

**YARRABAH ABORIGINAL SHIRE COUNCIL**



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**1. INTRODUCTION**

This document sets out Council’s policy for the acquisition of goods and services and the implementation of identified procurement principles. The policy applies to the procurement of all goods, equipment and related services, construction contracts and service contracts (including maintenance).

All Council purchases must be carried out in compliance with the Local Government Act 2009 (the Act) and the Local Government Regulation 2012 (the Regulation). In particular, Chapter 6, ‘Contracting’, of the Regulation applies.

Where applicable AS 4120-1994, ‘Code of Tendering’, shall apply.

## 2. POLICY OBJECTIVE

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

- a) promoting value for money with probity and accountability; and
- b) advancing Council's economic, social and environmental policies; and
- c) enhancing opportunity for competitive local businesses which comply with relevant legislation to supply to Council; and
- d) ensuring compliance with relevant legislation; and
- e) ensuring that, where appropriate, relevant decision making processes take account of Aboriginal custom as allowed under Section 9, Subsection 3 of the Act.

To avoid ambiguity, it is specifically stated that Council will give strong weighting to the creation of local employment opportunities and the stimulation of economic growth within Yarrabah as non-price criteria when making procurement decisions. Similar strong weighting will be given to cultural considerations and concerns relevant to Yarrabah as an Aboriginal Community with traditional and historical interests. Appendix A provides further detail on these aspects of policy objective and is to be read in conjunction with this clause.

This policy addresses the requirements of Section 198 of the Regulation regarding the acquisition of goods and services and the implementation of sound contracting principles as stated in Section 104 of the Act.

## 3. RESPONSIBILITY

Council officers must comply with this policy.

Those Yarrabah Aboriginal Shire Council officers who are entitled to make purchases or sign requisitions are, in exercising this authority, confirming that they have read and understood this policy and have complied with all of its requirements.

## 4. PROCUREMENT PRINCIPLES

Council officers must carry out all purchasing activities – including but not limited to all quotation, tender and expression of interest processes described in this policy – in a manner which is consistent with the following procurement principles:

### a) Value for money

Council must harness its purchasing power to achieve the best possible value for money. The concept of value for money is not restricted to price alone. The value for money assessment must include consideration of:

- i. contribution to the advancement of Council's priorities; and
- ii. fitness for purpose, quality, services and support; and
- iii. whole-of-life costs including costs of acquiring, using, maintaining and disposal; and
- iv. internal administration costs; and
- v. technical compliance issues; and
- vi. risk exposure; and
- vii. the value of any associated environmental benefits.

**b) Open and effective competition**

Purchasing procedures should be as open as possible and should encourage effective competition in the provision of goods and services. Council must give fair and equitable consideration to all prospective suppliers.

**c) The development of competitive local business and industry**

Council encourages the development of competitive local businesses within Yarrabah. (Refer to Appendix A for more detail.)

**d) Environmental protection**

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

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

**e) Ethical behaviour and fair dealing**

Council officers involved in purchasing are to behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives.

### 5. PURCHASES UNDER \$15,000.00 (GST Exclusive)

All purchases are to be approved by the relevant supervisor, manager or director. In cases where the relevant officer has not been granted financial delegation within his or her area of responsibility (as recorded in Council's Register of Delegations) the approval of the CEO is also needed.

All purchases of \$15,000 (GST exclusive) or more must be approved in writing by the CEO.

Any proposed purchases outside of approved budgets must be presented to Council for approval.

- a) For purchases up to \$50.00 (GST exclusive) petty cash may be used in accordance with Council's approved petty cash procedure.
- b) For purchases between \$50.01 (GST exclusive) and 1,999.99 (GST exclusive), one verbal quotation is sufficient. A written record of quotations received must be made. Purchases must be made by placing a written purchase order or by purchasing card. (Schedule 1 identifies the holders of corporate purchasing cards issued by Council.) For purchases to subcontractors for Building & Asset Work Orders to the value of \$500 a copy of the Work Order is issued by the Works Department and constitutes a Council Purchase Order.

- c) For purchases between \$2,000.00 (GST exclusive) and \$14,999.99 (GST exclusive) at least two written quotations are required. If two quotations are not available, written approval to obtain only one quotation must be obtained from the CEO. Purchases must be made by placing a written purchase order.

### 6. MEDIUM-SIZED CONTRACTS

Subject to the exceptions set out in the clauses below and requirements as set out in Section 225 of the Regulation, the following procedures will apply to each purchase between \$15,000.00 (GST exclusive) and \$199,999.99 (GST exclusive).

- a) Council will invite three written quotations. The invitation must be given to at least three people or entities which Council considers can meet its requirements at competitive prices.
- b) Quotations received must be evaluated in a manner which is consistent with this policy.
- c) Written records will be kept on the evaluation of quotations and the means by which any resulting recommendation to purchase is formulated.
- d) Any recommendation to purchase must be incorporated into a report which provides the reasoning – consistent with this policy – behind the recommendation and this report must be approved by the appropriate Supervisor, Manager or Director.
- e) If the proposed purchase is outside of Council's current approved budget, it must be presented to Council for approval.
- f) A copy of the report, associated quotations and records on the evaluation of the quotations are to be attached the requisition requesting the purchase. A copy of the minutes of the meeting at which Council approval was given (if applicable) must also be attached.
- g) A contract completing the purchase is to be executed by signature of the CEO.

### 7. LARGE-SIZED CONTRACTS

Subject to the exceptions set out in the clauses below and requirements as set out in Section 226 and Section 228 of the Regulation, the following procedures will apply to each purchase of \$200,000.00 (GST exclusive) or more.

- a) In designing a tender process, Council will apply AS 4120-1994, 'Code of Tendering', which identifies requirements in relation to forms, specification and schedule. If the item to be purchased is Plant Fleet, end user participation will be required in setting tender specification.
- b) Any invitation to tender or provide an expression of interest will be made in a newspaper that circulates generally in the Yarrabah Aboriginal Shire. The closing date

for tenders or expressions of interest will be at least 21 days after the date of invitation publication.

- c) All tenders and expressions of interest received must be allocated a unique identification number, and evaluated in a manner which is consistent with this policy. Evaluation is to be documented and if required, submitted to Council.
- d) Evaluation of tenders and expressions of interest will be by a panel of at least three people appointed by the CEO and chaired by a Council officer also appointed by the CEO. In emergent circumstances, evaluation may be conducted by an individual appointed by the CEO. In such circumstances, the CEO must provide a written statement providing this permission together with his or her reasons for doing so. This statement will then form part of the evaluation documentation.
- e) A recommendation arising from the evaluation of tenders or expressions of interest will be incorporated into a report which must:
  - i. include the reasoning – consistent with this policy – behind the recommendation; and
  - ii. include information on the closing date for tenders or expressions of interest and other key dates; and
  - iii. be approved by the panel or the individual appointed to conduct the evaluation; and
  - iv. identify the members of the panel or the individual appointed to conduct the evaluation; and
  - v. be attached to a completed ‘Accuracy and Compliance’ checklist signed-off by the Manager Corporate Services (reflecting the fact that accountability for procurement across Council lies with Corporate Services); and
  - vi. be endorsed by the CEO; and
  - vii. be submitted to Council for approval regardless of whether or not proposed spending is included in Council’s current approved budget.
- f) A recommendation report prepared for the consideration of Council should be made available sufficiently early for its distribution to councillors with agenda paperwork prior to the Council meeting at which the report is to be considered and certainly no later than three days before the meeting. Outside of emergent circumstances, Council will not approve a recommendation concerning tenders or expressions of interest unless councillors have had the opportunity to read the recommendation report as provided for by this requirement.
- g) A copy of the relevant recommendation report, the associated ‘Accuracy and Compliance’ checklist, associated tender documentation, records about the evaluation of the tenders and minutes of the Council meeting at which Council approved the recommendation to purchase is to be attached to the requisition requesting the purchase.
- h) A contract completing the purchase is to be executed by signature of the CEO.

## 8. REGULATED EXCEPTIONS FOR MEDIUM-SIZED AND LARGE-SIZED CONTRACTS

Division 3 of the Regulation identifies exceptions to the requirement that Council seek tenders or quotations before entering into medium-sized and large-sized contracts as follows:-

- 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:
  - Council resolves that it is satisfied that there is only one supplier reasonably available to it; or
  - Council resolves that, 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; or
  - a genuine emergency exists; or
  - Council purchases goods at an auction; or
  - Council purchases second-hand goods; or
  - the contract is made with, or under an arrangement with, a government agency.

### **9. COUNCIL APPROVED CONDITIONS AROUND EXCEPTIONS FOR MEDIUM-SIZED AND LARGE-SIZED CONTRACTS**

Council has added detail around some of the Regulation-identified exceptions to the requirement that it seek tenders or quotations before entering into medium-sized and large-sized contracts. This detail is provided in the clauses below.

### **10. EXCEPTION FOR CONTRACTOR ON APPROVED CONTRACTOR LIST**

In accordance with Section 231 of the Regulation, Council can enter into a medium-sized or large sized contract for services without first inviting written quotes or tenders if the contract is made with a person or entity on an approved contractor list.

#### **10.1 Establishment of an Approved Contractor List**

Establishment of an approved contractor list may provide a convenient means of dealing with instances where it is impossible in relation to the provision of services (including professional services) to determine the exact scope of a particular job and/or provide a binding tender price or quotation (e.g. engineering or legal consultancies where the exact cost of the service may not be known until work is underway).

Council may compile a list of names of persons suitably qualified to provide a service.

This clause does not apply to the provision of goods.

The following process will apply to the establishment of an approved contractor list.

- a) An invitation to provide an expression of interest must be made in a newspaper that circulates generally in the Yarrabah Aboriginal Shire. The closing date for expressions of interest will be at least 21 days after the date of invitation publication.

- b) The invitation to provide expressions of interest will be based on a detailed specification stating what services are sought.
- c) Unit rates may be sought as part of the specification. However, the specification must be clear that unit rates supplied are indicative only, and if successful under the expression of interest, this will not include acceptance of the unit rates supplied.
- d) Evaluation of expressions of interest will be by a panel of at least three people appointed by the CEO and chaired by a Council officer also appointed by the CEO.
- e) Evaluation will be documented and will be conducted in a manner which is consistent with this policy.
- f) A report recommending an approved contractor list arising from the evaluation of expressions of interest must:
  - i. include the reasoning – consistent with this policy – behind the selection of the proposed approved contractors; and
  - ii. include information on the closing date for expressions of interest and other key dates; and
  - iii. be approved by the panel appointed to conduct the evaluation; and
  - iv. identify the members of the panel appointed to conduct the evaluation; and
  - v. be endorsed by the Manager Corporate Services and by the CEO; and
  - vi. be submitted to Council for approval.
- g) Council may decide to update an approved contractor list at any time. If a decision to update an approved contractor list is taken, those on the list will be advised that the list has been voided by Council. A new list can then be produced using the process outlined above.

### **10.2 Use of an Approved Contractor List**

A contract can only be granted to an approved contractor following the receipt a written quotation on a specific scope of services, from a minimum of three people or entities on an approved contractor list. It is a requirement that a panel is used to determine which people or entities on the list will be asked to provide quotations and which will be allocated the work.

In each instance, the following process will apply.

- a) The CEO will appoint the relevant panel and panel chairman.
- b) The panel will be required to provide a brief report which must:
  - i. identifying panel members; and
  - ii. outline the reasoning – consistent with this policy – which led to the selection of those contractors asked to provide written quotations and the selection of the recommended contractor.
- c) Where emergent circumstances require that the CEO appoint an individual to act in the place of a panel, the CEO is to record relevant circumstances for attachment to the report.

- d) For purchases of \$200,000 (GST exclusive) or more and for proposed spending outside of Council's approved budget, the recommended contractor must be approved by Council.
- e) A copy of the recommendation, associated quotations and records on the evaluation of the quotations is to be attached the requisition requesting the purchase.
- f) A contract completing the purchase is to be executed by signature of the CEO.

### **11. EXCEPTION FOR A PREFERRED SUPPLIER ARRANGEMENT**

In accordance with Section 233 of the Regulation, Council can enter into a medium-sized or large sized contract for goods or services without first inviting written quotes or tenders if the contract is made with a person or entity included on a register of preferred suppliers and provided that the following conditions are met.

- a) Council needs the goods and services in large volumes or frequently.
- b) Council is able to obtain better value for money by accumulating the demand for the goods or services
- c) Council is able to describe the goods or services in terms that would be well understood in the relevant industry.

A preferred supplier arrangement may be suitable in instances where suppliers are prepared to fix pricing parameters for a specified period.

#### **11.1 Establishment of a Register of Preferred Suppliers and Associated Arrangements**

The following process will apply to the establishment of a register of preferred suppliers.

- a) An invitation to tender must be made in a newspaper that circulates generally in the Yarrabah Aboriginal Shire. The closing date for tenders will be at least 21 days after the date of invitation publication.
- b) The invitation to tender will be based on a detailed specification stating what goods or services are sought.
- c) Unit rates are a requirement of the tender specification, and the unit rates will form part of the criteria used to determine inclusion on the register.
- d) Evaluation of expressions of interest will be by a panel of at least three people appointed by the CEO and chaired by a Council officer also appointed by the CEO.
- e) Evaluation will be documented and will be conducted in a manner which is consistent with this policy.
- f) A report recommending a register of preferred suppliers arising from the evaluation of tenders must:

- vii. include the reasoning – consistent with this policy – behind the selection of the proposed preferred suppliers; and
  - viii. include information on the closing date for tenders and other key dates; and
  - ix. be approved by the panel appointed to conduct the evaluation; and
  - x. identify the members of the panel appointed to conduct the evaluation; and
  - xi. be endorsed by the Manager Corporate Services and by the CEO; and
  - xii. be submitted to Council for approval.
- g) A contract setting out the preferred supplier arrangement made with each person or entity included on an approved preferred supplier register will be executed by signature of the CEO.
- h) Council will ensure that the terms of each preferred supplier arrangement allow the arrangement to be cancelled in the case of unsatisfactory performance on the part of the supplier.
- i) A preferred supplier arrangement may be entered into for a term of more than two years only if Council is satisfied the longer term will result in better value for Council.

### **11.2 Use of a Preferred Supplier Register**

When specific goods or services are required by Council, they can be obtained from a preferred supplier chosen from the preferred supplier register by the relevant supervisor, manager or director.

The following process will then apply.

- a) Any proposed purchases outside of approved budgets must be presented to Council for approval.
- b) If applicable, a copy of the minutes of the meeting at which Council approval was given must be attached to the requisition requesting the purchase.
- c) Purchases must be made by placing a written purchase order, signed by the CEO.

## **12. EXCEPTION FOR LGA ARRANGEMENT**

In accordance with Section 234 of the Regulation, Council can enter into a medium-sized or large sized contract for goods or services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.

When assessing the most effective method of obtaining goods or services, Council officers should consider the possible reduction of costs which can be achieved by the use of such arrangements.

### **12.1 Use of an LGA Arrangement**

When specific goods or services are required by Council, they can be obtained from a supplier identified under an LGA arrangement using either the process outlined in Sub Clause 10.2 or the

process outlined in Sub Clause 11.2 depending on whether or not unit rates are fixed under the relevant LGA arrangement.

### **13. RECORDING OF REASONS FOR CONTRACTING DECISIONS**

Section 273 of the Regulation requires that if a decision made at a Council meeting is inconsistent with a recommendation given by an advisor and

- a) the decision is about entering into a contract the total value of which is more than the greater of \$200,000 (GST exclusive) or one per cent of Councils net rate and utility charges; or
- b) the decision is inconsistent with the policy or approach ordinarily followed by Council or inconsistent with a policy previously adopted by Council and still in force

the CEO must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation.

### **14. ENTERING INTO A CONTRACT UNDER A DELEGATION**

Section 238 of the Regulation provides that Council may, by resolution, delegate power to make, amend or discharge a contract for Council, if Council's expenditure because of the contractual action has been provided for in the approved annual budget for:

- a) the financial year when the contractual action is taken; or
- b) the financial year in which the delegation resolution is made, if the expenditure is within the limits stated in the resolution; or
- c) the contractual action has been taken because of genuine emergency or hardship.

### **15. PUBLISHING DETAILS OF PARTICULAR CONTRACTS**

Section 237 of the Regulation states that Council must, as soon as practicable after entering a contract valued at \$200,000 (GST exclusive) or more, publish the relevant details of the contract on Council's website and display them in a conspicuous place in the Council's office. The relevant details must be published and displayed for a period of at least 12 months.

### **16. CORPORATE PURCHASING CARDS**

In order to expedite the supply of goods and services, corporate purchasing cards have been issued to the people listed in Schedule 1.

Purchases made on these cards are subject to the limits per transaction and per card as detailed in the said Schedule.

The Manager Corporate Services is responsible for ensuring that a register is maintained detailing the following information for each card on issue:

- card number,
- expiry date,
- to whom the card has been issued
- limits that apply to the relevant card and cardholder.

Any staff member who needs to use a corporate credit card to purchase goods and services must provide the relevant cardholder with an invoice or other documentation to support the request before any payment is made. Supporting documentation must include any approval required under this policy.

Tax invoices are required for reconciliation purposes.

The use of corporate purchasing cards is restricted to the payment of Council expenses only. The use of these cards for any item of personal expenditure is expressly disallowed.

### 17. FINANCIAL DELEGATIONS

Those staff of Yarrabah Aboriginal Shire Council – including the CEO, directors, managers, supervisors and other officers – with authority to make purchases in their area of responsibility are identified in Council's Register of Delegations.

For each of these officers, the Register also details the maximum value of any purchase that he or she has authority to make. This value will not exceed \$15,000 (GST exclusive) for officers other than the CEO.

Officer	Financial Delegation (GST Exclusive)
Workshop Manager	\$ 1,000
Building Supervisor	\$ 1,000
Building Supervisor (BAS Work Orders)	\$ 500
Executive Manager Community Services	\$ 15,000
Executive Manager Corporate Services	\$ 15,000
Executive Manager Infrastructure & Works	\$ 15,000
Chief Executive Officer	\$ 80,000
CEO & 2 Councillors	\$140,000

### 18. REVIEW

It is the responsibility of the Manager Corporate Services, drawing on advice from other Council officers, to monitor the adequacy of this policy and recommend appropriate changes.

At a minimum, this policy will be formally reviewed by Council annually as required under Section 198 of the Regulation.

### Appendix A

#### Application of Local Preference

In accordance with Section 104, Subsection 3, Item c of the Act, Council wishes to foster the development of competitive local businesses and industry in Yarrabah as part of the process of making its purchasing decisions. To this end, Council may accept a tender or offer from a local supplier in preference to a comparable tender or offer from a non-local supplier even if the tender 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), so long as it is clear that the selected local supplier can meet Council's requirements at an acceptably high standard and bearing in mind Yarrabah Community's unique cultural position and with regard to its traditional and historical standing.

Where price, performance, quality, suitability and other **general evaluation criteria** are **comparable**, the following **local-preference advantages** may be considered in evaluating tenders and offers from **local suppliers**:

- i. creation of local employment opportunities;
- ii. more readily available servicing support;
- iii. more convenient communications for contract management;
- iv. economic growth within the local area;
- v. benefit to Council of associated local commercial transactions.

For the purposes of this policy, the prices associated with two tenders or offers are considered **comparable** if the higher of the two is no more than 110 per cent of the lower. Thus consideration of **local-preference advantages** cannot provide justification for acceptance of a local tender offer which has an associated price greater than 110 per cent of the price associated with a competing tender or offer unless such acceptance is also supported by consideration of **general evaluation criteria** other than price.

In this policy, a **local supplier** is a supplier which:

- i. is beneficially owned by people who are residents of Yarrabah or deemed by Council to be culturally or practically linked to Yarrabah; or
- ii. has its place of business within the Yarrabah Aboriginal Shire; or
- iii. employs people who are residents of Yarrabah or are culturally or practically linked to Yarrabah.

A **non-local supplier** is a supplier which is not a **local supplier**.

## Schedule 1

### Holders of Corporate Purchasing Cards

<b>Cardholder</b>	<b>Credit Limit of Card</b>
CEO	Limit \$2,000
Mayor	Limit \$1,000
CEO's Secretary	Limit \$5,000

All cards have a transaction limit of \$1,000.