

PROCUREMENT POLICY FOR GOODS, SERVICES AND WORKS

1 Introduction

This document has been prepared in accordance with s198 of the *Local Government Regulation 2012* and sets out Gympie Regional Council's (GRC) policy for the procurement of goods and or services or works. This policy applies to the procurement of all goods, equipment and related services, construction contracts and service contracts (including maintenance) which must be carried out in compliance with the *Local Government Act 2009* (the "Act") and the *Local Government Regulation 2012* (the "Regulations").

2 Procurement policy

GRC will, within the context of a competitive market place, act fairly and ethically to ensure that there is accountability in its relationships with both potential and established suppliers and that sound governance and probity principles are applied to all procurement processes undertaken.

All procurement arrangements must be authorised by an employee of the Council who holds appropriate procurement delegation authority commensurate with the total procurement value of the procurement or contractual arrangement.

Information exchanged between the Council and its suppliers/business partners is frequently given 'in-confidence'. Council employees and businesses must not allow 'commercial-in-confidence' or 'confidential' information to be made known to anyone who has no right to it. Competing companies must not be given another company's information in regard to performance specifications nor any aspects of pricing, quotation, tender, bid, or any other commercial or proprietary information.

3 Scope, aim and objectives

The procurement policy applies to:

- a) all procurements of goods, equipment and related services, construction contracts and service contracts (including maintenance) within the Council in particular where formal contracts are signed
- b) all sites and activities of the Council
- c) all employees, contractors, Councillors and volunteers.

The Procurement Policy generally excludes:

- a) employment agreements
- b) real estate acquisitions, disposals and leases
- c) legislated purchases and commitments.

The aim of this procurement policy is to ensure the Council's procurement activities achieve advantageous procurement outcomes by:

- (a) ensuring 'value for money' is achieved with the use of public money
- (b) promoting ethical and fair dealings, including probity and accountability, when conducting business with suppliers
- (c) advancing the Council's economic, social and environmental policies
- (d) providing reasonable opportunity for open and effective competition whilst promoting competitive local businesses and industries that comply with relevant legislation to supply to the Council
- (e) ensuring compliance with relevant legislation.

The objectives of this procurement policy are:

- (a) to ensure all officers have a clear understanding of procurement obligations, including the Act and the Regulations, and of their responsibilities
- (b) to maintain internal control over all aspects of purchasing and supply and disposal.
- (c) to facilitate the procurement (and disposal) of goods, equipment and related services, construction contracts and service contracts (including maintenance) in the most cost-effective, timely and practical manner and contribute positively to Council's delivery of quality infrastructure and services.

4 Responsibility

Council officers responsible for the procurement of goods, equipment and related services, construction contracts and service contracts (including maintenance) 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.

Implementation and training

Procurement Section will ensure that the Procurement Policy, procedures, templates and reference guides are readily available to all Council staff via the intranet.

All Council staff and Councillors, as part of their duties, must undergo training on the Procurement Policy, with updates as required reflecting changes in legislation, procedures, and practices. Regular procurement training is required for staff who are required to undertake procurement functions, or who supervise staff who undertakes such functions in accordance with the induction training program.

In appointing new Officers, a Manager is to ensure that the Officer has been provided with a copy of this Policy and has completed training.

5 Probity

Probity or procedural integrity is an essential and mandatory requirement for all Council representatives (and agents or contractors acting on behalf) of Council when undertaking any procurement related activity. This includes quotations, tenders and any evaluations and recommendations associated with subsequent contracts or purchases.

Council representatives (and agents or contractors acting on the Council's behalf) are accountable for ensuring that procurement decisions are supported by ethical, impartial and objective processes and appropriate documentation.

GRC must uphold and demonstrate the highest standards of probity in all procurement related activities that it undertakes with external parties.

6 Sound contracting principles

GRC must ensure regard to the sound contracting principles at s104(3) of the Act when entering into a contract for the supply of goods or services or the disposal of assets.

The sound contracting principles are:

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

7 Policies and Procedures

Council maintains supporting procedures, work instructions and forms which expand on this policy, principles and practices.

- GRC009 Register of Delegations
- CSI123 Purchasing Thresholds
- CSP110 Supply Arrangements
- CSP112 Procurement Procedures
- FSP114 Disposal of Surplus or Obsolete Goods
- FSP173 On-Line Requisitioning and Purchase Orders
- CSP180 Corporate Card Procedure and Terms and Conditions of Use
- CSP242 Purchase and Disposal of Assets
- FSWI182 Hazardous Goods Storage and Handling
- FSWI183 Herbicide Control
- FSWI186 Packaging and Storage
- WHSPOL004 WH&S Policy Statement
- CSPOL026 Fraud and Corruption Prevention and Control Policy
- HRP001 Breach of Council Officers Code of Conduct Complaints Process

8 Policy breaches

Any breaches of this Policy will lead to disciplinary action and may result in termination of employment in accordance with Council's Code of Conduct and Disciplinary Action Procedure.

9 Review

This policy will be formally reviewed annually and adopted by the Council.

APPENDIX A - DEFINITIONS

Procurement and Purchasing

Procurement is the procurement life cycle of identifying a need to the disposal of an item or completion of a contract including warranty or latent defect periods.

Procurement can be generalised as all of the processes associated with establishing and managing contractual arrangements and placing orders with either a supplier or suppliers.

Purchasing usually applies to the placing of orders with a supplier and receipting the delivery of those goods and or services for payment.

Agreement

An agreement is a written instrument of understanding, negotiated between parties, which contains contract clauses that applies to future contracts between the parties during its term. The agreement contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. Each contract incorporating an agreement shall include a scope of work and price, delivery, and other appropriate terms that apply to the particular contract. However, an agreement is not a contract.

Best 'value for money'

Is a governing principle and an essential test against which Council must justify any procurement related decision. Council representatives with delegated authority in respect of procurement related decisions, must be satisfied that the best possible outcome for Council has been achieved, taking into account all relevant costs and benefits throughout the duration of the procurement life cycle.

Accepting the lowest price offered by a supplier is not necessarily an indicator of achieving best “value for money”.

Contract

Contracts are promises that are enforceable under contract law and have a set of agreed terms and conditions attached to any purchase or agreement to purchase goods, services or works imposing contract obligations upon the purchaser and provider under common law. Contracts are generally for a fixed term and can be fixed price or based on a schedule of rates. A contract can be entered either verbally or formally through the use of an official purchase order or letter of acceptance or formal contract execution page attached to a contract.

The existence of a contract requires the following elements:

An offer – a provider offers goods at a price; and

Acceptance - of that offer by the purchaser which results in an agreement by both parties; and
consideration – both parties have provided consideration to enter into a contract;

Intention – both parties have an intent to create a legal relationship (the Contract)

These elements only form a contract if other factors exist, but not limited to, for example legality, legal capacity to enter a contract and a genuine agreement exists between the parties.

To that end, Councillors and Council staff need to be aware of the potential for entering Council into a contract in any way – verbally or written. Delegations and authorisations have been established to determine who may commit Council to a contract.

A written contract for the supply of goods, equipment and related services, construction contracts and service contracts (including maintenance) which specifies, amongst other matters, the terms and conditions of supply, the contract term, the nature of the goods, services or works, pricing, purchasing procedures, payment terms and any special conditions of supply.

The contract document (hard copy) is to be signed by the supplier and the appropriate financial delegate from Gympie Regional Council. Copies must be then registered with Records Section and input into the Council’s document management system MagiQ Documents.

Contractor

Is a legal entity or person engaged by the Council to either supply a quantity of goods and or perform a particular task or service for a predetermined period.

Commercial in Confidence or Confidential Information

Information that, if released, may prejudice the business dealings of a party e.g. prices, discounts, rebates, profits, methodologies and process information, etc. and, as a consequence if released, damaging the Council’s reputation.

Delegations

Govern the conduct of business operations and the administrative functions of the Council. All delegations have been authorised by the local government and delegated to the CEO who further delegates that authority to a position rather than a Council officer. Delegation levels are recommended by the Director of an area based on the operational needs of that area.

Financial Delegate

A Council employee who has been specifically granted certain authorities, powers and/or discretions on behalf of the Council to spend public monies or enter in to a contract within their delegation level or act on behalf of the Council as per their delegation. As a result the Delegate is fully accountable for their decisions as a delegate. A delegate cannot be made to enter into any

agreement or contract if they are not happy with a recommendation. A list of delegates by position are at GRC009 - Register of Delegations.

Probity

In the context of procurement, probity refers to procedural integrity and involves attributes such as honesty, incorruptibility, trustworthiness, truthfulness, impartiality, fairness, accountability and transparency. Probity for large sized contracts must be overseen by a Probity Adviser.

Procurement Contract

See contract.

Preferred Supplier

A preferred supplier is a supplier set up under a Preferred Supplier Arrangement to supply goods. Preferred suppliers are chosen through an open tender process to provide estimated annual quantities of goods and must be recorded on the Council's Intranet. To establish a preferred supplier arrangement, and consequent agreement with the selected preferred supplier/s, the Council first must invite persons to tender in accordance with s233(3) of the Regulation.

Purchase Order

The means of procurement of goods, equipment and related services, construction contracts and service contracts (including maintenance) by an official commitment generated in the Council's electronic purchasing system Authority. A purchase order is a legally binding document and the Council's purchase order terms and conditions apply to all purchase orders placed.

Supplier

Refer to Contractor.

Specification

A specification is a clear, complete and accurate statement of the description and technical requirements of, but not limited to, key performance indicators (KPIs) for a material, an item or a service. It may include the procedure to be followed to determine if the requirements are met. The specification may be classified as prescriptive, functional, solution based and or outcome based.