

## Strategic policy

### 2018/19 Procurement Policy

Corporate Plan reference:	<b><i>A smart economy</i></b> <b><i>An outstanding organisation</i></b>
Endorsed by Council on:	
Manager responsible for policy:	Manager, Business Development

## Purpose

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

## Outcome

Council's desired policy outcomes are to:

- a) provide a procurement framework for undertaking Contracting Activities, within an effective governance and sound probity environment;
- b) encourage strategic procurement and sound decision-making;
- c) encourage sustainable procurement practices;
- d) facilitate efficient and timely contracting for Council's capital works, operational activities, and the disposal of assets;
- e) deliver value for money;
- f) encourage an open, effective and competitive market place;
- g) encourage development of competitive local business and industry;
- h) manage Council's risk exposure; and
- i) comply with all applicable laws including the *Local Government Act 2009 (Qld) (LGA 2009)* and *Local Government Regulation 2012 (Qld) (LGR 2012)*.

## Scope

This Procurement Policy applies to Council Officers and Councillors who undertake any part of a Contracting Activity on behalf of Council.

## Prohibition on Contractors conducting Contracting Activities

Council Officers and/or Councillors are the only persons authorised to initiate any procurement process, or to contract on behalf of Council

Persons engaged by Council in Contracts for Service (e.g. consultants and project managers) are not permitted to commence or control any Contracting Activity. For clarity, contractors may participate in a Contracting Activity by providing, for example, technical advice during the evaluation of tenders, however they are not permitted to undertake any action that results in them commencing a procurement process or forming a contract on behalf of Council.

## Guiding 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.

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 price, capability, performance, quality and suitability, Council may also consider the following factors when conducting Contracting Activities:

- a) creation of local employment opportunities;
- b) economic growth within the local area;
- 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 a range of environmental factors including:

- a) the environmental benefits and impacts for the whole lifecycle of products and services including manufacture, supply, use, maintenance and disposal;
- b) procurement of environmentally responsible products, services, works and assets that satisfy whole-of-life cost and value for money criterion;
- c) products that use fewer resources and have reduced environmental impacts throughout their lifecycle, evidenced by:
  - reduced toxicity;
  - reduced packaging;
  - reducing waste to landfill;
  - greater energy efficiency and/or reduced carbon pollution,
  - greater water efficiency and/or reduced water use;
- d) use of products made from recycled materials, recycled green organics and/or recycled plastic products; and
- e) provide an example to business, industry and the community in promoting the use of environmentally responsible goods and services.

### **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.

## Policy statement

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

In adopting the Strategic Contracting Procedures, Council has also adopted:

- a) a Contract Manual
- b) a Contracting Plan
- c) Significant Contracting Plan/s

## Application to Procurement Contracting Activities

Council will conduct Procurement Contracting Activities, in the following manner:

**Table 1: Procurement Contracting Activity thresholds**

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

## Exceptions relating to Procurement Contracting Activities

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

**Table 2: Exceptions relating to Procurement Contracting Activities**

Exception	Process for establishing and/or exercising an Exception:
<b>Supplier Arrangements</b>	<p>Council will create Supplier Arrangements where the goods or services 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.</p> <p>The Supplier Arrangement may be priced or non-priced.</p> <p><b>Supplier Arrangement with price provided</b></p> <p>Council will invite the highest ranked Supplier on the Supplier Arrangement to provide the goods or services. Where the highest ranked does not or cannot provide the goods or services, the next highest ranked Supplier may be engaged, and so on, until a Supplier is engaged</p> <p><b>Supplier Arrangement without price provided</b></p> <p>Council will invite a quote or quotes from any Supplier Arrangement where price is not provided, having regard to the Procurement Contracting Activities Threshold outlined in Table 1 above</p> <p>Council will maintain and engage from the Registers of Pre-Qualified Suppliers and Preferred Supplier Arrangements that existed at the time of adoption of this Procurement Policy until such time as those Registers of Pre-Qualified Suppliers and Preferred Supplier Arrangements are replaced, expire or are ended</p>
<b>Local Government Association Arrangement</b>	The Contract is entered into under a LGA Arrangement.
<b>Sole or Specialised Supplier/s</b>	<p>Council determines that:</p> <ul style="list-style-type: none"> <li>• there is only one supplier who is reasonably available; or</li> <li>• 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</li> </ul>
<b>Genuine Emergency</b>	<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>
<b>Auction Purchase</b>	The Contract is for the purchase of goods and is made by auction.
<b>Second-hand Goods</b>	The Contract is for the purchase of second-hand goods.
<b>Governmental Arrangement</b>	The Contract is made with, or under an arrangement with, a Government Agency.
<b>Innovation, Market Led Proposal and Unique Procurement Engagement Guideline</b>	Council has adopted an Innovation, Market Led Proposal and Unique Procurement Engagement Guideline to identify the circumstances and processes for engaging with Suppliers who provide goods or services that fall within the contemplation of the Guideline

## Application to Disposal Contracting Activities

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 - \$5,000;
- for another type of non-current asset - \$10,000.

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.

Council will consider and apply the Disposal Contracting Activity by engaging a process which is likely to realise the best value for Council from the disposal. The available **disposal processes** include:

- EOI
- Tender
- Auction of an appropriate form
- Offer for Sale
- Trade in
- Bespoke disposal activity

## 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

**Table 3: Exceptions for Disposal of Land**

Exception	Legislative requirement
<b>Previous offer for sale or auction</b> <i>LGR 2012</i> , s.236(1)(a)	The land was previously offered for sale by tender or auction but was not sold; and is being sold for more than the highest tender or auction bid that was received.
<b>Government Agency or Community Organisation</b> <i>LGR 2012</i> , s.236(1)(b)	The land is disposed of to a Government Agency or a Community Organisation. <i>Point (b) immediately below this table does not apply to this exception.</i>
<b>Forms of disposal for land or an interest in land</b> <i>LGR 2012</i> , s.236(1)(c)	(a) For the <b>disposal of <u>land</u></b> or an <b><u>interest in land</u></b> : The land will not be rateable land after the disposal; The land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom; <i>Point (b) immediately below this table does not apply to this exception.</i>

	The disposal is for the purpose of renewing the lease of land to the existing tenant of the land.
	The land is disposed of to a person who owns adjoining land if: <ul style="list-style-type: none"> <li>(i) the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size or the existence of infrastructure; and</li> <li>(ii) there is not another person who owns other adjoining land who wishes to acquire the land; and</li> <li>(iii) it is in the public interest to dispose of the land without a tender or auction; and</li> <li>(iv) the disposal is otherwise in accordance with the Sound Contracting Principles.</li> </ul>
<b>Forms of disposal for land or an interest in land</b> <i>LGR 2012, s.236(1)(c)</i> continued.	All or some of the consideration for the disposal is consideration other than money, for example, other land in exchange for the disposal, provided: <ul style="list-style-type: none"> <li>(i) it is in the public interest to dispose of the land without a tender or auction; and</li> <li>(ii) the disposal is otherwise in accordance with the Sound Contracting Principles.</li> </ul>
	The disposal is for the purpose of a lease for a telecommunication tower.
	The disposal is of an interest in land that is used as an airport or for related purposes, provided: <ul style="list-style-type: none"> <li>(i) it is in the public interest to dispose of the land without a tender or auction; and</li> <li>(ii) the disposal is otherwise in accordance with the Sound Contracting Principles.</li> </ul>
<b>Forms of disposal – Specific to leasing</b> <i>LGR 2012, s.236(1)(e)</i>	The disposal of a VNCA, by the grant of a lease, if the grant of lease has been previously offered by tender or auction, but a lease has not been entered into.
<b>Ministerial exemption</b> <i>LGR 2012, s.236(1)(f)</i>	The Minister exempts Council from complying with section 227. An exemption given under this subsection may be given subject to conditions. <i>Points (a) and (b) immediately below this table do not apply to this exception.</i>

Exercise of the aforementioned 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).

## 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. These delegations are recorded in the delegations register maintained by the CEO.

#### **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.

## **Roles and responsibilities**

Council Officers with a role or responsibility to Contracting Activities are:

**Chief Executive Officer** is responsible for overseeing all aspects of the Procurement Policy.

**Group Executive, Business Performance Group** is responsible for overseeing all financial management systems and services, including Contracting Activities.

**Manager, Business Development** is responsible for implementing and maintaining a framework for undertaking efficient and sustainable Contracting Activities, within an effective governance framework and sound probity environment. This includes creating appropriate guidelines, processes, procedures and documents.

**All Managers** are responsible for ensuring all Officers comply with this Procurement Policy and associated guidelines, processes and procedures.

**Procurement Contracts Committee** is responsible for providing an effective decision making forum regarding Contracting Activities.

**All Officers** are responsible for complying with this Procurement Policy and associated guidelines, processes and procedures. Only Officers delegated the authority to conduct Contracting Activities as per Delegation of Authority – Delegation No. 2 – Procurement and Contracting Activities and Payments are permitted to commence or bind Council in contract resulting from a Contracting Activity, and only within the limits of the relevant financial authority set in that delegation.

## **Measurement of success**

Success of this Procurement Policy will be measured by:

- Monthly and yearly dollar value and percentage of available procurement spend with local suppliers compared with non-local suppliers;
- Number of contracts awarded to local suppliers compared with non-local suppliers from the Purchase Order System within a financial year. This measure will be considered, by dividing the contracts into those which fall within the following values:
  - Less than \$25,000;
  - \$25,000 or more, but less than \$250,000;
  - \$250,000 or more, but less than \$1,000,000; and
  - \$1,000,000 and above.
- Number and percentage of Contracting Activities with an environmental criterion;
- Audit Reports rating the procurement function with a strong outcome or better; and
- Review of 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 a Procurement Contracting Activity and/or a Disposal Contracting Activity.

**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 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 Contracting Activity** means an activity to dispose 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 Contracting Activity** means an activity for the making of a contract for the provision of goods and services.

**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 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.

## Related policies and legislation

- *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)*

This policy is supported by the following organisational documents:

- Sunshine Coast Council's Corporate Plan 2018-2022
- Sunshine Coast Council's Operational Plan 2018/19
- 2018/19 Contract Manual
- 2018/19 Contracting Plan
- Local Preference in Procurement Guideline
- Social Benefit in Procurement Guideline
- Indigenous (Aboriginal and Torres Strait Islander ) Procurement Guideline
- Innovation, Market Led Proposals, and Unique Procurement Engagement Guideline
- Significant Contracting Plan/s and Template
- Council's current delegations
- Employee Code of Conduct
- Code of Conduct for Councillors
- Purchase Cards Guideline
- Councillors Acceptable Request Guidelines

Note: In the event of conflict between any guideline/s or procedure/s and this policy, the policy will prevail to the extent of any inconsistency.

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Endorsement		Council	18/05/2017

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