

Procurement and Ethical Sourcing Policy

Responsible Manager:	Head of Corporate Affairs
Head of power:	<i>Local Government Act 2009 Local Government Regulation 2012</i>
Authorised by:	Council
Authorised on:	23 June 2020
Implemented from:	July 2020
Last reviewed:	June 2020
Review history:	2012, 2013, 2014, 2017, 2018, 2019
To be reviewed:	June 2021
Corporate Plan:	People, Sustainability and Prosperity

1. Purpose

This policy aims to provide Torres Strait Island Regional Council with a procurement framework which is open and transparent and provides value for money in compliance with Section 198 of the *Local Government Regulation 2012*. The Council is committed to better target their procurement activities to ensure local Indigenous businesses have equitable access to the procurement opportunities that exist within Council and deliver improved economic, environmental and social outcomes for the Torres Strait region holistically.

2. Application

This policy applies to all Council procurement activities.

3. Legislation

All Council procurement must be carried out in compliance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

4. Procurement

Procurement means to purchase, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods, equipment and or services. The purchase of goods, works or services shall not be broken down into unreasonable components or reduced order quantities in order to avoid the necessity to comply with the dollar limit requirements under this Policy.

5. Provisions

Introduction

All Council procurement must be carried out in compliance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

Objectives

Council's procurement activities aim to achieve beneficial outcomes by:

- Promoting value for money with probity and accountability;
- Advancing Council's economic, social and environmental policies;
- Providing reasonable opportunity for local Indigenous businesses to supply to Council;
- Promoting compliance with relevant legislation; and
- Promoting continuous improvement and best practice in procurement activities.

Responsibility

Council officers are required to:

- Adhere to the sound contracting principles as stipulated in the *Local Government Act 2009*;
- Preserve Council's integrity in the procurement process to ensure that council acts beyond reproach in all dealings; and
- Obtain best value whole of life costs.

During the entire procurement process, any officers who intend to have any input or influence

should ensure they have read Council's Code of Conduct as well as the supporting documents to this Policy.

All officers involved in procurement and contracting activity must comply with the following interlinked principles and objectives of probity:

- Use of a competitive process;
- Fairness and impartiality;
- Transparency of process;
- Independence through effective management of conflicts of interest;
- Accountability of process; and
- Security and confidentiality of information and materials.

Officers participating in procurement and contracting activities must comply with the requirements of Council's Code of Conduct, and the supporting documents to this Procurement Policy and must:

- Notify the Strategic Sourcing Manager immediately they become aware of any conflict of interest (perceived, potential or actual);
- Not accept gifts from parties related to any procurement or contracting activity; and
- Action the pre and post offer declarations of conflict of interest and confidentiality as applicable.

Councillors and staff must ensure that they do not participate in any action, which may be deemed to be:

- Canvassing by any party with a material interest in the procurement; or
- Releasing commercial in confidence information; or
- Collusion - i.e. collaboration between parties involved in the procurement process.

Any approach or known evidence of canvassing, breach of confidentiality or collusion must be reported to the Chief Executive Officer.

6. Sound Contracting Principles

Council officers must have regard to the sound contracting principles set out in section 104(3) of the *Local Government Act 2009*:

- 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.

Value for money

The objective of the value for money principles is to ensure that all procurement and contracting activities represent the best return and performance for money spent from a whole-of-life cost perspective to assist Council to effectively and efficiently use public money.

Value for money should not be limited to price alone. In assessing value for money, officers must consider:

- The contribution to the advancement of Council priorities and vision, including buying from local Torres Strait Island businesses and organisations as first preference, community and social benefits, and suitability considerations consistent with and supporting the strategic direction of the Corporate Plan;
- Factors such as fit for purpose, innovation, maintenance and support, relevant experience and performance, availability and suitability of staff, plant and equipment, application of relevant and sound systems of operational management, risk, legal and reputation exposure and business continuity; and
- Cost related factors including whole-of-life costs, transactional costs and risk exposure associated with the acquisition, use, administration, holding, maintenance and disposal of the goods and/or services.

As the application of the value for money principle may not necessarily favour the lowest price, contracting decisions must substantiate how application of the principles ensures council is receiving the most advantageous outcome for our community.

Open and effective competition

Procurement processes must be open and transparent to suppliers and the public and result in effective competition in the provision of all goods and services. Council must give fair and equitable consideration to all prospective suppliers.

Development of competitive local business and industry

Council will proactively support local Torres Strait Islander owned businesses, organisations and industry to provide jobs within Council's jurisdiction, and the greater Torres Strait region, in recognition of the economic and social benefits that this brings. When applying these principles Council will:

- Buy from local Torres Strait Islander businesses and organisations as first preference;
- Reserve the right to invite only local Torres Strait Islander owned businesses, organisations and industry to quote for appropriate contracts; and
- Include a statement in its invitation to quote/tender documentation that Council, through this policy, encourages the development of competitive local Torres Strait Islander businesses, organisations and industry.

A local supplier means a supplier that maintains a workforce whose usual place of residency is located within Council's jurisdiction and/or the Torres Strait region. If a capable local supplier does not exist within the Torres Strait region, the area should be extended to include the Cape York and Cairns region and then extended progressively to Queensland, then Australia until a suitable supplier is identified.

Environmental protection

The objective of the principle of environmental protection is to maintain commitment to long-term ecological sustainability through procurement and contracting activities that conserve resources, save energy, minimise waste, protect human health and maintain environmental quality and safety.

In undertaking procurement activities council will endeavour to:

- Promote the procurement of environmentally friendly goods and services that satisfy the value for money criteria;

- Foster the development of products and processes of low environmental and climatic impact;
- Provide an example to business, industry and the community by promoting the use of climatically and environmentally friendly goods and services:
- Ensure suppliers clean up construction sites and remove all plant and equipment from islands; and
- Encourage environmentally responsible activities.

Ethical behaviour and fair dealing

Council officers must behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives.

It is the responsibility of Council officers to report any actual, potential or perceived conflict of interest to their branch manager prior to and during any business dealings.

7. Budgetary Provisions

Procurement must be in accordance with the adopted Annual Budget or a Council resolution and sufficient funds must be available to meet the full cost of the proposed procurement.

8. Procurement Guidelines

Procurement Thresholds

Value threshold (GST excl.)	RFQ Documentation
Less than \$2,000	1 written quote
\$2,000 to less than \$15,000	2 written quotes
\$15,000 to less than \$200,000	3 written quotes
\$200,000 or more	Public tender

When seeking quotations, officers should consider the likelihood of exceeding the value thresholds listed above in a financial year. If there is a risk that these limits will be exceeded, then the appropriate number of quotes or a public tender should be sought. All thresholds are cumulative thresholds. If the anticipated value of goods or services of a similar nature procured from the same supplier exceeds \$200,000 in a financial year, or over the proposed term of the contractual arrangement, then a public tender is required.

9. Exemptions to Procurement Guidelines

Legislation obligates Council to utilise a public tender process (or a closed tender process if an expression of interest has first been called to shortlist tenderers) before making a contract for the carrying out of work, or the supply of goods and services involving a value of \$200,000 or more, unless there is a legislative exemption.

Council officers must follow the procurement guidelines unless they utilise a legislative exemption. Exemptions are provided for under sections 229-235 of the *Local Government Regulation 2012*. These exemptions are:

- A quote or tender consideration plan
- A contractor on an approved contractor list
- A supplier on a register of pre-qualified suppliers
- A supplier on a preferred supplier arrangement
- A supplier on another LGA arrangement, e.g. LGAQ (LocalBuy).

Further exemptions exist if:

- Council resolves (Council resolution obtained) it is satisfied that there is only one supplier who is reasonably available (sole suppliers); or
- Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tender; or
- A genuine emergency exists; or
- The contract is for the purchase of goods and is made by public auction; or
- The contract is for the purchase of second-hand goods; or
- The contract is made with, or under an arrangement with, a government agency e.g. Queensland State Government arrangements.

Refer to sections 230-235 of the *Local Government Regulation 2012* for further details on the above exemptions.

Register of Pre-qualified Suppliers (ROPS)

Council may establish a ROPS for carrying out of works, goods, services or ICT, by inviting public tenders. Suppliers must submit a tender response and if successful following the evaluation process, suppliers are appointed to the ROPS for a term of up to three years. Once the ROPS is established, further quotes or cost estimates from selected suppliers are required to ensure value for money.

Preferred Supplier Arrangement (PSA)

Council can establish a PSA where better value for money can be obtained by aggregating the demand for goods and services. Council must invite public tenders and evaluate submissions from suppliers in order for suppliers to be successfully appointed to the PSA. Prices or a schedule of rates are usually fixed for the duration of the arrangement.

Sole Suppliers

Where the required goods or services are available only from one original source or available from only one stockist, agent or supplier with relative ease of accessibility to Council, the supply of those goods and or services can be applied for under a sole supplier arrangement

via Council resolution.

Procurement provides a report on an annual basis listing all proposed sole supplier arrangements, for the financial year, for adoption by Council. A report is presented to Council bi-annually listing expenditure on sole suppliers.

Emergencies

In recognition that full compliance with existing Council procurement procedures may not support Council's needs during a critical or emergency incident, an alternative procurement process may operate during the incident. This alternative process aims to accommodate urgent Council needs, while ensuring that the procurement process adopted is reasonable and conducted with appropriate consideration of standard procurement principles.

Any emergency procurement must be authorised by the Chief Executive Officer, once a critical or emergency incident has been declared. Such incidents are:

- A state of disaster declared under the *Disaster Management Act 2003*, or any other emergency declaration made by the State's Premier under an enactment;
- Any incident declared by the Chief Executive Officer where the safety or security of any person or property associated with the Council is threatened; and
- An external incident to which the Chief Executive Officer has authorised the provision of urgent support.

Once the immediacy of the incident has passed, purchase orders must be raised to record the expenditure in the same way as they would have been in normal circumstances.

As soon as practical upon cessation of the emergency, a report must be presented to Council to authorise the unapproved expenditure, where this expenditure exceeds delegation, and the methodology by which it was incurred. The Council Resolution must define the genuine emergency situation (such as natural disaster), as well as delegate authority.

10. Financial Delegation

The Chief Executive Officer has procurement authority of \$200,000. Any amount greater than this requires Council approval.

The Chief Executive Officer further has delegation to issue requests for quotes and tenders for any project up to any amount.

Other officers may only incur expenditure on behalf of Council if:

- The officer has been granted the financial delegation by the Chief Executive Officer and this delegation has been recorded in the Register of Financial Delegations, and
- The expenditure is provided for in Council's budget, and
- The officer has received training in Council's procurement systems and procedures, or
- There is a disaster/genuine emergency.

No officer, except the Chief Executive Officer may have procurement delegation exceeding \$200,000.

The Chief Executive Officer must approve all financial delegations by recording them in a register of financial delegations to enable procurement activities to occur.

Appendix 1 lists the delegations for all management positions.

11. Variations to Purchases

For the purposes of this policy, variation refers solely to a financial deviation from original contract value. The contract can be a Council purchase order or agreement signed by a delegated Council officer with an external service provider/organisation. Other variations such as non-financial scope changes, extension of time etc are to be managed by delegated Council officers.

Variation procedures are as follows:

- Each variation can only be approved by an officer up to their authorised contractual and financial delegation;
- All variations are to be approved in writing;
- Each variation requires an additional line item on the original purchase order stating the scope and cost.

12. Sustainable and Social Procurement

Torres Strait Islander and Social Procurement

Council is committed to the development of local Torres Strait Islander businesses and social procurement, a strategic approach to meeting social objectives through procurement and contracting, and in particular facilitating employment opportunities to communities within Council's jurisdiction and the Torres Strait region.

Torres Strait Islander and social procurement delivers benefits to Council including:

- Developing and attracting Torres Strait Islander businesses and social enterprises;
- Encouraging local businesses to include Torres Strait Islander, social or community objectives into daily business practices;
- Promoting employment opportunities and inclusive and accessible work environments for young people or older persons who are unemployed and people with disabilities;
- Building the skills, knowledge and ability of not-for-profit community groups to enable them to access funds and expand services.

Council intends to use a portion of its annual procurement spend to engage suppliers that provide a direct benefit to the communities within Council's jurisdiction and the Torres Strait region, including offering quoting opportunities directly to Torres Strait Islander businesses, social enterprises and social benefit suppliers.

Sustainable Procurement

Council is committed to protecting the environment and doing business with ethical and socially responsible suppliers and procuring goods and services that achieve sustainability outcomes such as those that have a reduced negative impact on the environment and/or an improved social outcome. When procuring goods and services, Council will consider:

- Strategies to avoid unnecessary consumption and manage demand;
- Minimising environmental impacts over the whole-of-life of the goods and /or services;
 - Products that are durable and long lasting e.g. avoiding or reducing disposable products and single use plastics;
 - Products that consume less energy, fuel or water in their operation;
- Supplier's socially responsible practices; and
- Value for money over the whole-of-life of the goods and/or services, rather than just initial cost.

Torres Strait Islander, social and sustainable procurement must be conducted in line with consideration to the sound contracting principles and other legislative requirements.

Manager Responsible for Review:

Head of Corporate Affairs

Adoption: 23 June 2020
Due for Revision: June 2021

Bruce Ranga
Chief Executive Officer



Appendix 1 - Delegations

Officers may incur expenditure on behalf of Council but only if the expenditure is provided for in Council's budget the officer's position has been delegated the power to enter into contracts up to an amount not less than the amount of the expenditure proposed to be incurred.

Each delegation to an officer of the power to enter into contract must be delegated by the Chief Executive Officer.

The delegation is a positional delegation and remains in force unless revoked by the Chief Executive Officer.

Any officer incurring expenditure on behalf of Council must do so in accordance with any constraints imposed by Council or the Chief Executive Officer.

Position	Delegation (ex GST)
Chief Executive Officer	\$200,000
Chief Operating Officer	\$50,000
Chief Financial Officer	\$50,000
Chief Engineer	\$50,000
Functional Manager or Regional Manager	\$25,000
Divisional Manager	\$10,000

Council further delegate to the Chief Executive Officer the authority to negotiate, finalise and execute recurring operational expenditure, for example rent on leased Council premises, Council rates, electricity, telephone, vehicle registration and others, regardless of whether the value of the expenditure is more or less than \$200,000.