



# F.05 Procurement Policy

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## 1 OBJECTIVE

This procurement policy outlines the principles and procurement framework that Council will adopt and apply when conducting procurement activities, which include contracts for the procurement of goods and services and the disposal of assets.

Council's desired policy outcomes are to:

- a) provide a framework for undertaking procurement activities, within an effective governance and sound probity environment;
- b) encourage strategic procurement and sound decision-making;
- c) encourage sustainable procurement practices;
- d) facilitate efficient and timely contracting for Council's capital works, operational activities, and the disposal of assets;
- e) deliver value for money;
- f) encourage an open, effective and competitive market place;
- g) encourage the development of competitive local business and industry;
- h) manage Council's risk exposure; and
- i) comply with all applicable laws including the *Local Government Act 2009* (Qld) (LGA 2009) and *Local Government Regulation 2012* (Qld) (LGR 2012).

## 2 SCOPE

This procurement policy applies to Council officers and Councillors who undertake any part of a procurement activity on behalf of Council. A procurement activity includes but is not limited to purchasing, ordering, quotations, tendering, contracting and disposals.

## 3 LEGISLATIVE REQUIREMENTS

Council must prepare and adopt a Procurement Policy pursuant to section 198 of the *Local Government Regulation 2012*. The procurement policy must include details of the principles, including the sound contracting principles, that the local government will apply.

Part 3 of the *Local Government Regulation 2012* outlines the default contracting procedures that a local government must comply with before entering into a contract, unless the local government decides to apply Part 2 – Strategic Contracting procedures. Council has not decided to apply the strategic approach to Councils procurement activities.

Council will operate under the *Default Contracting Procedures of Chapter 6, Part 3 of the Local Government Regulation 2012* which sets out the prescribed requirements for medium sized contractual arrangements, large sized contractual arrangements, valuable non-current asset contracts and the process for tenders.

In accordance with section 104 of the *Local Government Act 2009*, Council will ensure it is financially sustainable by establishing a financial management system that has regard to the sound contracting principles when contracting for the supply of goods or services (including the carrying out of works) and the disposal of assets.

## Sound Contracting Principles

The sound contracting principles are:

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

The sound contracting principles do not require equal consideration to be given to each of them.

## 4 STATEMENT

### 4.1 PRINCIPLES

Council will conduct its procurement activities in a manner that ensures it is financially sustainable by establishing a financial management system with regard to the sound contracting principles and other adopted principles when contracting for the supply of goods or services (including carrying out of works) and the disposal of assets. (*Local Government Act 2009, section 104*)

Council's procurement activities are based on the following principles.

#### Principle 1: Value for Money

(*Local Government Act 2009, section 104(3)(a)*)

The concept of value for money is not restricted to price alone. Council will consider a number of factors when assessing value for money, including:

- contribution to the achievement of Council's policies and priorities;
- fitness for purpose, quality, services, and support;
- whole-of-life costs including costs of acquisition, use, maintenance, and disposal;
- availability of goods and services to meet operational needs;
- internal administration costs;
- technical compliance costs;
- risk exposure; and
- the value of any associated environmental benefits.

#### Principle 2: Open and Effective Competition

(*Local Government Act 2009, section 104(3)(b)*)

Procurement activities will be undertaken by Council using an open and effective process unless a specific exemption applies. Open and effective competition will be achieved by:

- procedures and processes for contracting are visible to Council, suppliers and the community;
- prospective suppliers are given fair and equitable consideration; and
- evaluation of offers is undertaken pursuant to legislation, procedures and the evaluation criteria applicable to the purchasing activity.

### **Principle 3: The Development of Competitive Local Business and Industry**

*(Local Government Act 2009, section 104(3)(c))*

Council encourages the development of competitive local business and will endeavour to promote and support local business and industry while conducting procurement activities.

In addition to price, performance, quality, suitability and other evaluation criteria, the following areas may also be considered in evaluating offers:

- retention of existing and creation of local employment opportunities;
- readily available servicing support and supply chain capability;
- economic growth within the local area; and
- the benefit to Council of contracting with local suppliers and the associated local commercial transactions that flow from these engagements.

Local preference is Council's commitment to the development of competitive local business and industry. Council aims to use the procurement activity conducted by Council to encourage and support local suppliers, where it is efficient and cost effective to do so, whilst satisfying Council's obligation to ensure value for money. Local supplier means a business or industry that operates predominantly in the Council region.

Council acknowledges and fully supports the Queensland Government's *Queensland Charter for Local Content (Local Industry Policy: Opening opportunities for industry)*.

### **Principle 4: Environmental Protection**

*(Local Government Act 2009, section 104(3)(d))*

Council will seek to complement its broader environmental commitments and initiatives when conducting procurement activities. While conducting those activities, Council will have regard to a range of environmental factors including:

- the procurement of environmentally responsible goods and services that satisfy the value for money criteria;
- fostering the development of products and processes of low environmental impact; and
- providing an example to business, industry, and the community by promoting the use of environmentally responsible goods and services.

### **Principle 5: Ethical Behaviour and Fair Dealing**

*(Local Government Act 2009, section 104(3)(e))*

Council will conduct procurement activities with impartiality, fairness, independence, openness, integrity and professionalism to ensure probity, transparency and accountability for outcomes.

Council will promote ethical behaviour and fair dealings by:

- ensuring legislative and policy compliance in purchasing/contracting activities;
- ensuring compliance with Employee and Councillor Codes of Conduct;
- creating and maintaining a robust and effective procurement process that operates in a mature probity environment;

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- identifying and managing possible, real or perceived conflicts of interest between Council, Council Officers, Councillors and prospective or existing contractors;
- ensuring equal and impartial treatment of all prospective and existing suppliers.

**Principle 6: Work Health & Safety**

*(Work Health & Safety Act 2011, Work Health & Safety Regulation 2011, applicable Australian Standards)*

Council will seek to complement its broader work health and safety commitments through its procurement activities by:

- developing specifications that comply with relevant WHS legislation or standards;
- identifying foreseeable risks associated with potential goods and/or services;
- ensuring procurement documentation requests sufficient and appropriate WHS systems to ensure that risks are controlled to a level that is acceptable;
- ensuring suppliers provide documentary evidence that they or the product they supply complies with relevant legislation, codes of practice and/or Australian standards; and
- ensuring Council’s operational obligations with regards to WHS contract performance monitoring and management are actioned under the contract.

**4.1.1 APPLICATION OF PROCUREMENT PRINCIPLES**

The Chief Executive Officer will implement policies, procedures, guidelines and other processes to achieve the above six procurement principles.

**4.1.2 RESPONSIBILITIES**

Council officers responsible for purchasing goods and services are to comply with this policy. It is the responsibility of Council employees involved in the procurement process to understand the policies and procedures as well as their meaning and intent, to ensure implementation.

All Councils procurement activities are governed by the Procurement Process Conditions (PPC) unless stated otherwise. Councils PPC can be found on the following website <https://quilpie.qld.gov.au/tender-and-quotes/> or can be provided on request.

**4.2 PROCUREMENT CONTRACT THRESHOLDS**

The following financial thresholds and requirements apply to all purchases of goods and services.

**Table 1: Procurement Contract Thresholds**

<b>Purchase/Contract Value</b>	<b>Requirements</b>
Under \$50 GST exclusive	Purchases may be made out of petty cash or using a purchase card except as defined otherwise by the Chief Executive Officer.
\$50 to <\$2,000 GST exclusive	At least one verbal offer must be obtained with the details recorded.

<p>\$2,000 to &lt;\$5,000 GST exclusive</p>	<p>At least one written quote must be obtained and attached to the invoice.</p>
<p>\$5,000 to &lt; \$15,000 GST exclusive</p>	<p>Two or more written quotes must be obtained.</p> <ul style="list-style-type: none"> <li>▪ If not possible to obtain a second quote, a record of suppliers approached must be kept and attached to the Council copy of the purchase order as well as any quotes obtained.</li> <li>▪ For subsequent project progress payments, reference to the project folder may be used in lieu of attaching invoice copies.</li> </ul>
<p>\$15,000 to &lt; \$200,000 GST exclusive</p>	<p>A <b>medium-sized contract</b> is a contract worth \$15,000 (GST exclusive) or more but less than \$200,000 (GST exclusive).</p> <p>Council cannot enter into a <b>medium sized contract</b> unless it first invites written quotes for the contract.</p> <ul style="list-style-type: none"> <li>▪ The invitation must be to at least three suppliers who Council considers can meet its requirements at competitive prices. Copies must be attached to the Council copy of the purchase order.</li> <li>▪ For subsequent project progress payments, reference to the project folder may be used in lieu of attaching invoice copies.</li> <li>▪ Council may decide not to accept any quotes it receives.</li> <li>▪ If Council decides to accept a quote, Council must accept the quote most advantageous to it having regard to the principles outlined above.</li> <li>▪ There are limited exceptions to this requirement and they are listed below in section 4.3 titled <b>Exceptions relating to procurement processes</b>.</li> </ul> <p><b>Note:</b> exceptions only remove the requirement to obtain quotes. Council must still issue a correctly authorised letter of acceptance or a purchase order signed by a member of staff with a purchasing limit sufficient to cover the cost.</p> <p><i>(Local Government Regulation 2012, section 225)</i></p>
<p>\$200,000 and above GST exclusive</p>	<p>A <b>large-sized contract</b> is a contract worth \$200,000 (GST exclusive) or more which can extend beyond one financial year.</p> <p>Council cannot enter into a <b>large-sized contract</b> unless Council first invites written tenders for the contract in accordance with the requirements of Section 228 <i>Local Government Regulation 2012</i>.</p> <ul style="list-style-type: none"> <li>▪ Council must either invite written tenders or invite expressions of interest before considering whether to invite written tenders.</li> </ul>



	<ul style="list-style-type: none"> <li>▪ There are limited exceptions to this requirement and they are listed below in section 4.3 titled <b><i>Exceptions relating to procurement processes.</i></b></li> </ul> <p><b>Note:</b> exceptions only remove the requirement to obtain quotes. Council must still issue a correctly authorised letter of acceptance or a purchase order signed by a member of staff with a purchasing limit sufficient to cover the cost.</p> <p><i>(Local Government Regulation 2012, section 226)</i></p>
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When an employee believes, or reasonably should believe, a quote does not represent fair value, at least one additional quote must be obtained.

Before a purchase is authorised, an authoriser must ensure there are sufficient funds available in an approved budget or be satisfied the purchase is for a genuine emergency.

There is no requirement to accept the lowest quotation, however where a staff member chooses a quotation other than the lowest quotation, they must provide a brief written justification which must be kept with the order.

**All thresholds are cumulative** - when seeking quotations, officers should consider the likelihood of exceeding the value thresholds listed above in a financial year (excluding GST) or over multiple years or the proposed term of any contractual arrangement with a supplier for goods and services of a similar type. If there is a risk that these limits will be exceeded, then the appropriate number of quotes or a public tender is required.

**Prohibition on splitting orders or contracting activities** - The splitting of orders or the splitting contracting activities to attempt to avoid thresholds is not permitted.

**Corporate Purchase Cards (including Fuel Cards)** – Council encourages the use of its corporate purchase cards for the following reasons:

- Simplified purchasing and payment procedures;
- Improved payment performance to suppliers;
- Provision of support to local suppliers;
- More effective cash management; and
- Enhances service delivery to customers.

Corporate Purchase Cards are issued and used subject to Council’s Procurement (Purchase Card) Procedure.

#### 4.3 EXCEPTIONS RELATING TO PROCUREMENT PROCESSES

Under sections 230 to 235 of the *Local Government Regulation 2012*, there are exceptions to the requirement for quotes and tenders for medium-sized and large-sized contractual arrangements as follows:

Table 2: Exceptions relating to procurement processes

Exception	Process for establishing and/or exercising an exception
<p><b>Tender/Quote Consideration Plan/s</b></p>	<p>Council may enter into contractual arrangements without first inviting written quotes or tenders if Council resolves to prepare a quote or tender consideration plan and then prepares and adopts the plan. The quote or tender consideration plan is a document stating:</p> <ul style="list-style-type: none"> <li>a) the objectives of the plan;</li> <li>b) how the objectives are to be achieved;</li> <li>c) how the achievement of the objectives will be measured;</li> <li>d) any alternative ways of achieving the objectives, and why the alternative ways were not adopted;</li> <li>e) the proposed terms of the contract for the goods or services; and</li> <li>f) a risk analysis of the market from which the goods or services are to be obtained.</li> </ul> <p><i>(Local Government Regulation 2012, section 230)</i></p>
<p><b>Approved Contractor List (ACL)</b></p>	<p>An <b>'approved contractor list'</b> is a list of persons Council considers to be appropriately qualified to provide services for medium or large sized contracts.</p> <p>Council may establish an approved contractor list by:</p> <ul style="list-style-type: none"> <li>a) publishing an invitation for expressions of interest from suitably qualified persons for at least 21 days on the local government's website;</li> <li>b) taking all reasonable steps to publish the invitation in another way to notify the public about the making of the approved contractor list (e.g. publishing an invitation in an industry publication or on the QTENDERS website);</li> <li>c) allowing written expressions of interest to be given to the Council while the invitation is published on the website; and</li> <li>d) choosing persons for the approved contractor list on the basis of the sound contracting principles.</li> </ul> <p><i>(Local Government Regulation 2012, section 231)</i></p>
<p><b>Register of Pre-qualified Suppliers (ROPS)</b></p>	<p>A <b>pre-qualified supplier</b> is a supplier who has been assessed by Council as having the technical, financial, and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.</p> <p>Council may establish a register of pre-qualified suppliers for the purchase of goods, services or the carrying out of works, only if—</p> <ul style="list-style-type: none"> <li>a) the preparation and evaluation of invitations every time the goods or services are needed would be costly; or</li> </ul>



	<ul style="list-style-type: none"> <li>b) the capability or financial capacity of the supplier of the goods or services is critical; or</li> <li>c) the supply of the goods or services involves significant security considerations; or</li> <li>d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the local government; or</li> <li>e) the ability of local business to supply the goods or services needs to be discovered or developed Suppliers must submit a conforming tender response and if successful following the evaluation process, suppliers are appointed to the ROPS.</li> </ul> <p>Once the ROPS is established, quotes from selected suppliers are invited to achieve value for money.</p> <p><i>(Local Government Regulation 2012, section 232)</i></p>
<p><b>Preferred Supplier Arrangement (PSA)</b></p>	<p>Council may establish a preferred supplier arrangement prequalified supplier arrangement if Council:</p> <ul style="list-style-type: none"> <li>a) needs the goods or services: <ul style="list-style-type: none"> <li>I. in large volumes; or</li> <li>II. frequently; and</li> </ul> </li> <li>b) is able to obtain better value for money by accumulating the demand for the goods or services; and</li> <li>c) is able to describe the goods or services in terms that would be well understood in the relevant industry.</li> </ul> <p>Council must invite public tenders and evaluate submissions from suppliers in order for suppliers to be successfully appointed to the PSA.</p> <p><i>(Local Government Regulation 2012, section 233)</i></p>
<p><b>LGA arrangement, e.g. LGAQ (Local Buy)</b></p>	<p>Council may enter into a contract for goods and services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.</p> <p>An <b>LGA arrangement</b> is an arrangement that -</p> <ul style="list-style-type: none"> <li>(a) has been entered into by— <ul style="list-style-type: none"> <li>(i) LGAQ Ltd.; or</li> <li>(ii) a company (the <b>associated company</b>) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and</li> </ul> </li> <li>(b) if LGAQ Ltd. or the associated company were a local government, would be either— <ul style="list-style-type: none"> <li>(i) a contract with an independent supplier entered into under section 232 by LGAQ Ltd or the associated company; or</li> </ul> </li> </ul>

	<p>(ii) a contract with an independent supplier entered into under a preferred supplier arrangement under section 233.</p> <p>(3) An <b>independent supplier</b> is an entity other than a subsidiary (a <b>relevant subsidiary</b>) of LGAQ Ltd. or the associated company under the Corporations Act.</p> <p><i>(Local Government Regulation 2012, section 2234)</i></p>
<b>Sole Supplier</b>	<p>Council may resolve that it is satisfied that there is only one (1) supplier who is reasonably available.</p> <p><i>(Local Government Regulation 2012, section 235(a))</i></p>
<b>Specialised Supplier</b>	<p>Council may resolve 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.</p> <p><i>(Local Government Regulation 2012, section 235(b))</i></p>
<b>Genuine Emergency</b>	<p>A genuine emergency exists.</p> <p><i>(Local Government Regulation 2012, section 235(c))</i></p>
<b>Auction Purchase</b>	<p>The contract is for the purchase of goods and is made by auction.</p> <p><i>(Local Government Regulation 2012, section 235(d))</i></p>
<b>Second-hand Goods</b>	<p>The contract is for the purchase of second-hand goods.</p> <p><i>(Local Government Regulation 2012, section 235(e))</i></p>
<b>Government Agency Arrangement</b>	<p>The contract is for goods or services from another government agency.</p> <p>These agencies include:</p> <ul style="list-style-type: none"> <li>- the State, a government entity, a corporatized business entity or another local government; or</li> <li>- another Australian government or an entity of another Australian government; or</li> <li>- a local government of another State.</li> </ul> <p><i>(Local Government Regulation 2012, section 235(f))</i></p>

**Note: Use of any of the above exceptions is limited to those with the delegated authority to conduct purchasing activities, and within authorised expenditure limits.**

#### 4.4 APPLICATION TO DISPOSAL PROCESSES

Council will conduct disposal contracting activities having regard to the adopted thresholds for Valuable Non-Current Assets.

##### Thresholds for Valuable Non-Current Assets (VNCA)

The *Local Government Regulation 2012* provides that a VNCA is:

- land; or
- another non-current asset that has an apparent value that is equal to or more than a limit set by Council.

Council sets the value for VNCAs, other than land, for the following amounts:

- for plant and equipment - \$5,000;
- for another type of non-current asset - \$10,000.

For clarity, items with an estimated value greater than or equal to the above values are VNCAs. Those items with an estimated value below the values above are considered surplus assets.

**Table 3: Disposal Contract Thresholds**

Contract Value	Disposal Process
Plant, equipment and any other VNCA worth more than \$5,000 (other than land)	<ul style="list-style-type: none"> <li>• Auction</li> <li>• EOI</li> <li>• Tender</li> <li>• Available exception under section 236 of the <i>Local Government Regulation 2012</i></li> </ul>
Surplus Assets worth less than \$10,000	<ul style="list-style-type: none"> <li>• Auction</li> <li>• EOI</li> <li>• Tender</li> <li>• Recycle</li> <li>• Waste facility disposal</li> <li>• Trade in</li> <li>• Donating to government agency or community organisation</li> </ul>

The Chief Executive Officer will consider and apply the most appropriate disposal process to realise the best value for Council from the disposal.

## Requirement for the Disposal of Land and Exceptions

Council will dispose of land, or any interest in land in a manner consistent with the *Local Government Regulation 2012*, Chapter 6 Contracting, Part 3 Default Contracting Procedures. These procedures require that, unless an exception applies, Council will dispose of land, or an interest in land by:

- EOI
- Tender
- Auction

There are a number of exceptions detailed in the LGR which may be exercised instead of undertaking an EOI, Tender or Auction and these are detailed in section 236(1). Exercise of the exceptions is subject to the following qualifications:

- a) For exceptions mentioned in subsections 236(1)(a) to (e), before the disposal, Council decides by resolution that the exception may apply to that particular disposal.
- b) For exceptions relating to disposal of land or an interest in land, the consideration for the disposal would be equal to, or more than, the market value of the land or the interest in the land including the market value of any improvements. A written report about the market value from a valuer registered under the Valuers Registration Act 1992 will be sufficient evidence of the market value.
- c) Point (b) immediately above does not apply to disposal of land or an interest in land which is disposed of under section 236(1)(b), (1)(c)(ii) or (1)(f).

### 4.5 JOINT PURCHASING ARRANGEMENTS

Council may choose to engage in joint purchasing arrangements with other councils or groups of Councils such as the South-West Queensland Regional Organisation of Councils.

### 4.6 OTHER OBLIGATIONS

Outlined below are further obligations that must be met or maintained.

#### 4.6.1 Powers to delegate

(LGA 2009, ss257, 259 & LGA 2012, s238)

Council may delegate by resolution, a power under the *LGA 2009* or another Act to the Chief Executive Officer (CEO). Any delegation to the CEO will be reviewed annually. The Council must not delegate a power that an Act states must be exercised by resolution. Council may delegate a power with conditions or limitations.

Council has delegated powers to the CEO relating to contracting activities. The CEO has in turn delegated these powers onto appropriately qualified Council officers. These delegations are recorded in the delegations register maintained by the CEO.

Persons engaged by Council in contracts for service (e.g. consultants, project managers and labour hire organisations) are not permitted to commence a purchasing activity or award a contract on behalf of Council unless they have been formally given Instrument of Delegation approved by the Chief Executive.

For clarity, some persons engaged in contracts for service may participate in or manage the contracting activity through its various phases and provide, for example, technical advice during the evaluation of tenders. However, they are not permitted to undertake any action or make any decision that results in them commencing a procurement process or forming a contract on behalf of Council, or expending, or agreeing to expend money on behalf of Council unless they have been formally given Instrument of Delegation approved by the Chief Executive.

### 4.6.2 Requirement to keep record of particular matters

*(LGR 2012, s164)*

Council will keep a written record stating the risks Council's operations are exposed to, to the extent they are relevant to financial management and the control measure adopted to manage the risks.

### 4.6.3 Unauthorised spending

*(LGR 2012, s174)*

Council will only spend money in a financial year if it is adopted in the budget for the financial year; or before adopting its budget for the financial year, if it then provides for the spending in the budget for that financial year.

Council may spend money not authorised in the budget for genuine emergency or hardship. In this instance Council must make a resolution about spending the money; either before, or as soon as practicable after, the money is spent. The resolution will state how the spending is to be funded.

### 4.6.4 Other contents – Annual Report – changes to tenders

*(LGR 2012, s190)*

Council will include the number of invitations to change tenders under the LGR 2012, section 228(7) during that financial year in its annual report for the financial year.

### 4.6.5 Procurement Policy – annual review

*(LGR 2012, s198)*

Council will prepare and adopt a Procurement Policy that will be reviewed annually. The Procurement Policy will include details of the principles, including the sound contracting principles that Council will apply to purchasing goods and services and undertaking disposal activities.

### 4.6.6 Public access to relevant financial and planning documents

*(LGR2012, s199)*

Council will allow the public to inspect this Procurement Policy by making it available:

- a) on its website <http://www.quilpie.qld.gov.au>; and
- b) at Council's public office.

Council will also make a copy of the Procurement Policy available for purchase at a cost of no more than it costs Council to make it available.

#### 4.6.7 Publishing details of contractual arrangements worth \$200,000 or more

(LGR 2012, s237)

In accordance with Section 237 of the *Local Government Regulation 2012*, Council must publish details of contractual arrangements worth \$200,000 or more (exclusive of GST).

These details will be published as:

- a) **Notice of Contracts Awarded worth \$200,000 or more (exclusive of GST)** - for the purpose of this notice a 'contractual arrangement' is the total expected value of a (single) contract awarded to a supplier for a financial year or over the proposed term of the contractual arrangement.
- b) **Notice of Contractual Arrangements worth \$200,000 or more (exclusive of GST)** – for the purpose of this notice a 'contractual arrangement' is the aggregation of all contracts entered into with a given supplier during a financial year or another period stated in the relevant arrangement, for goods and services of a similar type.

(Refer to section 224 (4) of the *Local Government Regulation 2012*).

Council will, as soon as practicable after entering into a contractual arrangement worth \$200,000 or more (GST exclusive), publish the relevant details of the contractual arrangement:

- a) on its website <http://www.quilpie.qld.gov.au>; and
- b) in a conspicuous place in Council's public office.

Relevant details of a contract means:

- c) the person with whom Council has entered into the contractual arrangement;
- d) the value of the contractual arrangement;
- e) the purpose of the contractual arrangement.

#### 4.6.8 Caretaker Period

(LGA 2009, Part 5 and Schedule 4)

Council must not make a major policy decision during the caretaker period prior to an election unless exceptional circumstances exist. This includes entering into any contract, the value of which is greater than \$200,000.00 exclusive of GST or 1% of the Council's net rate and utility charges as stated in the financial statements of its most recently adopted annual report, whichever is the greater.

If Council does enter into a Contract that exceeds these amounts and the transaction does not constitute exceptional circumstances they may be liable for legal proceedings and / or compensation to the other party of the contract who has acted in good faith. The Contract would be considered to be an invalid policy decision.

#### 4.6.9 Records Management

Purchasing and contracting records must be maintained in accordance with the *Public Records Act 2002*. This includes request for quotes for medium sized contractual arrangements, large contractual arrangements, tenders and disposal arrangements.

Proper records must be kept of verbal and written quotes. Verbal quotes **must** be noted in appropriate diaries or registers and evidence of the quote attached to the requisition and / or the office copy of orders.



Written quotes **must** be attached to requisitions and / or the hard copy of orders or be scanned and uploaded to Council's Record Management System (for electronic requisitions or orders).

All documentation associated with purchasing and contracting shall be held for the period specified in the Queensland State Archives – General Retention and Disposal Schedule for Administrative Records.

### 4.6.10 Release of Information

Prior to the close of a tender no person must release information regarding tenderers to the public or to other tenderers. Communications with potential suppliers in regard to an open tender need to be documented and viewable by all tenderers.

All quotation and tender documents are governed by Councils Procurement Process Conditions (PPC) unless stated otherwise. Section 3 of the PPC includes advice regarding protocols for contact with staff and Councillors during contracting processes. Section 12 of the PPC states the definition of improper conduct in relation to a procurement processes as:

*'Improper Conduct means:*

- (i) engaging in any activity or obtaining any interest which results in or is likely to result in any actual, potential or perceived conflict between the interests of the Respondent and the Respondent's obligations to the Principal in connection with the Procurement Process;*
- (ii) engaging in misleading or deceptive conduct in connection with the Procurement Process;*
- (iii) engaging in any collusive tendering, anticompetitive conduct, or any other unlawful or unethical conduct with any other Respondent, or any other person in connection with the Procurement Process;*
- (iv) canvassing, attempting to improperly influence, offering any inducement to or accepting or inviting improper assistance from any Councillor or other Personnel (or former Personnel) of the Principal in connection with the Procurement Process;*
- (v) using any information improperly obtained, or obtained in breach of any obligation of confidentiality in preparing the Respondent's Response;*
- (vi) breaching any law in connection with the Procurement Process;*
- (vii) engaging in aggressive, threatening, abusive, offensive or other inappropriate behaviour or committing a criminal offence; or*
- (viii) engaging in conduct contrary to sections 199 and 200 of the Local Government Act 2009 (Qld);'*

Any improper conduct during the contracting process will automatically disqualify the tenderer / quoter from the contracting process.

### 4.6.11 Conflict of interest

A Conflict of Interest is when an employee's private interests interfere, or appear to interfere, with their duty to act impartially and in the public interest.

A conflict of interest arises if there is a conflict between the performance of a public duty and a private or personal interest. Personal interests may be pecuniary or non-pecuniary:

- A pecuniary interest refers to an actual or potential financial gain or loss for the person, their family, friends, or close associates.

- A non-pecuniary interest refers to an interest that is not financial or monetary but arises from such things as personal relationships, beliefs, or involvement in social, cultural, religious, or sporting activities.

There are three (3) types of conflicts of interest:

- a) Actual conflict of interest: An actual conflict of interest involves a direct conflict between an employee's current duties and responsibilities and their existing private interests.
- b) Perceived (or apparent) conflict of interest: A perceived conflict of interest occurs where it could be perceived by others that a public officials' private interests could improperly influence the performance of their public duties, whether or not this is the case.
- c) Potential conflict of interest: A potential conflict of interest will arise when an employee has a private interest that could conflict with their official duties and responsibilities in the future.

Conflicts of interest may also occur when an employee's interest in a particular subject may lead to actions, activities or relationships which undermine or place Council at a disadvantage.

A conflict of interest may affect a person's judgement as to what is in the public interest or may lead to a bias in their decision making.

It is not always possible to avoid a conflict of interest and a conflict of interest is not necessarily unethical or wrong.

However, it is important that any actual, perceived, or potential conflict of interest is identified, disclosed, and effectively managed. Management of conflicts of interest must be fair, transparent, accountable and free from bias.

## 5 HUMAN RIGHTS COMPATIBILITY STATEMENT

This Policy has been assessed as compatible with the Human Rights protected under the *Human Rights Act 2019*.

## 6 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

*Local Government Act 2009*

*Local Government Regulation 2012*

*Public Sector Ethics Act 1994*

*Statutory Bodies Financial Arrangements Act 1982*

*Disaster Management Act 20023*

*Corporate Plan 2022-2027*

*Employee Code of Conduct*

*Code of Conduct for Councillors*

*Councillors Acceptable Request Guidelines*

*Delegations Register*

**Responsible Officer:** Manager Finance & Administration

**Policy Owner:** Council

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86421	F.05-A Procurement (Purchase Card) Procedure
91123	F.05-B Procurement (Tenders and Quotes) Procedure

## 7 VERSION CONTROL

V1	22-Jan-13	Developed and adopted
V2	08-Apr-14	Reviewed and adopted
V3	16-Jun-15	Reviewed and adopted
V4	08-Jul-16	Reviewed and adopted
V5	09-Mar-18	Reviewed and adopted
V6	12-Apr-19	Reviewed and adopted
V7	17-Apr-20	Reviewed and adopted
V8	16-Dec-20	Reviewed and adopted
V9	12 Mar 21	Reviewed and adopted
V10	18-Feb-22	Reviewed and adopted
V11	20-Feb-24	New format and reviewed