

Procurement and Ethical Sourcing Policy

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| Responsible Manager: | Executive Director Financial Services |
| Head of power: | <i>Local Government Act 2009 Local Government Regulation 2012</i> |
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1. Purpose

This Policy provides Torres Strait Island Regional Council (Council) with a procurement framework in compliance with Section 198 of the *Local Government Regulation 2012*, which is open and transparent, provides value for money and supports the advancement of Council priorities and strategic objectives.

Council is committed to achieving value for money through procurement, ensuring local Indigenous and Torres Strait Islander businesses have equitable access to procurement opportunities within Council, and delivering improved economic, environmental and social outcomes for Council's Local Government Area (LGA) and Torres Strait region.

This Policy will ensure integrity, probity and accountability - ensuring procurement is undertaken with integrity, that probity is appropriately managed and that accountability for outcomes is maintained through the procurement process.

1.1 Objectives

Council's procurement activities aim to achieve beneficial outcomes for Council's LGA and Torres Strait region by:

- Providing opportunities for local Indigenous and Torres Strait Islander businesses to supply to Council;
- Buying local wherever possible;
- Promoting non-local businesses to foster and build local capacity or develop new local businesses to provide goods and services, to create employment and reduce supply chain costs;
- Encouraging non-local businesses to buy locally wherever possible;
- Promoting value for money whilst ensuring probity and accountability;
- Advancing Council's economic, social and environmental policies;
- Promoting compliance with relevant legislation; and
- Promoting continuous improvement and best practice.

1.2 Key Requisite

Council's key requisite for procurement is to provide opportunities and encourage engagement with indigenous and local suppliers that further strengthens the region and aligns with Council's three corporate pillars.

In defining value for money, Council recognises that value for money should not be limited to price alone. As a result, all procurement, where an evaluation is required to be used, will take into consideration a Local Benefits Test, where an evaluation weighting of 15% must be applied.

The purpose of the Local Benefits Test is to evaluate the benefits that any supplier would bring to the local area. Other elements such as capability, quality and price remain important – however, factors such as stimulating local employment, increasing socioeconomic development in the region (including employment and training) and supporting social objectives will be considered amongst the evaluation criteria.

2. Application

This Policy applies to all Council procurement activities.

2.1 Procurement

Procurement means to purchase, hire, lease, rent, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods, equipment, services, carrying out of works or construction.

3. Legislation

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

4. 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; and
- e) ethical behaviour and fair dealing.

4.1 Value for money

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

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 the Local Benefits Test defined in this Policy, buying from local, Indigenous and 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 and within allocated Council budget;
- 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, procurement decisions must substantiate how application of the principles ensures Council is receiving the most advantageous outcome for Council's LGA and Torres Strait region.

4.2 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 opportunity and consideration to all prospective suppliers.

4.3 Development of competitive local business and industry

Council will proactively support local, Indigenous and Torres Strait Islander owned businesses, organisations and industry to provide jobs within Council's LGA 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 Indigenous and Torres Strait Islander businesses and organisations as preference; subject to allocated Council budget;
- Reserve the right to invite only local, Indigenous and Torres Strait Islander owned businesses, organisations and industry to quote for appropriate contracts;
- Apply the Local Benefits Test to all procurement activities where evaluation criteria will be used, in accordance with section 5.1; and
- Engage with suppliers to foster opportunities to develop local, Indigenous/Torres Strait Islander economic opportunities, talents and skills via training, internships, work experience, apprenticeships and jobs.

4.4 Environmental protection

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

In undertaking procurement activities, Council will:

- Promote the procurement and use of environmentally friendly goods and services; to set an example to other businesses and the community at large;
- Encourage the development of products and processes of low environmental impact;
- Ensure suppliers clean up construction sites and remove all plant and equipment from islands; and
- Encourage environmentally responsible activities.

4.4.1 Waste removal from Island

It is mandatory for contractors to remove all waste and debris from island.

4.5 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 manager, prior to and during any business dealings.

5. Procurement Requisites

5.1 Local Benefits Test

The Local Benefits Test is an integral component and mechanism to promote, enhance and achieve Council's objectives and in particular the delivery of improved economic, environmental and social outcomes for Council's LGA and the Torres Strait region.

For all procurement activities where evaluation criteria apply, a minimum of 15% of the evaluation criteria (out of the 100%) must be allocated to the Local Benefits Test criteria.

Figure 1 following provides the Local Benefits Test scoring model and scoring for each criterion, which must be used when scoring the Local Benefits Test.

Figure 1 - Local Benefits Test scoring model and scores

| | | | | | | |
|--|---|--------------------------------|------------------------------|--|---------------------------|-----------------------|
| Locality of supplier (2.5% Weighting) | TSIRC LGA (2.5 Score) | Torres Shire (2.5 Score) | Far North Qld (1.5 Score) | Qld (1 Score) | Interstate (0.5 Score) | Overseas (0 Score) |
| Indigenous/Torres Strait Islander ownership (2.5% Weighting) | Indigenous/Torres Strait Islander Owned Business (2.5 Score) | | | Non-Indigenous/Torres Strait Islander (0 score) | | |
| Local employment (2.5% Weighting) | 75% to 100% (2.5 Score) | 50% to 74% (2 Score) | 25% to 49% (1.5 Score) | 1% to 24% (0.5 Score) | Nil (0 Score) | |
| Indigenous/Torres Strait Islander employment (2.5% Weighting) | 75% to 100% (2.5 Score) | 50% to 74% (2 Score) | 25% to 49% (1.5 Score) | 1% to 24% (0.5 Score) | Nil (0 Score) | |
| Local, Indigenous/Torres Strait Islander Apprentices & Trainees (2.5% Weighting) | High (2.5 Score) | Moderate (1.5 Score) | Low (1 Score) | Nil (0 Score) | | |
| Use of local supply chain (2.5% Weighting) | High (2.5 Score) | Moderate (1.5 Score) | Low (1 Score) | Nil (0 Score) | | |
| Criteria (specifically related to the Procurement activity) | ← High Preference Low Preference | | | | | |

Refer to the Procurement Procedure for details on how to apply the Local Benefits Test.

Federal and State Government Requirements

In some cases, projects that are funded by the Federal or State Government may have specific Indigenous Economic Opportunities Plan (IEOP) requirements that as a minimum need to be considered and adhered to. These requirements do not supersede Council's Local Benefits Test and will need to be dealt with in conjunction with Council's Local Benefits Test.

5.2 Social Procurement

Council is committed to social procurement, a strategic approach to meeting social objectives through procurement, and facilitating employment opportunities to communities within Council's LGA and the Torres Strait region.

Social procurement delivers benefits to Council and community including:

- Developing and attracting Indigenous/Torres Strait Islander businesses and social enterprises;
- Encouraging all businesses to include Indigenous/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; and
- Building the skills, knowledge and ability of not-for-profit community groups to enable them to access funds and expand services.

5.3 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.

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

6. Procurement Procedure

Council’s Procurement Procedure is a supporting document to the Procurement and Ethical Sourcing Policy. The Procurement Procedure must be read in conjunction with this Policy. The Procurement Procedure provides further guidance on how this policy is to be applied in the acquisition of all goods and services.

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 Thresholds

| Value threshold (GST excl.) | Required Documentation |
|-----------------------------|------------------------|
| Under \$2,000 | 1 written quote |
| \$2,000 to under \$15,000 | 2 written quotes |
| \$15,000 to under \$200,000 | 3 written quotes |
| ≥ \$200,000 | 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 value of goods or services of a similar nature procured from the same supplier is anticipated to exceed \$200,000 in a financial year or over the proposed term of the contractual arrangement, then a public tender is required.

It is recommended that if initial estimates are above \$150,000 (but below \$200,000) then a public tender process should be utilised in the first instance rather than seeking three written quotes. As estimates are often found to be significantly lower than quotes which are returned, this would mitigate the requirement to re-advertise the procurement as a tender, delaying the process and requiring re-work (unless the RFQ is via an exception).

For large scale procurement it is recommended that the use of a probity advisor is considered.

Purchase of goods and services must not be broken down into smaller components or reduced order quantities to avoid the necessity to comply with the dollar limit requirements under this Policy.

9. Exceptions to Procurement Thresholds

The policy requirements must be followed unless one of the exceptions outlined in Sections 229-235 of the *Local Government Regulation 2012* are utilised:

- 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; or
- A supplier on an LGA (Local Government Association) arrangement or associated company (LocalBuy/PeakServices) where LGAQ Ltd is it's only shareholder.

Further exceptions exist if:

- Council resolves (Council resolution obtained) it is satisfied that there is only one supplier who is reasonably available (sole supplier); 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.

Even where an exemption is available, market testing should occasionally be undertaken to ensure that the sound contracting principles are being followed, by sourcing additional quotes where feasible.

9.1 Register of Prequalified Suppliers (ROPS)

Council may establish a ROPS 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, the quoting process should be used periodically to test the market on a regular basis and ensure value for money.

9.2 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 tenderers, for suppliers to be successfully appointed to the PSA. Prices or a schedule of rates are usually fixed for the duration of the arrangement.

9.3 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 also presented to Council biannually listing expenditure on sole suppliers.

9.4 Emergencies

In recognition that full compliance with Council's Procurement and Ethical Sourcing Policy and Procurement Procedure 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 or relevant Executive Director, 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 or relevant Executive Director 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 or relevant Executive Director 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. Purchase Order terms and Conditions available are available in Council's website.

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 (such as natural disaster), as well as delegate authority.

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

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 Procurement Policies and Procedures; or
- There is a disaster/genuine emergency.

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 financial delegations for all management positions.

11. Variations to Purchases

For the purposes of this Policy, variation refers solely to a financial deviation from the 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.

Each variation can only be approved by an officer up to their authorised contractual and financial delegation. In order for a variation to be approved, the authorising officer must have a delegation level greater than the sum of the value of the variation and value of the original contract.

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.

Manager Responsible for Review:

Executive Director Financial Services

A handwritten signature in black ink, appearing to be 'J. William', with a long horizontal flourish extending to the right.

Adopted: 27 June 2023
Due for Revision: June 2024

James William
Chief Executive Officer

Appendix 1 – Financial and Contractual Delegations

Officers may incur expenditure on behalf of Council if:

- the expenditure is provided for in Council's budget; and
- 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 a 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.

Council delegations are as follows.

| Position | Delegation (ex GST) |
|---|----------------------------|
| Chief Executive Officer relating to QBuild contracts for upgrades and homeownership works only | \$1,000,000 |
| Chief Executive Officer | \$200,000 |
| Executive Director | \$50,000 |
| Executive Director Building Services relating to QBuild contracts for upgrades and homeownership works only | \$500,000 |
| Chief Engineer | \$50,000 |
| Head of Department and Functional Manager | \$35,000 |
| Regional Manager | \$25,000 |
| Regional Building Supervisor | \$25,000 |
| Senior Executive Assistant to CEO Executive Assistant to Mayor | \$25,000 |
| Divisional Manager | \$10,000 |
| Other officers where financial delegation is considered an operational requirement (CEO discretion) | \$10,000 |

Council further delegates to the Chief Executive Officer the authority to negotiate, finalise and execute recurring operational expenditure, which is within the adopted budget. This expenditure includes rent on leased Council premises, Council rates, electricity, telephone, freight, fuel, vehicle registration and other costs, regardless of whether the value of the expenditure is greater than \$200,000.