council Resolution.
Managers	Up to \$200,000	Up to \$200,000	Nil
Senior Officers	Up to \$100,000	Up to \$100,000	Nil
Co-ordinator / Team Leader	Up to \$50,000	Up to \$50,000	Nil
Appropriate support staff	Up to \$5,000	Up to \$5,000	Nil

*Council further gives the Chief Executive Officer delegated authority to negotiate, finalise and execute recurring operational expenditure (e.g. insurance, electricity, telephone, vehicle registration, ongoing contracts, etc.) regardless of whether the value of the expenditure is more or less than \$200,000.

Senior officer: Are those positions that may or may not supervise staff, but may need financial and contractual delegation to meet positional requirements.

All delegation amounts are GST exclusive.