

Strategic policy

2022/23 Procurement Policy

Corporate Plan reference	Our Outstanding Organisation
Endorsed by Chief Executive Officer	23 June 2022 (OM22/43)
Manager responsible for policy	Branch Manager, Business and Innovation, Business Performance

Policy statement

This Procurement Policy will outline the principles and procurement and disposal framework that Council will adopt and apply when conducting Contracting Activities, which include contracts for goods and services (including works) and the disposal of assets.

Council adopts the *LGR 2012*, Chapter 6 Contracting, Part 2 Strategic Contracting Procedures for entering into contracts for the:

- a) supply of goods and services (including carrying out work); and
- b) disposal of non-current assets (other than land).

Council will comply with these procedures when conducting Contracting Activities, other than those applying to disposal of land or an interest in land.

Council will deal with the disposal of land under the *LGR 2012*, Chapter 6 Contracting, Part 3 Default Contracting Procedures.

Requirements of Strategic Contracting Procedures

The Strategic Contracting Procedures, comprise of:

- a) Contract Manual;
- b) Contracting Plan and associated guidelines, which include:
 - Local Preference in Procurement Guideline;
 - Social Benefit Procurement Guideline;
 - First Nations Procurement Guideline; and
 - Innovation and Market-Led Engagement Guideline; and
 - Environment and Sustainability in Procurement Guideline.
- c) Significant Contracting Plan/s.

This policy must be read and complied with in accordance with the associated guidelines.

Policy scope

This policy applies to all Council employees (including contingent workers and volunteers) and relates to anyone who undertakes any part of a Contracting Activity on behalf of Council.

Principles

Council will ensure it is financially sustainable by establishing a financial management system that ensures regard is had for the Sound Contracting Principles when contracting for the supply of goods or services (including the carrying out of works) and the disposal of assets.

Council will continue to apply the Sound Contracting Principles throughout the financial year along with other adopted principles in relation to Contracting Activities.

Sound Contracting Principles

The Sound Contracting Principles are:

- a) value for money; and
- b) open and effective competition; and
- c) the development of competitive local business and industry; and
- d) environmental protection; and
- e) ethical behaviour and fair dealing.

Regard will be had for each principle, although each principle may not receive equal consideration.

Policy details

This policy details how Council will conduct Procurement Activities. Procurement Activities will occur in the following manner:

Table 1: Procurement Contract thresholds

Contract Threshold	Procurement Routes
\$5,000,000 and greater OR High Risk/Complex Contracts	<ul style="list-style-type: none">• A Significant Contracting Plan is required for any Contract that is:<ul style="list-style-type: none">○ expected to reach the Contract Threshold; or○ of a high risk; or○ of a complex nature. <p>A Significant Contracting Plan must be made before the Contract starts. Each Significant Contracting Plan will identify the chosen procurement strategy.</p> <p>All Significant Contracting Plans must be adopted by Council and may only be modified by resolution of Council.</p>
\$250,000 up to \$5,000,000	<ul style="list-style-type: none">• Expression of Interest (EOI)• Invite Tenders• Available Exception
\$25,000 up to \$250,000	<ul style="list-style-type: none">• EOI• Invite Tenders• Request for Quote issued to at least three (3) suitably capable suppliers• Available Exception
Up to \$25,000	<ul style="list-style-type: none">• Request for Quote issued to at least one (1) suitably capable supplier

Exceptions relating to Procurement Processes

Council has created alternative procurement routes to the primary procurement routes (of EOI, Tender and Request for Quote) by establishing the following Exceptions:

Exception	Process for establishing and/or exercising an Exception
<p>Supplier Arrangements</p>	<p>Council can create Supplier Arrangements to undertake procurement processes from to form contracts for goods, services and/or works that are required frequently, in high volume or where it is important to understand the capability of the Suppliers.</p> <p>Council will maintain an open and transparent process for creating, managing, refreshing, and finalising Supplier Arrangements. Public Tender will be used to create a Supplier Arrangement, however an RFQ may be used to manage or refresh an existing Supplier Arrangement.</p> <p>The Supplier Arrangement may be priced or non-priced.</p> <p>Utilising Supplier Arrangement with price provided</p> <p>Council will invite the highest ranked Supplier on the Supplier Arrangement to provide the goods, services and/or works. Where the highest ranked does not or cannot provide the goods, services and/or works, the next highest ranked Supplier may be engaged, and so on, until a Supplier is engaged.</p> <p>Utilising Supplier Arrangement without price provided</p> <p>Council will undertake a Request for Quote from any Supplier Arrangement where price is not provided, having regard to the thresholds outlined in Table 2: Procurement Contract value and related procurement routes to market above.</p> <p>Note: In exceptional circumstances, a contract valued over \$25,000 may be formed following a Request for Quote process with just one Supplier on a Supplier Arrangement. Please contact the Coordinator Procurement and Contract Performance prior to entering into a contract if this exception is required.</p>
<p>Governmental Contracts and Arrangements</p>	<p>The Contract is made with, or under an arrangement with, another Government, including Local, State or Commonwealth, and includes any Government Entity or Agency and Utility Providers.</p> <p>This exception is intended to include Local Government Association Arrangements and Utility Providers including water, electricity, gas and telecommunications.</p> <p>Note: In exceptional circumstances, a contract valued over \$25,000 may be formed following a Request for Quote process with just one Supplier on a Supplier Arrangement. Please contact the Coordinator Procurement and Contract Performance prior to entering into a contract if this exception is required.</p>
<p>Genuine Emergency</p>	<p>A Genuine Emergency exists.</p> <p>If the money spent in response to the Genuine Emergency is not provided for in the annual budget, Council must make a resolution about spending the money; either before, or as soon as practicable after, the money is spent.</p>
<p>Innovation and Market-Led Engagement Guideline</p>	<p>Council has adopted an Innovation and Market-Led Engagement Guideline to identify the circumstances and processes for engaging with Suppliers who provide goods, services and/or works that fall within the contemplation of the Guideline.</p>
<p>General Exceptions</p>	<p>A General Exception may be used to form a contract when a standard Procurement Process or other Exception is not available or appropriate under the circumstances. This may include activities previously identified as Exceptions, including:</p> <p>Sole or Specialised Supplier/s</p> <p>Council determines that:</p> <ul style="list-style-type: none"> ○ there is only one supplier who is reasonably available; or ○ because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for Council to invite quotes or tenders. <p>Auction Purchase</p> <p>The Contract is for the purchase of goods and is made by auction.</p>

	<p>Second-hand Goods</p> <p>The Contract is for the purchase of second-hand goods.</p> <p>Tender/Quote Consideration Plan/s</p> <p>If a Tender/Quote Consideration Plan has been approved or adopted, then Council may form a Contract from that Plan as contemplated by that Plan.</p> <p>A Procurement Plan must be developed prior to contract award for Procurement Activities involving a General Exception. A Procurement Plan for a General Exception must also explain the reasoning for using this Exception, including why a standard Procurement Process/es or other Exception/s were not available.</p> <p>A General Exception may be approved by support from the Manager, Business & Innovation and the Group Executive from the Group where the contract will be managed and administered, or with the sole approval of the CEO.</p>
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NOTE: Use of any of the aforementioned exceptions is limited to those with the delegated authority to conduct Contracting Activities, and within authorised expenditure limits.

Application to Disposal Processes

Council will conduct Disposal Contracting Activities having regard to the adopted Thresholds for Valuable Non-Current Assets.

Thresholds for Valuable Non-Current Assets (VNCA)

The LGR 2012 provides that a VNCA is:

- land; or
- another non-current asset that has an apparent value that is equal to or more than a limit set by Council.

Council sets the value for VNCAs, other than land at:

- for plant or equipment - \$25,000;
- for another type of non-current asset - \$25,000.

For clarity, items with a greater value than the above figures are VNCAs. Those items with an estimated value below the identified thresholds are Surplus Assets.

Table 3: Disposal Contract thresholds

Contract Value	Disposal Routes
Plant, Equipment and any other VNCA worth more than \$25,000 (other than land)	<ul style="list-style-type: none"> • Public Tender • EOI • Available Exception
Surplus Assets worth less than \$25,000	<ul style="list-style-type: none"> • EOI • Public Tender • Public Auction • Recycle • Waste/dumping • Trade in • Donating to Government Agency or Community Organisation

Council will consider and apply the most appropriate disposal process to realise the best value for Council from the disposal.

Requirement for the Disposal of Land and Exceptions

Council will continue to dispose of land, or any interest in land in a manner consistent with the *LGR 2012*, Chapter 6 Contracting, Part 3 Default Contracting Procedures. These procedures require that, unless an exception applies, Council will dispose of land, or an interest in land by:

- EOI
- Tender
- Auction

There are a number of exceptions detailed in the LGR which may be exercised instead of undertaking a EOI, Tender or Auction and these are detailed in section 236(1). Exercise of the exceptions is subject to the following qualifications:

- a) For exceptions mentioned in subsections 236(1)(a) to (e), before the disposal, Council decides by resolution that the exception may apply to that particular disposal.
- b) For exceptions relating to disposal of land or an interest in land, the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in land including the market value of any improvements. A written report about the market value from a valuer registered under the *Valuers Registration Act 1992* (not an employee of Council) will be sufficient evidence of the market value.
- c) Point (b) immediately above does not apply to disposal of land or an interest in land which is disposed of under sections 236(1)(b), (1)(c)(ii) or (1)(f).

Applying the Sound Contracting Principles in Procurement and Disposal Processes

Council will apply, and have regard for, the Sound Contracting Principles in the following manner:

Value for money

The concept of value for money is not restricted to the price of the goods, services or works.

Council will consider a number of factors when assessing value for money, including:

- a) whole-of-life costs including acquisition, use, maintenance and disposal costs;
- b) contribution to the achievement of Council's policies and priorities;
- c) fitness for purpose, quality, service and support;
- d) internal administration costs;
- e) technical compliance costs;
- f) risk exposure; and
- g) the value of any associated environmental benefits.

Open and effective competition

Contracting Activities will be conducted by Council using an open and competitive process unless a specific exception applies. Open and effective competition will be achieved by ensuring that:

- a) procedures and processes for contracting are visible to Council, suppliers and the community;
- b) prospective suppliers are given fair and reasonable consideration; and
- c) evaluation of offers is undertaken pursuant to the legislation, procedures and evaluation criteria applicable to the Contracting Activity.

The development of competitive local business and industry

Council encourages the development of competitive local businesses and will endeavour to promote and support competitive local industry while conducting Contracting Activities.

In addition to standard evaluation criteria, Council may also consider the following factors when conducting Contracting Activities:

- a) creation of local employment opportunities;
- b) economic growth within the local area including economic growth that aligns with the implementation of the *Regional Economic Development Strategy 2013-2033*;
- c) readily available servicing support and supply chain capability; and
- d) the benefit to Council of contracting with local suppliers and the associated local commercial transactions that flow from these engagements.

Environmental protection

Council will seek to complement its broader environmental commitments and initiatives when conducting Contracting Activities. While conducting those activities, Council will have regard to the *Environment and Liveability Strategy 2017*, and a range of environment and sustainability factors including:

- a) the environmental and sustainability benefits and impacts for the whole lifecycle of products and services including manufacture, supply, use, maintenance and disposal;
- b) procurement of environmentally responsible goods, services and assets;
- c) goods and services that minimise resources and have reduced environmental impacts throughout their lifecycle, including:
 - reduced toxicity;
 - reduced packaging;
 - reducing waste to landfill;
 - greater energy efficiency and/or reduced carbon emissions,
 - greater water efficiency and/or reduced water use;
- d) use of products made from recycled materials, recycled green organics and/or recycled plastic products;
- e) provide an example to business, industry and the community in promoting the use of environmentally responsible goods and services; and
- f) persuing, leading and building a circular economy.

Ethical behaviour and fair dealing

Council will conduct Contracting Activities with impartiality, fairness, independence, openness, and integrity to ensure probity, transparency and accountability for the outcomes. Council will promote ethical behaviour and fair dealing by:

- a) ensuring legislative and policy compliance in Contracting Activities;
- b) ensuring compliance with Employee and Councillor Codes of Conduct;
- c) creating and maintaining a robust and effective procurement process that operates in a mature probity environment;
- d) identifying and managing possible, real or perceived conflicts of interest between Council, Council Officers, Councillors and prospective or existing contractors;
- e) Ensuring equal and impartial treatment of all prospective and existing suppliers.

Other obligations

Outlined below is a series of further obligations that must be met or maintained. They are:

Powers to delegate (LGA 2009, ss 257, 259 & LGR 2012, s 238)

Council may delegate by resolution, a power under the *LGA 2009* or another Act to the Chief Executive Officer (CEO). Any delegation to the CEO will be reviewed annually. The Council must not delegate a power that an Act states must be exercised by resolution. Council may delegate a power with conditions.

Council has delegated powers to the CEO relating to Contracting Activities. The CEO has in turn delegated these powers onto appropriately qualified Local Government Employees and/or Council Officers. These delegations are recorded in the delegations register maintained by the CEO.

Persons engaged by Council in Contracts for Service (e.g. consultants, project managers and labour hire organisations) are not permitted to commence a Contracting Activity or award a Contract on behalf of Council unless they have been formally given a Instrument of Delegation as available in the Delegation No. 2 approved by the Chief Executive Officer and relevant Group Executive.

For clarity, some persons engaged in Contracts for Service that are considered Contingent Workers may participate in or manage the Contracting Activity through its various phases and provide, for example, technical advice during the evaluation of Tenders. However, they are not permitted to undertake any action or make any decision that results in them commencing a procurement process or forming a Contract on behalf of Council, or expending, or agreeing to expend money on behalf of Council unless Instrument of Delegation has been provided for in the Delegation No. 2, approved by the Chief Executive Officer and relevant Group Executive.

Requirement to keep record of particular matters (LGR 2012, s 164)

Council will keep a written record stating the risks Council's operations are exposed to, to the extent they are relevant to financial management and the control measures adopted to manage the risks. Council will keep a copy of the Procurement Policy with that record.

Unauthorised spending (LGR 2012, s 173)

Council will only spend money in a financial year if it is adopted in the budget for the financial year; or before adopting its budget for the financial year, if it then provides for the spending in the budget for that financial year.

Council may spend money, not authorised in its budget, for genuine emergency or hardship. In this instance Council must make a resolution about spending the money; either before, or as soon as practicable after, the money is spent. The resolution will state how the spending is to be funded.

Other contents - Annual Report – changes to tenders (LGR 2012, s 190)

Council will include the number of invitations to change tenders under the *LGR 2012*, Section 228(7) during that financial year in its annual report for the financial year.

Procurement Policy – annual review (LGR 2012, s 198)

Council will prepare and adopt a Procurement Policy that will be reviewed annually. The Procurement Policy will include details of the principles, including the Sound Contracting Principles that Council will apply to purchasing goods and services.

Public access to relevant financial and planning documents (LGR 2012, s 199)

Council will allow the public to inspect this Procurement Policy by making it available:

- a) on its website <http://www.sunshinecoast.qld.gov.au>; and
- b) at Council's public offices.

Council will also make a copy of the Procurement Policy available for purchase at a cost of no more than it costs Council to make it available.

Publishing details of contractual arrangements worth \$200,000 or more (LGR 2012, s 237)

Council will, as soon as practicable after entering into a contractual arrangement worth \$200,000 or more (GST exclusive), publish the relevant details of the contractual arrangement:

- a) on its website <http://www.sunshinecoast.qld.gov.au>; and
- b) in a conspicuous place in a public office.

Relevant details of a Contract means:

- a) the person with whom Council has entered into the contractual arrangement;
- b) the value of the contractual arrangement; and
- c) the purpose of the contractual arrangement.

For the purposes of this section a reference to Contractual Arrangement means a single Contract.

Councillor requests for information

The *LGA 2009* provides the circumstances under which Councillors may request information or assistance from Local Government Employees. A framework for this process has been established by the Councillors Acceptable Request Guidelines. This guideline outlines the processes for Councillors requesting, and Local Government Employees providing, information.

Councillors and Local Government Employees should comply with the legislation, the relevant Guideline and the respective Codes of Conduct when dealing with matters relating to Contracting Activities.

Councillors should direct any issues regarding Contracting Activities to the CEO. They should not attempt to influence any Contracting Activity. Attempts to do so may constitute a breach of legislation and/or the Councillor Code of Conduct. Further, attempts may cause the favoured industry participant to be disqualified from consideration under Council's probity conditions established under its procurement process and general conditions of offer.

Prohibition on splitting of Orders or Contracting Activities

Splitting orders or splitting Contracting Activities to attempt to avoid thresholds is not permitted. **Measurements of success**

Success of this Procurement Policy will be measured by:

- Monthly and yearly dollar value of procurement spend and percentage of available procurement spend with **Local suppliers** compared with non-local suppliers;
- Monthly and yearly dollar value of procurement spend and percentage of available procurement spend with **First Nation suppliers**, and consideration of sub-contracting and employment opportunities;
- Monthly and yearly dollar value of procurement spend and percentage of available procurement spend with **Social Benefit suppliers**, and consideration of sub-contracting and employment opportunities;
- Number and percentage of Contracting Activities with an **Environmental and Sustainability** criterion;
- Number and percentage of Contracting Activities with a **Work health and safety** criterion
- Identify and review each invitation to change tenders under *LGR 2012*, s 228 (7) during the financial year.

Definitions

The following definitions apply to this policy and any associated document:

Community Organisation means:

- a) an entity that carries on activities for a public purpose; or
- b) another entity whose primary object is not directed at making a profit.

Contract means a contract (including purchase orders and purchase card transactions) for:

- a) the supply of goods or services; or
- b) the carrying out of work; or
- c) the disposal of non-current assets.

In this policy, this term does not include a contract of employment between Council and a Local Government Employee (as defined in the *LGA 2009*).

Contracting Activity means Procurement Processes and/or Disposal Processes.

Contract Manual means the Contract Manual prepared and adopted by Council for the financial year, as required under the provisions of the *LGR 2012*, s 222.

Contracting Plan means the Contracting Plan prepared and adopted by Council for the financial year, as required under the provisions of the *LGR 2012*, s 220.

Contract for Service means a contract to which an independent contractor is a party and that relates to the performance of work by the independent contractor.

Council Employee - Means the CEO, senior contract employees, contract employees, award employees, casual employees, part-time employees, contractors, contingent workers, agency casual and volunteers.

Council Officer means a Local Government Employee (as that term is defined in the *LGA 2009*) of the Sunshine Coast Regional Council, but does not include a person engaged on a Contract for Service for a defined time or designated project.

Disposal Contract means a Contract for the disposal of Valuable Non-Current Assets and/or Surplus Assets.

Disposal Process means the process Council must undertake to enable it to enter into a Contract for the disposal of an asset, including Valuable Non-Current Assets, Surplus Assets and land, including an interest in land.

EOI means an Expression of Interest.

Expression of Interest means an Expression of Interest process conducted by the Council.

Government Agency is:

- a) the State, a government entity, a corporatised business entity or another local government; or
- b) another Australian government or an entity of another Australian government; or
- c) a local government of another State.

Invitation to Tender means a document released to the public titled "Invitation to Tender".

LGA Arrangement means an arrangement established by Peak Services and/or Local Buy Pty Ltd, LGAQ Ltd or other entity of which LGAQ Ltd is the only shareholder.

Procurement Contract means a Contract to purchase goods and/or for the provision of services or works.

Procurement Process means the process Council must undertake to enable it to enter into a contract for the purchase of goods, the supply of services and/or the undertaking of works.

Prospective Respondent means a person or entity that has requested or received an Invitation to Tender or Request for Quote but has not submitted a Tender Response Form or Request for Quote Response Form.

Quote means a quote or quotes (including Alternative Quotes) submitted by Respondents in response to a Request for Quote.

Respondent/s means a person or entity that has submitted an offer in response to an Invitation to Tender or Request for Quote.

Request for Quote/s means a document released by Council to Prospective Respondents titled "Request for Quote".

Request for Quote Response Form means the response form set out in the Request for Quote.

Significant Contracting Plan means a Significant Contracting Plan prepared and adopted by Council, as required under the provisions of the *LGR 2012*, s 221.

Sound Contracting Principles means the principles provided in the *LGA 2009*, s 104.

Supplier Arrangement means a list of suppliers established by Council or other appropriate entity to facilitate the procurement of goods or services required frequently, in high volume and/or where the capability of the suppliers has been determined.

Surplus Asset means an asset that is plant or equipment or another type of non-current asset that does not reach the value threshold of a Valuable Non-Current Asset as prescribed by Council in this policy.

Tender/s means a tender or tenders (including Alternative Tenders) submitted by Respondents in response to the Invitation to Tender.

Tender Response Form means the response form set out in the Invitation to Tender.

Valuable Non-Current Asset means land or another non-current asset that has a value equal to or more than the value threshold of a Valuable Non-Current Asset as prescribed in this policy.

Policy commitment

Council Employees and Councillors covered in the scope of this policy consistently demonstrate and uphold the intent, objectives and principles of this policy. Nothing in this policy requires or authorises an employee of Council or Councillor to act in any way that is contrary to law. Any instances of non-compliance will be managed in accordance with any relevant codes of conduct, policies and legislation dealing with conduct and/or disciplinary action.

Related legislation, policies, strategies and documents

All individuals engaged in dealings within the scope of this policy are required to fulfil the ethical and behavioural obligations as defined in legislation. In the event of an inconsistency between any provision of this policy and any provision of the following related legislation, policies, strategies and documents, the provisions of the related legislation, policies, strategies and documents shall prevail, unless the CEO or Council expressly waive a provision of this policy by prior agreement.

- *Public Sector Ethics Act 1994 (Qld)*
- *Local Government Act 2009 (Qld)*
- *Local Government Regulation 2012 (Qld)*
- *Statutory Bodies Financial Arrangements Act 1982 (Qld)*
- *Public Sector Ethics Act 1994 (Qld)*
- *Disaster Management Act 2003 (Qld)*
- 2022/23 Contract Manual
- 2022/23 Contracting Plan
- Local Preference in Procurement Guideline
- Social Benefit Procurement Guideline
- First Nations Procurement Guideline
- Innovation and Market-Led Engagement Guideline
- Environment and Sustainability in Procurement Guideline
- Significant Contracting Plan/s
- Sunshine Coast Council's Corporate Plan 2021-2025
- SCC Environment and Liveability Strategy 2017
- Zero Net Emissions Plan 2021-2031 (Draft)
- Regional Economic Development Strategy 2013-2033
- Community Strategy 2019-2041
- Reconciliation Action Plan 2021-2022
- Employee Code of Conduct
- Code of Conduct for Councillors
- Councillors Acceptable Request Guidelines
- Council's current delegations
- Purchase Cards Guideline

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Endorsement		Council	14 June 2018
2.0	Review	Y	Council	20 June 2019
3.0	Review	Y	Council	11 June 2020

4.0	Review	Y	Council	24 June 2021
5.0	Review	Y	Council	23 June 2022

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