



Mapoon Aboriginal Shire Council

Contract Manual

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MASC Contract Manual

ORIGIN/AUTHORITY

Local Government Regulation 2012 Chapter 6 s222
Local Government Regulation 2012 Chapter 6 s224 (8)

PURPOSE

This is a manual/procedure to provide sound contracting principles as set out in the Local Government Regulation 2012 to govern council's contracting activities. In entering into contracts for the supply of goods or services, the carrying out of work or the disposal of non-current assets, council staff are to comply with the following sound contracting principles:

1. Value for money;
2. Open and effective competition;
3. The development of competitive local business and industry;
4. Environmental protection; and
5. Ethical behaviour and fair dealing.

This document provides for procedures which align with Chapter 6 of the Local Government Regulation 2012 which is about a local government's activities for the making of a contract for—

- (a) the supply of goods or services; or
- (b) the disposal of non-current assets.

1. APPLICATION

Applies to quotes, tenders, proposals and expressions of interest requested on or after 1 July 2023.

1. Annual Procurement Policy

Council adopts each year, by resolution, an annual procurement policy. This policy and any associated significant Contract Manuals may include specific exemptions from the requirements of this manual.

Council officers will seek to adopt a planned approach to all contracting activities.

1.1. Alignment with Corporate Plan

This manual conforms to the value for money procurement objectives and requirements of council's corporate plan.

1.2. Requirements for the Acquisition or Disposal of Land

Specific arrangements exist for the acquisition and disposal of land under the Acquisition of Land Act 1967 and under specific sections in the Local Government Act 2009 and subordinate legislation.

1.3. Utilisation of Council Businesses and Staff

Council's preference is to utilise its own competent and capable employees and internal providers of services before entering into a contract for provision of services or the carrying out of work.

1.4. Sustainable Procurement

Council recognises the importance and value of operating with constraint in the consumption of resources and the need to promote issues associated with quality of life, inter-generational capability and the sustainability of resources. Council's annual procurement policy and contracting manual considers the following outcome areas when establishing procurement objectives:

- a) Economic;
- b) Social;
- c) Environmental;
- d) Business and economic development; (e) Zero harm; and
- e) Compliance.

The Procurement Objectives are developed in the Annual Procurement Policy and Contract Manual.

2. **TENDERS AND PROPOSALS FOR GOODS, SERVICES AND WORKS**

2.1. Availability of Budget

Tenders, quotes or proposals cannot be sought unless funds are available in the approved council budget except in the case of genuine emergency, natural disaster or hardship as determined by the Chief Executive Officer.

2.2. Requirement for Tenders or Proposals

Council must use one of the methods described below:

- (a) Except as provided in some sections of the legislation, Council will invite tenders or proposals for the carrying out of work or the provision of goods and services above \$200,000; or
- (b) Council may use the Local Government Association of Queensland (LGAQ) Local Buy procurement services company.

2.3. Requirement for Quotations and Associated Information

Council is committed to the development of competitive supply markets and Council officers will invite quotes from the supply market, in accordance with the following thresholds:

- i. For purchases less than \$5,000, price information is to be obtained from one or more suppliers;
- ii. For purchases between \$5,000 and less than \$15,000, evidence of contestability is to be obtained from at least two (2) suppliers. The evidence of contestability may be from price lists or approved catalogues, e-mail or fax confirmation of a telephone inquiry or internet inquiry;

- iii. For purchases worth between \$15,000 and less than \$200,000 at least three written quotes are to be invited from suppliers who are considered able to meet the requirements. Where only one quote is obtained from those invited, value for money is to be demonstrated;
- iv. For purchases of over \$200,000, Council must invite written tenders (*large sized contractual arrangement*). The tender must be advertised in at least a newspaper circulating generally in the Council's area and the local authority must allow at least twenty-one (21) days for the submission of tenders.
- v. Council may also enter into a purchasing arrangement where practical with a supplier:
 - From an Approved Contractor List
 - From a Register of Pre-Qualified Suppliers
 - Under a Preferred Supplier Arrangement
 - Under a LGA Arrangement

2.4. Sole or Select Sourcing

Supply of goods and services or the carrying out of works can be obtained from one provider or a restricted group of suppliers without public tenders where:

- i. It is in the public interest;
- ii. There is a lack of available tenderers;
- iii. Marketplace is restricted by statement of licence or third-party ownership of an asset; or
- iv. A multi-staged process has been followed.

If there is a current procurement or disposal process in place under that process must be terminated prior to sole sourcing being implemented.

2.5. Exemptions from Tendering

Procurement and disposal arrangements are exempt from the tendering, quoting and request for proposal process where the transaction is made under the following circumstances:

- a) A contract made between Council and:
 - i. The Crown (Commonwealth, State and Territory Governments);
 - ii. Another local authority;
 - iii. A public authority of the Crown; or
 - iv. A Corporation wholly owned by the Crown including wholly owned subsidiaries of the Crown;
- b) A contract for the purchase of goods and services where such contract allows for entities such as Council to also procure/dispose of such goods and services under arrangements made by:
 - i. The Crown; or
 - ii. Another local authority;
- c) A contract for purchase at public auction;
- d) A contract made because of genuine emergency or hardship;

- e) A contract entered into under a Local Government Arrangement;
- f) Under a panel arrangement, preferred supplier arrangement or register of pre-qualified suppliers established by Council where the Council's delegate approved:
 - i. The seeking and making of such an arrangement or register; and
 - ii. The manner in which such arrangement or register was to be established.
- g) Where a panel arrangement, preferred supplier arrangement or register of pre-qualified suppliers established by Council for the goods/service/works are unable to supply and where value and appropriateness of process has been demonstrated to the satisfaction of the relevant Manager.

2.6. Short listing

- a) During tender, proposal and quotation processes, rounds of short-listing are permitted.
- b) Where expressions of interest have been publicly requested, tenders or proposals may be requested from a shortlist of respondents if this approach and the criteria for short-listing have been included in the publicly advertised document.

2.7. Acceptance of a Tender, Proposal or Quotation

Council officers will only accept tenders, proposals or quotations that are the most advantageous to Council. Council is not obliged to accept the lowest tender, proposal or quotation.

2.8. Modifications and Negotiations

- a) Modifications in relation to tenders, proposals or quotations can be sought from the most advantageous tenderer or a short list of tenderers or all tenderers;
When requests for quotation, tenders or proposals have been invited for a contract for the carrying out of work or the supply of goods and/or services then all or only short-listed parties may be invited to participate further in negotiations prior to the successful party being selected; and
- b) Probity requirements apply to all modifications and negotiations.

2.9. Disposal of goods

- a) Council must dispose of goods (or other non-current assets excluding land) through the invitation of tenders or sale by public auction above the following values unless an alternative disposal approach is approved in the Annual Procurement Policy and Contract Manual or in a Significant Contract Manual:
 - i. Plant or equipment - \$5,000;
 - ii. Any other type of non-current asset - \$10,000.
- b) Individual goods (or other non-current assets excluding land) up to the certain value may be disposed of by approaches other than public auction or tender. Probity must be maintained and value for money achieved in these disposals.

2.10. Disposal in the Public Interest

- a) The provisions in the Local Government Regulation 2012 do not apply to the disposal of goods (or other non-current assets excluding land) if Council is of the opinion that it is in the public interest that they should not apply.
- b) Any decision by Council to this effect:
 - i. Must specify reasons for the opinion expressed in it; and
 - ii. May relate to a particular disposal or class of disposal.

2.11. Publishing details of contracts worth \$200,000 or more

Contracts worth \$200,000 or more are to be published in accordance with s237 of the Local Government Regulations 2012.

3. DELEGATIONS AND EXPLANATORY INFORMATION

3.1. Subject to 3.2, this Manual does not affect any existing delegations about:

- a) the supply of goods or services;
- b) entry into contracts for the carrying out of work; or
- c) the disposal of assets.

3.2 Where provisions in delegations refer to the value of goods and/or services and that value has been altered by this Manual, the value in that delegation will be adjusted. Council authorises the Chief Executive Officer to do anything necessary to have any limits on delegations updated in Council's delegation database to reflect this.

3.3 Explanatory information may be published from time to time for this manual.