

# Northern Midlands Council Account Management Report

## Income & Expenditure Summary for the Period Ended 31 March 2021 (75% of Year Completed)

### Line Item Summary Totals

	Operating Statement		Corporate Services		Regulatory & Community Services		Development Services		Works & Infrastructure Services		Total Operating Statement		% of Budget
	2020/21 Budget	2020/21 Actual	2020/21 Budget	2020/21 Actual	2020/21 Budget	2020/21 Actual	2020/21 Budget	2020/21 Actual	2020/21 Budget	2020/21 Actual	2020/21 Budget	2020/21 Actual	
Wages	356,646	298,859	1,096,919	706,833	216,549	174,814	375,234	263,908	144,480	50,820	3,698,114.00	2,672,802.00	72.22%
Material & Services Expenditure	578,959	420,617	694,097	474,307	147,509	59,588	377,275	179,805	651,731	431,351	5,412,895.00	3,417,505.00	63.14%
Depreciation Expenditure	61,663	45,916	89,245	117,342	36,255	38,207	104	74	6,096,102	4,097,640	6,283,369.00	4,299,179.00	68.42%
Government Levies & Charges	8,170	5,288	779,962	642,970	1,860	1,948	0	1,620	71,530	81,152	861,522.00	732,978.00	85.08%
Interest Expenditure	0	0	272,007	254,000	0	0	0	0	0	0	272,007.00	254,000.00	93.38%
Councilors Expenditure	199,210	143,140	0	0	0	0	0	0	0	0	199,210.00	143,140.00	71.85%
Other Expenditure	895,991	173,848	492,903	470,745	191,627	128,021	5,800	5,160	144,480	50,820	1,730,801.00	828,594.00	47.87%
Oncost	160,491	55,663	516,488	228,484	82,559	50,258	168,857	52,066	651,731	431,351	1,580,106.00	817,822.00	51.76%
Internal Plant Hire/Rental	21,120	8,432	24,610	16,124	42,070	14,541	20,860	2,046	975,110	847,188	1,063,770.00	888,331.00	81.97%
Internal Rental/Rates	0	0	1,730	1,365	560	0	0	0	6,440	5,678	8,730.00	7,043.00	80.68%
Other Internal Transfers Expenditure	0	2,284	7,123,585	5,327,675	0	288	0	0	29,660	22,552	7,153,245.00	5,352,759.00	74.83%
Oncosts Paid - Payroll	76,930	47,805	242,248	184,177	42,300	26,149	80,376	51,963	359,135	249,547	800,969.00	559,641.00	69.87%
Oncost Paid - Non Payroll	114,234	73,454	290,547	207,145	60,302	55,934	109,959	72,780	528,337	374,952	1,103,379.00	794,265.00	71.08%
Plant Expenditure Paid	5,290	1,823	17,010	8,759	14,820	9,299	9,850	3,387	477,730	371,307	524,700.00	394,575.00	75.20%
	2,478,704	1,277,109	11,641,331	8,639,926	836,411	559,027	1,148,315	632,509	14,608,076	10,044,063	30,712,837.00	21,152,634.00	68.87%
Rate Revenue	0	0	(10,816,905)	(10,826,442)	(23,680)	(23,101)	0	0	(796,235)	(812,354)	(11,636,820.00)	(11,661,697.00)	100.22%
Recurrent Grant Revenue	(17,944)	(11,000)	(1,753,826)	(941,051)	0	0	0	0	(2,646,326)	(1,298,801)	(4,420,090.00)	(2,250,852.00)	50.92%
Fees and Charges Revenue	0	(194)	(1,002,901)	(757,189)	(137,219)	(135,603)	(494,603)	(425,360)	(447,328)	(469,960)	(2,082,551.00)	(1,788,326.00)	85.87%
Interest Revenue	(301,500)	(139,874)	(112,000)	(111,885)	0	0	0	0	0	0	(413,500.00)	(251,759.00)	60.88%
Reimbursements Revenue	(6,068)	(5,353)	(53,668)	(43,889)	(7,410)	(13,757)	0	0	(21,799)	(33,191)	(88,945.00)	(95,990.00)	107.92%
Interest Expenditure Reimbursed	0	0	(272,007)	(136,004)	0	0	0	0	0	0	(272,007.00)	(136,004.00)	50.00%
Oncost Recoveries - Internal Ther	(160,491)	(50,391)	(503,575)	(235,253)	(95,166)	(67,527)	(172,474)	(67,705)	(860,733)	(537,673)	(1,792,439.00)	(958,549.00)	53.48%
Plant Hire Income - Internal Ther	(13,400)	0	(39,190)	(235,253)	(23,290)	0	(23,580)	0	(1,223,960)	(1,215,920)	(1,322,420.00)	(1,215,920.00)	91.95%
Other Internal Transfers Income	(202,705)	(152,005)	(553,051)	(68,648)	(527,767)	(398,165)	(927,496)	(499,607)	(5,708,554)	(4,259,971)	(7,619,573.00)	(5,378,396.00)	70.59%
Other Revenue	0	(117,274)	(15,288)	(31,089)	(349)	(700)	0	(1,000)	(99,800)	(113,121)	(114,437.00)	(263,184.00)	229.98%
	(702,108)	(476,091)	(15,121,411)	(13,151,250)	(814,881)	(638,853)	(1,318,153)	(993,692)	(11,806,229)	(8,740,991)	(29,762,782.00)	(24,000,877.00)	80.64%
Underlying (Surplus) / Deficit Before	1,776,596	801,018	(3,480,080)	(4,511,324)	21,530	(79,826)	(169,838)	(361,183)	2,801,847	1,303,072	950,055	(2,848,243)	
Gain on sale of Fixed Assets	0	0	0	0	0	0	0	0	0	0	0	0	
Loss on Sale of Fixed Assets	0	0	0	0	0	0	0	0	602,390	0	602,390	0	
Net Loss On Disposal of Fixed Assets	0	0	0	0	0	0	0	0	602,390	0	602,390	0	
Underlying (Surplus) / Deficit	1,776,596	801,018	(3,480,080)	(4,511,324)	21,530	(79,826)	(169,838)	(361,183)	3,404,237	1,303,072	1,552,445	(2,848,243)	
Capital Grant Revenue	0	(1,000)	0	0	(1,954,779)	(540,469)	0	0	(9,788,206)	(764,313)	(11,742,987)	(1,305,782)	
Subdivider & Capital Contributions	0	0	0	0	(1,954,779)	(540,469)	0	0	(324,114)	0	(524,114)	(1,305,782)	
	0	(1,000)	0	0	(1,954,779)	(540,469)	0	0	(10,312,322)	(764,313)	(12,267,101)	(1,305,782)	
Operating (Surplus) / Deficit	1,776,596	800,018	(3,480,080)	(4,511,324)	(1,933,249)	(620,295)	(169,838)	(361,183)	(6,908,085)	538,759	(10,714,656)	(4,154,025)	





























## CODE OF TENDERING AND PROCUREMENT

<b>Originated Date:</b>	Adopted 7 January 1997 Min. No. 71/97 (as Policy 2)
<b>Amended Date/s:</b>	Amended 26 August 2002 Min. No. 330/02 Amended 19 December 2005 Min. No. 424/05 Amended 17 July 2006 Min. No. 249/06 Amended 16 May 2011 Min. No. 123/11 Amended 14 October 2013 Min. No. 274/13 Amended 17 August 2015 Min. No. 221/15 (incorporating Council Policy on Open Tenders) Amended 17 September 2018 Min. No. 252/18 <b>Amended 15 March 2021 Min. No. ..../....</b>
<b>Applicable Legislation:</b>	<i>Local Government Act 1993</i> <i>Local Government (General) Regulations 2015</i>
<b>Objective</b>	This Code of Tendering and Procurement (Code) provides a policy framework on purchasing and tendering requirements for Council.
<b>Administration:</b>	Corporate Services
<b>Review Cycle/Date:</b>	At least every 4 years. Next review <b>2022 2025</b>

### 1. PURPOSE

The Code aims to:

- a) ensure compliance with relevant legislation;
- b) enhance value for money through fair, competitive, non-discriminatory procurement;
- c) promote the use of resources in an efficient, effective and ethical manner;
- d) encourage probity, accountability and transparency in decision making;
- e) provide reasonable opportunity for competitive local businesses to supply to Council;**
- f) minimise the cost to suppliers of participating in the tendering process;
- g) allow Council to appropriately manage risk;
- h) promote Council's economic, social and environmental plans and policies.

### 2. SCOPE

#### 2.1 POLICY VS. PROCEDURES

The Code essentially provides a high level overview of Tender and Contract requirements as they apply to Council. Although some procedural detail associated with Council tender and contract management systems and processes is included in this document, additional lower level detail is held in Council procedure documents.

Consistent with the requirements specified in regulation 28, Council will establish and maintain local level procedures to:

- a) ensure all potential service providers are provided with the same information relating to the requirements of an open tender process or contract and are given equal opportunity to meet the requirements;
- b) that fair and equitable consideration is given to all tenders or quotations received;
- c) deal honestly with and be equitable in the treatment of all potential service providers ;
- d) ensure a prompt and courteous response to all reasonable requests for advice and information from potential or existing service providers;
- e) protect commercial in confidence information; and
- f) review each tender process to ensure that each tender is in accordance with the Regulations and this Code.

Council will also establish and maintain procedures for:

- a) amending or extending a tender once it has been released;
- b) opening tenders;

- c) the consideration of tenders that do not fully conform with the tender requirements;
- d) handling complaints regarding processes related to the supply of goods or services.

Refer to Appendix A for Northern Midlands Council local level procedures for tendering.

## 2.2 EMPLOYEES AND SERVICE PROVIDERS

The Code will apply to Council, council employees and agents and any service provider wishing to compete for Council business or provide goods, services or works to Council (including contractors, subcontractors, consultants and suppliers)

Wherever reasonably possible service providers engaged by Council will also apply the Code when seeking Tenders or Quotations from subcontractors and suppliers.

## **3. PROCUREMENT PRINCIPLES**

Council will have regard to the following principles when acquiring goods and services:

### 3.1 OPEN AND EFFECTIVE COMPETITION

The Council will ensure that the purchasing process is impartial, open and encourages competitive offers.

In practice this means that Council will:

- a) use transparent and open purchasing processes so that service providers and the public are able to have confidence in the outcomes;
- b) adequately test the market through seeking quotations or via tender as appropriate;
- c) avoid biased specifications;
- d) treat all service providers consistently and equitably;
- e) ensure a prompt and courteous response to all reasonable requests for advice and information from service providers.

### 3.2 VALUE FOR MONEY

The Council will ensure that it is buying at the most competitive price available, but value for money does not mean buying at the lowest price.

In practice this means that Council will consider

- a) the contribution the good or service makes to achieving Council's strategic plans or policies;
- b) the value of the acquisition and potential benefits against the costs of that purchase;
- c) an assessment of risks associated with the purchase including the preferred procurement method;
- d) how well goods or services meet needs;
- e) maintenance and running costs over the lifetime of a product;
- f) disposal value;
- g) time constraints;
- h) the impact of the procurement decision on the local economy, such as through industry development and employment creation;
- i) the impact of the procurement decision on the environment, such as through minimising waste and reducing demand for goods and services which have a direct impact on the environment (such as printing, utilities and travel); and
- j) the impact of the procurement decision on the society, (social value generated) such as through the elimination of discrimination and the promotion of equal opportunity, training, and other identified social objectives.

### 3.3 ENHANCEMENT OF THE CAPABILITIES OF THE LOCAL BUSINESS INDUSTRY

The Council will ensure that where local capacity exists it will seek to engage the local market and encourage participation in tender and quotation processes.

In practice this means that Council will:

- a) actively seek quotes from local businesses that are able to provide quality goods and or services;



- b) where local capability exists, ensure that discretionary elements of specifications do not prevent local business from competing, and
- c) not give preferential treatment to local service providers where it cannot be reasonably justified.

#### 3.4 ETHICAL BEHAVIOUR AND FAIR DEALING

The Council will promote procurement practice that is legal, ethical, fair and unbiased

In practice this means that Council will:

- a) comply with legal requirements;
- b) conduct all business in the best interests of the Council;
- c) be as effective and efficient as possible when sourcing, ordering and paying for goods and services;
- d) expect individuals involved in procurement processes to declare and act upon any conflicts of interest that may be seen to influence impartiality;
- e) ensure that specifications are clear;
- f) ensure that any Service Provider is not provided with information or clarification that is not provided equally to all service providers;
- g) maintain confidentiality at all times in dealing with service providers;
- h) ensure that conditions of contract are not excessively onerous; and
- i) decline gifts or benefits offered by those involved in the procurement process, particularly from service providers.

In practice this means that Council expects service providers to:

- a) ensure that they are well acquainted with Council requirements identified in this Code;
- b) are familiar with particulars relating to a specific tender and quotation processes including the relevant specifications;
- c) not submit a tender or quotation unless they have the financial, technical, physical, management resource or other capabilities to fulfil Council's requirements;
- d) not seek to influence a procurement process by improper means or collude with other service providers;
- e) declare and act upon any conflicts of interest that may be seen to influence impartiality;
- f) comply with all applicable legislative, regulatory and statutory requirements, including Acts of the Commonwealth and State, regulations, by laws and proclamations made or issued under such Acts and lawful requirements or directions of public and other authorities;
- g) not offer gifts or benefits to a Council officer for the discharge of official business;
- h) Northern Midlands Council local level procedures for tendering are identified at Appendix A of this Code of Conduct.

#### **4. PROCUREMENT METHODS**

While open and fair competition may often best achieved by undertaking a tender process where all interested parties have an opportunity to bid, there are times when this practice will not deliver the most advantageous outcome for the Council. In such instances, other market approaches may be more appropriate.

The Council will, having regard to the procurement principles and any other factors considered relevant by the Council, in its absolute discretion, determine the appropriate method that will be employed to procure goods and services at any particular time.

An annual purchasing order may be issued for ongoing monthly services (such as electricity, insurance, telecommunications, water & sewer, government levies etc).

Each Council employee has an authorised limit as to procurement expenditure. These limits are reviewed from time to time.

The following table summarises the purchasing method utilised by Council based on the total dollar value of the purchase:

Procurement Value	Minimum Requirement
Under \$1,000	Council purchasing order to be used wherever possible. Payment to be made by petty cash, credit card or cheque.
\$1,001 to \$5,000	Verbal quotation required.

Procurement Value	Minimum Requirement
	Council purchasing order required. Payment to be made by credit card, <del>cheque or</del> electronic funds transfer.
\$5,001 to \$20,000	2 written quotations <del>is</del> required. Council Purchase order is required. Payment to be made by credit card, cheque or electronic funds transfer.
Between \$20,001 and \$249,999	Written quotations Where possible, at least three written quotations will be obtained, of which at least <del>one two</del> will be sought from a local business (if available) where Tasmanian capability exists. Council Purchasing order is required. Payment to be made by <del>cheque or</del> electronic funds transfer.
\$250,000 and greater	Public Tender Council will advertise each tender at a minimum in the Examiner newspaper. Other advertising may be utilised as required. Each tender will be advertised on Council website. Council will seek at least <del>one two</del> tenders from a local business, i.e. within the municipal area, if available. where Tasmanian capability exists. Payment to be made by <del>cheque or</del> electronic funds transfer

Note:

All amounts are exclusive of GST.

The prescribed amount pursuant to the *Local Government (General) Regulations 2015* is \$250,000.

#### 4.1 NON TENDER – PROCESSES FOR ACQUISITION OF GOODS AND OR SERVICES

##### 4.1.1 DIRECT PURCHASING

This is where Council purchases from a single source, without first obtaining competitive bids.

This method will be used only for low value, low risk goods and services where the Service Provider already has a successful history with the Council.

##### 4.1.2 PURCHASE ORDERS

Purchase Orders usually have limited terms and conditions and detail specific items that are to be purchased.

This method may be used for low value, low risk goods and services and will not be used for non routine, high value and high risk goods and services.

An example of a good that may be purchased via purchase order is a new TV. An example of a service that may be purchased via purchase order is design work for a new sign.

##### 4.1.3 QUOTATIONS (INFORMAL)

This is where Council will only enter into a contract where 2 quotations from suitable service providers able to provide the goods or services have been sought.

Records must be kept of quotations received and quotations approved. If written quotations cannot be obtained Council must keep detailed written records of the oral quotation obtained including details of the commercial terms of the quotation.

This method may be used for low value, low risk goods and services.

##### 4.1.4 REQUEST FOR QUOTATIONS (RFQ)

This is a more formal quotation process. Council will enter into a contract where 3 written (including email) quotations from suitable service providers able to provide the goods and or services have been sought. Where less than 3 suitable service providers are reasonably available, records outlining this circumstance will be kept.

Council must keep detailed written records of the quotations obtained including details of the commercial terms of the quotation.



This method may be suitable for simple, largely price based purchases.

Purchasing goods and or services through the National Procurement Network (NPN) is an option for Councils. Purchasing through this mechanism involves an RFQ process. Items with a financial value above the prescribed amount may be legitimately purchased through the Network RFQ process. Use of the Network as a purchasing option for Councils is justified under the Regulations. See section 8 - Exemptions.

An example of a service that may be purchased via RFQ's is engaging a contractor to conduct road works.

#### 4.2 TENDER - PROCESSES FOR ACQUISITION OF GOODS AND OR SERVICES

The Act and Regulations require that Council invite Tenders for any Contract it intends to enter into for the supply or provision of goods or services valued at or above a prescribed amount. The prescribed amount is \$250,000 (GST exclusive).

##### 4.2.1 OPEN TENDERS

An open tender process is an invitation to tender by public advertisement. There are generally no restrictions regarding who can submit a tender, however, service providers are required to submit all required information and will be evaluated against stated selection criteria.

##### General Manager - responsibilities

Consistent with the Regulations (Regulation 24) Council will ensure that when open tenders are used as a method of procurement; the General Manager will invite tenders.

The General Manager will advertise the tender locally via the daily newspaper circulating in the municipal area and on via Councils website – making the tender available to all qualified and interested bidders.

The public notice will identify:

- a) clearly the nature of the goods and or services the Council requires;
- b) the period within which the tender must be lodged (must be at least 14 days after the date on which the notice is published);
- c) where the tender must be lodged; and
- d) details of a person from whom more detailed information relating to the tender may be obtained.

The General Manager will ensure that prospective tenderers are provided with details regarding:

- a) the specifications of the goods and or services required;
- b) the duration of the contract, including any extensions that are specified in the contract;
- c) any mandatory tender specifications and contract conditions;
- d) objective criteria for evaluating the contract; and
- e) must make reference to the Council Code for Tenders and Contracts.

##### Service Provider – responsibilities

A person submitting a response in relation to a Council public tender must do so in writing.

The Service Provider must specify the goods and or services tendered for, provide details of the goods and or services being offered and must lodge the tender within the period specified in the public notice.

Refer to Appendix A for Northern Midlands Council procedures relating to tender process.

##### 4.2.2 MULTI STAGED TENDER

There are occasions – although usually limited (because the process can be resource intensive), where Council may use a multi stage tender process. Reference is made to this process in the Regulations at Regulation 26.

This tender method will be used by Council to gain knowledge about the market, obtain industry input – where it is unclear what goods and services are available or to shortlist appropriate suppliers before seeking offers.

At each stage in this process, service providers may be culled to those who are most suited to the specific contract requirements. Service providers will be evaluated against criteria determined by Council.

Once a short list of potential service providers is developed, these service providers may be invited to participate in an open tender process.

#### General Manager - responsibilities

As a first stage in this process, the General Manager will request – expressions of interest from prospective tenderers.

The General Manager will advertise the expression of interest locally via the daily newspaper circulating in the municipal area and via Council's website

The public notice will identify:

- a) clearly the nature of the goods and or services the Council requires;
- b) contract identification details;
- c) the period within which the expression of interest must be lodged;
- d) where the expression of interest must be lodged; and
- e) details of a person from whom more detailed information relating to the expression of interest may be obtained.

The General Manager will ensure that prospective tenderers are provided with details regarding:

- a) the specifications of the goods and or services required;
- b) objective criteria for evaluating the expression of interest;
- c) the method of evaluating expressions of interest against the criteria;
- d) details of any further stages in the tender process; and
- e) must make reference to the Council Code for Tenders and Contracts.

At the final stage of a Multi Staged Tender process, the General Manager will invite all service providers who have met the criteria determined by the Council, to tender for the supply of goods and or services

If only one service provider meets the criteria determined by Council, the Council may contract with that supplier after:

- a) a tender from that Service Provider; or
- b) a decision by the absolute majority of the council to do so.

#### Service Provider – responsibilities

A person submitting a response in relation to a Council expression of interest must do so in writing.

The service provider must specify the goods and or services the expression of interest relates to, provide details of the goods and or services being offered and must lodge the expression of interest within the period specified in the public notice.

Refer to Appendix A for Northern Midlands Council procedures for tenders.

### 4.3 ONGOING SUPPLY ARRANGEMENTS - GOODS AND SERVICES

#### 4.3.1 STANDING CONTRACT

A Council, through an open tender process, may establish a standing contract in which a single tenderer or multiple tenderers may be contracted for a specified period to provide specified goods or services during that period without the need for a further tender process. Reference is made to this process in the Regulations at Regulation 23.

Service providers listed on a standing contract panel will be selected following an evaluation process.

Council may legitimately purchase directly from a service provider listed on a standing contract panel.

Council may implement its own standing contract arrangements or may make use of goods and or services panels that have been negotiated for example for Tasmanian Councils via LGAT as a member of the National Procurement Network or via similar arrangements through State Government.



The way in which a standing tender is established is the same as for an open tender process where the specification and description of the tender describe the intent of the standing contract and the conditions of its use.

#### 4.3.2 MULTIPLE USE REGISTER

A multiple use register is a list, intended for use in more than one procurement process, of pre qualified providers, who have satisfied the conditions for participation or inclusion on the register. Reference is made to the multi use register process in the Regulations at Regulation 25.

Council may establish a multi use register of service providers who meet criteria established by the Council in respect to the supply of particular categories of goods and services.

Inclusion on a multi use register provides certainty for potential service providers that they have been recognised as meeting conditions for participation.

Council will invite tenders for a contract for the supply of goods and or services from all service providers included on a multiple use register for a particular category of goods and or services.

##### General Manager - responsibilities

As per Regulation 25, Council will establish and maintain procedures for the use of multiple use registers for contracts valued at under the current prescribed amount, excluding GST.

Essential procedural requirements include that, the Council will invite applications from service providers for inclusion on a multiple use register by advertising locally via the daily newspaper circulating in the municipal area and via Councils website

The public notice will identify:

- a) the nature of the goods and or services the Council requires;
- b) any identification details associated with the register;
- c) the period within which the application must be lodged;
- d) where the application must be lodged; and
- e) details of a person from whom more detailed information relating to the multiple use register may be obtained.

The General Manager will ensure that applicants are provided with information regarding:

- a) the specifications of the goods and or services required;
- b) the criteria for evaluating the applications;
- c) the method of evaluating applications against the criteria; and
- d) must make reference to the Council Code for Tenders and Contracts.

Council may accept an application for inclusion on the multiple use register or reject an application.

If Council rejects the application, the General Manager will advise the applicant of the reasons for rejection.

If Council accepts the application the General Manager will advise the applicant of the category their application will be included in on the multiple use register.

The multiple use register will be reviewed by Council at least every 2 years.

Council will allow a service provider to apply for inclusion on the multiple use register at any time unless the service provider has made an application in the previous 12 months and the application has not been accepted.

Refer to Appendix B for Northern Midlands Council local level procedures for multiple use registers.

#### 4.3.3 STRATEGIC ALLIANCES

Council may choose to procure goods and or services through contract arrangements already established and administered by other organisations, including:

- a) LGAT through the National Procurement Network;

- b) State Government Contracts; and
- c) any other purchasing group of which Council is a member.

## 5. CALCULATING THE VALUE OF A PURCHASE

### 5.1 PRICE

The dollar value of the purchase may be calculated as follows:

- a) single one-off purchase – the total amount, or estimated amount, of the purchase (excluding GST);
- b) multiple purchases – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- c) ongoing purchases over a period of time – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).

As per Regulation 23, Council will not split a single procurement activity into 2 or more separate contracts for the primary purpose of avoiding the requirement to publicly invite tenders.

### 5.2 NON PRICE CONSIDERATIONS

Council will ensure that it is buying at the most competitive price available, but quantifying the value of a purchase does not simply mean buying at the lowest price. Specific issues that will be taken into account by Council that relate to non price related matters are identified in the Principles section at **5.23**.

## 6. GOODS AND SERVICES TAX (GST)

All procurement thresholds are GST exclusive

Tenders and quotations must be sought on a GST exclusive basis.

## 7. EXTENSION OF CONTRACTS ENTERED INTO

Consistent with Regulation 23, Council may extend a contract entered into:

- a) as specified in the contract or
- b) if the contract does not specify extensions, by an absolute majority.

## 8. EXEMPTIONS

The Regulations identify circumstances where Council is not required to issue a public tender process.

The exemption circumstances identified in Regulation 27 – Non application of the public tender process are:

- a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;
- b) a contract for goods or services supplied or provided by, or obtained through, an agency of a State or of the Commonwealth;
- c) a contract for goods or services supplied or provided by another council, a single authority, a joint authority or the Local Government Association of Tasmania;
- d) a contract for goods or services obtained as a result of a tender process conducted by another council, a single authority, a joint authority, the Local Government Association of Tasmania or any other local government association in this State or in another State or a Territory;
- e) a contract for goods or services in respect of which a council is exempted under another Act from the requirement to invite a tender;
- f) a contract for goods or services that is entered into at public auction;
- g) a contract for insurance entered into through a broker;
- h) a contract arising when a council is directed to acquire goods or services due to a claim made under a contract of insurance;
- i) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of–
  - i) extenuating circumstances; or
  - ii) the remoteness of the locality; or
  - iii) the unavailability of competitive or reliable tenderers;



- j) a contract of employment with a person as an employee of the council.

General Manager - responsibilities

The General Manager will authorise non use of the public tender process in accordance with the exemption directions identified above.

**9. ENGAGING A THIRD PARTY TO MANAGE A PROCUREMENT PROCESS**

Council may engage third parties to manage the procurement process for individual projects. The use of a third party as an agent or consultant to advise on, arrange or manage a procurement process does not exempt Council from complying with Council procurement policy and procedures.

Should Council engage a third party to manage a procurement process, it will be ensured that material is included in the contractual arrangements with the third party that requires the third party to comply with Council procurement policy and procedures.

**10. REPORTING PROCEDURES**

Council is obliged to report at a minimum on a series of procurement matters.

10.1 PROCUREMENT AT OR ABOVE THE PRESCRIBED AMOUNT

As per Regulation 29, Council will report in its Annual Report details of any contract for the supply or provision of goods and or services valued at or above the currently legislated prescribed amount of \$250,000.

Council may also at its absolute discretion report detail of instances of procurement below \$100,000.

Detail that will be reported for 10.1 at a minimum as required under the Regulations is:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded, or if a tender was not required, the value of the contract excluding GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

10.2 CONTRACT EXTENSION

As per Regulation 23, Council will report in its Annual Report, the details of any extension of a contract, where Council agreed to extend a contract by an absolute majority and the pre existing contract did not specify extensions.

Detail that will be reported for 10.2 at a minimum as required under the Regulations is:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded, or if a tender was not required, the value of the contract excluding GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

10.3 EMERGENCY PROVISION

As per Regulation 27 Council will report in its Annual Report, the details of all instances where non application of the public tender process has been applied as a result of an emergency, where in the opinion of the General Manager, there was insufficient time to invite tenders for the goods and services required in that emergency.

Detail that will be reported for 10.3 at a minimum as required under the Regulations is:

- a) a brief description of the reason for not inviting public tenders;
- b) a description of the goods or services acquired;
- c) the value of the goods or services acquired; and
- d) the name of the supplier.

**10.4 OTHER CIRCUMSTANCES**

As per Regulation 27 Council will report in its Annual Report, the details of all instances where non application of the public tender process has been applied because Council agreed by absolute majority, that a satisfactory result would not have been achieved if tenders were invited because of

- i) extenuating circumstances;
- ii) the remoteness of the locality;
- iii) the unavailability of competitive or reliable tenderers; and

Detail that will be reported for 10.3 and 10.4 at a minimum as required under the Regulations is:

- a) a description of the reason for not inviting public tenders;
- b) a description of the goods and or services acquired;
- c) the value of the goods and or services acquired; and
- d) the name of the supplier.

In addition to ensuring the above reporting occurs, as per Regulation 28(j), the General Manager will establish and maintain procedures for reporting to Council circumstances where a public tender or quotation process was not used and reasonably should have been.

Refer to Appendix C for Northern Midlands Council reporting procedures.

**11. WORK HEALTH AND SAFETY**

All tenderers are to comply with the Northern Midlands Council Work Health & Safety Policy, a copy of which is to be supplied to tenderers with the tender documentation.

All contractors engaged by the Council are required to complete an induction with the Council and provide copies of appropriate insurances, Safe Work Methods Statements and a list of training and competencies.

**12. DELEGATION**

Northern Midlands Council delegations can be found on its website

<https://www.northernmidlands.tas.gov.au/council/publications/council-policies-and-by-laws>

**13. COMPLAINTS**

The Council will deal promptly with any complaints about its tendering process. Each complaint will be recorded in writing and the complainant given an opportunity to discuss his or her complaint with the General Manager or a delegated senior officer.

**14. REVIEW OF THE CODE**

Consistent with the requirements identified in Section 333B of the Act, Council will formally review this Code at least every 4 years.

The Code may be modified on an as needs basis from time to time by Council to reflect changed operational requirements.

**15. BREACH OF THE CODE**

Council will take all reasonable steps to comply with this Code.

Council will not be liable in any way to a Service Provider or any person for a breach of this Code.

If any employee of the Council, or a body controlled by the Council breaches this Code, Council may take disciplinary action, if in its absolute discretion it considers it desirable to do so.

If a Service Provider commits a breach of this Code, Council may, in its absolute discretion, take action against that Service Provider.

**16. ACCOUNTABILITY**

Consistent with Section 333B of the Act, as a measure of accountability and transparency, the General Manger will:



- a) make a copy of this Code and any amendments, available for public inspection at the Council's offices during ordinary office hours;
- b) make copies of this Code available for purchase at reasonable charge; and
- c) publish a copy of the Code on the Council's internet site – free of charge.

**17. CONFIDENTIALITY**

Council treats information provided by suppliers as confidential and will not provide this information to unauthorised persons.

## APPENDIX A

### TENDERING PROCESS

#### 1. SPECIFICATIONS

Council will develop specifications for tenderers, clearly setting out Council's expectations. Most specifications will focus on outcomes and quality requirements, rather than particular ways of delivering a service. Some specifications may include both input and output requirements for a service.

The tender documents will require tender proposals to indicate how the performance standards will be met, and how the tenderer would measure the satisfaction levels of service users.

The tender documents will require the tenderers compliance with Council's Work Health & Safety Policy, as well as any other applicable Council Policies, Codes of Conduct, legislation or Australian Standards.

In developing specifications, the Council will consider the requirements of service users and may seek the views of the providers of the existing service and others providing similar services, whether in the public or private sector.

The Council will identify in the specifications any Council assets to be made available to tenderers, whether in-house or external, and may set costs, terms and conditions for the use of the assets.

No potential tenderer, in-house or external, will have access to the final specifications prior to their formal approval and public release by the Council.

#### 2. ADVERTISING

Public notice is required under the Act to start a tender process. The Council will advertise in the Public Notice Section of the Saturday edition of the Examiner Newspaper and may advertise in other newspapers or publications where appropriate. The Council will also place information on the tender on its website.

When advertising the Council will specify:

- 1) The nature of the goods or services required;
  - 2) Any identification details allocated to the contract;
  - 3) Where the tender is to be lodged;
  - 4) Particulars identifying a person from whom further or detailed information relating to the tender can be obtained;
- and
- 5) The period within which the tender is to be lodged.

#### 3. VARIATIONS TO A TENDER

Where the Council seeks to amend or extend the closing date for a tender it will advertise the variation/s in the Examiner newspaper and on its website. If tender documents have been issued or a written tender has already been received then the General Manager will notify the recipients of the tender documentation and any tenderer in writing of the variation/s to the tender.

#### 4. EXPRESSION OF INTEREST

The Council may use an "expression of interest" process before it invites tenders. If so, it will advertise publicly the purpose and nature of the contract or project and the date by which it will invite tenders. The aim at the expression of interest stage is not to elicit tenders, but rather to assess the capacity of the respondents to undertake the work or project, and to refine the specifications. The Council will make the evaluation criteria for registration available to all respondents.

The Council will seek tenders from local business and industry if available.

The Council may invite tenders from some, all or none of the registrants, by the advertised date. If the Council does not invite tenders by that date, it will write to all registrants advising when tenders are to be invited. Respondents who are not invited to tender will be advised in writing. The Council will use this list of registrants to invite tenders for the advertised contract or project only.



## 5. INVITATION TO TENDER

The Council will offer the same tender documents to all those who respond to an invitation to tender. A copy of this Code will be attached to all tender documents.

The Council may impose a fee for tender documentation related to the cost of printing the tender documentation. The Council will not impose any additional fee for tender documentation unless it refunds the fee to each tenderer who submits a conforming tender.

The Council will not request a tender deposit. In all cases the Council will seek to minimise the cost to suppliers of participating in the tender process.

The tender documents will include the tender evaluation criteria and identify the order of importance accorded to the criteria.

In addition, the Council will ensure that prospective tenderers are provided with all relevant information, including:

- 1) Details of the goods or services required;
- 2) Details of the duration of the contract, including extensions;
- 3) The criteria for evaluating tenders;
- 4) The method of evaluating tenders against the evaluation criteria;
- 4) Any mandatory tender specifications and contract conditions; and
- 5) A reference to the Council's code of tendering.

If the Council gives advice, written or verbal, to a respondent clarifying the meaning of the tender documentation, it will give the same information to all other respondents in writing. The Council will keep a written record of any other verbal advice. The Council will respect the confidentiality of a respondent who discloses information which has commercial or intellectual property value. The Council will consider conducting a pre-tender briefing and may determine not to give additional information apart from the briefing.

Tenderers will generally be given a minimum of 21 days from the date on which tenders were invited in which to submit tenders. All tenders must be in writing. The submission period is determined by the nature of the tender and the Council will advise respondents in writing when it invites tenders if a longer or shorter submission period is to apply.

### LATE TENDERS WILL NOT BE ACCEPTED.

*Any proposal that does not conform to the tender conditions may be rejected as non-conforming. The General Manager will notify any tenderer of the rejection and the reasons for the rejection.*

The Council will acknowledge receipt of all tenders in writing.

## 6. IN-HOUSE TENDERS

As an employer, the Council will assist its staff to become more competitive. At the same time, the Council is aware that competition must be fair, and be seen to be fair, to all parties.

Accordingly, the Council will treat an in-house tenderer on the same terms as an external tenderer. The Council will ensure there is a clear separation between the in-house tenderers and those who have responsibility for evaluating the tenders.

In-house tenders will be prepared on the basis that all direct costs and indirect or overhead costs attributable to the tender are included.

In allocating overhead costs to in-house tenders, a Council will only exclude those costs which it would continue to incur even if all its services were contracted out. The excluded overhead costs are limited to:

- 1) *governance costs*: conduct of elections; administrative support for Councillors; Council meetings; making and enforcing local laws; property valuations; making and levying rates and charges; other statutory duties not related to the tender;
- 2) *strategic management of services costs*: long term planning and supervision of all services, including tendering and contract administration costs;
- 3) *core corporate costs*: administrative support for the governance and strategic management of services functions.

## 7. TENDER EVALUATION

Council officers will evaluate tenders according to the tender evaluation criteria outlined in the tender documentation, the requirements of the *Local Government (General) Regulations 2015* and the Northern Midlands Council Code of Tendering and Procurement.

Council officers will provide a written tender evaluation report to Council on its reasoning behind awarding/recommending a particular tender.

All tenders, quotations or any form of competitive bidding be treated in confidence and considered by Council 'In Committee'.

## 8. AWARD OF CONTRACT

The Council may negotiate with tenderers to determine the award of the contract but must have regard to the scope of the invitation to tender at all times. The Council will not trade the price of one tenderer against that of another tenderer. The Council will exhaust negotiations with one tenderer before beginning negotiations with another tenderer.

The decision to award a contract will be made by the Council or its delegated officer. If there is an in-house tender, the written report on the award of the contract prepared by the tender evaluation panel will be presented to an open meeting of the Council. The Council will award the contract on the basis of the best quality and value for money for the community.

The Council will have regard to the written tender evaluation report and may also have regard to other factors impacting on the best quality and value for money outcome.

The Council will promptly notify the successful tenderer by telephone and in writing, and unsuccessful tenderers will be notified in writing. It will advise them of the reasons for the award of the contract.

*Also see Minute No. 294/06 – Ownership of Intellectual Property – the following clause is to be incorporated into all Agreements and/or the Terms of Engagement of Consultants:*

*"The Consultant, ....., agrees with the Northern Midlands Council to grant to the Council an irrevocable licence to use and to reproduce any reports, recommendations or associated material (including photographs, charts and electronic data) for purposes related to the engagement of the consultant without the payment of any fee. The Council acknowledges that when it does reproduce any of the material produced by the consultant it will, in so doing, recognise the consultant as the copyright owner."*

## 9. NOTIFICATION OF UNSUCCESSFUL TENDERERS

Once the successful tenderer has been notified the Council will promptly advise the unsuccessful bidders in writing of:

- 1) The tender outcome; and
- 2) The successful contractor.

Details of the tenders awarded will be displayed on the Council's public notice board and on Council's website for 14 days. All unsuccessful tenderers will be offered the opportunity of attending a debriefing session, and document the proceedings of the debriefing sessions.



**APPENDIX B****MULTIPLE USE REGISTERS**

From time to time the Council may utilise a multiple-use register process to establish a register of suppliers that Council has determined satisfy the conditions for participation in that register, and that Council intends to use more than once.

If it is determined that a such register will be established, the General Manager will invite expressions of interest from prospective applicants for inclusion on a register by publishing at least once in the Examiner Newspaper and on its website a notice specifying:

- a) a description of the goods and services, or categories thereof, for which the register may be used;
- b) the name and address of the council and other information necessary to contract the entity and obtain all relevant documents relating to the register; and
- c) any deadlines for submission of application for inclusion on the register.

The General Manager will advise all prospective tenderers of the results of their application including all categories for which they are registered and the reasons for rejection of inclusion on the register as soon as practicable.

When Council wishes to use the register, the General Manager will invite all successful applicants that are registered for the relevant category to tender for the provision of the required good or service, and the tender process as outlined in this policy will be utilised.

Council will review any established register at least once every 2 years.

## APPENDIX C

### REPORTING PROCEDURES

Council will publish in its Annual Report in relation to all contracts for the supply or provision of goods and services valued at or above \$100,000 (excluding GST), awarded or entered in the financial year, including extensions granted:

- a) a description of the contract;
- b) the period of the contract;
- c) the periods of any options for extending the contract;
- d) the value of any tender awarded or, if a tender was not required, the value of the contract ex. GST;
- e) the business name of the successful contractor; and
- f) the business address of the successful contractor.

Where an exemption has been granted from a tender process the following details will be reported in Council's Annual Report:

- a) a brief description of the reason for not inviting public tenders;
- b) a description of the goods or services acquired;
- c) the value of the goods or services acquired; and
- d) the name of the supplier.

The General Manager will provide Council with a quarterly report of any instance where a purchase of a good or service is made where a public tender or quotation process is not used where an exemption applies from the tender process.



Department of Treasury and Finance

# BUY LOCAL POLICY

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Contact:

Department of Treasury and Finance  
Procurement, Risk and Contract Management Branch  
GPO Box 147  
HOBART TAS 7001  
Telephone: (03) 61 66 4229  
Email: [purchasing@treasury.tas.gov.au](mailto:purchasing@treasury.tas.gov.au)  
Website: [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)



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## 1. Introduction

The Tasmanian Government is committed to ensuring that where possible, expenditure by Government agencies on goods and services provides a corresponding benefit to the Tasmanian community.

The intention of the Government's Buy Local Policy is to increase awareness of the requirements for, and benefits in, buying locally and improve access to Government contracts for Tasmanian small and medium enterprises (SMEs).<sup>1</sup>

The Policy:

- enhances opportunities for Tasmanian businesses to compete for Government business by:
  - requiring agencies to take into account the wider community and social benefits of purchasing decisions; and
  - promoting within Government, the advantages of buying locally;
- reduces administrative burden on businesses providing services by simplifying procurement documentation;
- provides businesses (and Government agencies) with key information, tips, tools and training to effectively increase their future competitiveness to win government business; and
- increases transparency in relation to Government procurement activities.

## 2. Application of the Policy

The Policy applies to agencies required to comply with the Treasurer's Instructions issued under section 51 of the *Financial Management Act 2016*.

## 3. Enhancing Opportunities

Maximising the opportunities for Tasmanian businesses to compete for Government business stimulates competition and contributes to the achievement of Government policy objectives, such as industry development and employment creation. To this end, the Government requires its agencies to undertake procurement activity in accordance with the requirements and processes set out below.

### 3.1 PROCUREMENT PLANNING AND LOCAL PARTICIPATION

Agencies are required to ensure that the planning process for procurement and the specifications issued, do not disadvantage local suppliers. The aim is to ensure local suppliers are given every opportunity to participate and be successful in relation to Government contracts.

Agencies must:

- prior to any approach to the market, undertake an assessment of the impact of the procurement on Tasmanian businesses to ensure that those businesses are given every opportunity to participate and be successful in relation to the procurement. Such matters would

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<sup>1</sup> Tasmanian SMEs are Tasmanian businesses employing less than 200 people.



include consideration of how local industry participation will be maximised and what strategies can be developed to provide local industry with a full, fair and reasonable opportunity to participate; and

- disaggregate substantial procurement opportunities unless the benefits of aggregation clearly outweigh the potential negative impacts on local suppliers or the local economy.

For all competitive procurement processes valued at \$100 000 or more, agencies must approach at least two Tasmanian businesses, where Tasmanian capability exists.

For procurements valued at less than \$100 000, agencies should approach a Tasmanian business first, where there is local capacity, capability and value for money in local offerings.

### 3.2 ECONOMIC AND SOCIAL BENEFITS TEST

An Economic and Social Benefits test applies to all competitive procurements valued at \$100 000 or more. Agencies are required to ask suppliers to complete an Economic and Social Benefits Statement setting out the benefit they can bring to the Tasmanian community should they be awarded the contract. In responding, suppliers can outline how their supply of goods or services will result in a positive impact on the Tasmanian economy and wider community and will ensure that Tasmanian SMEs are provided with every opportunity to participate in the procurement.

The information in the statement is required to be taken into account by agencies in the evaluation process through the inclusion of a specific Economic and Social Benefits evaluation criterion. The weighting to be applied to the criterion must be at least 25 per cent (25%). Submission of the statement is voluntary. However, suppliers that fail to submit the relevant information will not be able to be scored in relation to that criterion.

Together with the requirement to approach a Tasmanian business first (refer 3.1 above), for procurements valued at less than \$100 000 agencies are to consider the objectives of this Policy as a whole in the course of their procurement planning and when developing specifications and evaluation criteria.

### 3.3 TASMANIAN INDUSTRY PARTICIPATION PLANS

A Tasmanian Industry Participation Plan is a strategic document aimed at improving opportunities for Tasmanian small to medium enterprise businesses in Government funded or resourced projects. The purpose of the Plan is to assist in the development of Tasmanian SME industry and ensure that those SMEs are provided with every opportunity to participate in both Government procurement activity and in major private projects, funded partly by Government.

The Government has introduced a requirement for a Tasmanian Industry Participation Plan for large value procurements. It is mandatory for all procurements with a value of more than \$5 million. For procurements with a value greater than \$2 million up to (and including) \$5 million, a Tasmanian Industry Participation Plan may be required, at the discretion of the procuring agency.

In addition, proponents of private sector projects valued at over \$5 million that receive support, including in-kind support, valued at or greater than \$500 000 from the Government, are required to work with agencies to develop a Tasmanian Industry Participation Plan.



### 3.4 FURTHER INFORMATION

For further information, refer to Treasurer's Instruction PF-2 *Procurement Framework - Policies impacting on procurement: All procurement* and the *Procurement Better Practice Guidelines (Principles and Policies)* for further information and guidance.

## 4. Reducing administrative burden

### 4.1 SIMPLIFIED PROCUREMENT DOCUMENTATION

Agencies are encouraged to develop and use simplified procurement documentation. The focus of these documents should be on using simpler language, more commercially reasonable terms and conditions and on reducing the compliance burden and paperwork for suppliers.

## 5. Communication, information and education

The Government appreciates that one of the most important tools for ensuring local business opportunities are enhanced, is efficient and effective communication between suppliers and buyers.

### 5.1 ADVANCE NOTICE OF TENDERS

Advance notice of procurement activity gives suppliers the opportunity to plan their activities to ensure they have the appropriate capability and capacity to undertake future work. Agencies are encouraged to provide advance notice of future procurement opportunities wherever possible.

### 5.2 PROVISION OF PRE-PROCUREMENT BRIEFINGS

The ability to hear about, and ask questions on, specific procurement requirements gives suppliers an opportunity to better plan their responses, thus increasing their chances of success. Agencies are encouraged to provide pre-procurement briefings for relevant procurement activity.

### 5.3 PROVIDING FEEDBACK TO SUPPLIERS

Supplier ability to successfully quote for Government work, can be improved by suitable and timely feedback on unsuccessful attempts. As a result, agencies are encouraged to actively promote debriefing opportunities to unsuccessful suppliers with the aim of helping the supplier to submit bids that are more competitive in the future by identifying the ways in which its offer could be improved.

Agencies are also encouraged to meet with existing service providers regularly to provide regular and constructive feedback on contract performance.

### 5.4 TENDERS WEBSITE

The Government's Tenders website is a useful tool available to all suppliers that provides information on Tasmanian Government tendering opportunities. This e-tendering system must be used by agencies to provide information on tendering opportunities.

By registering, suppliers can elect to receive automatic email notifications of new opportunities issued by agencies.

### 5.5 PURCHASING WEBSITE

For suppliers, the Purchasing website at [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au) has comprehensive information about agency contacts, finding and winning business, and a range of resources including checklists, useful links and frequently asked questions (Winning Government Business section). For agencies,



information on Government procurement requirements including various publications, templates and checklists is available on the Buying for Government section of that site.

## 6. Transparency

### 6.1 COMPLIANCE REPORTING

Agencies will be required to report on compliance with the Government's Buy Local Policy. Further, all Tasmanian Industry Participation Plans (or an executive summary of the Plan), developed between agencies and successful suppliers will be published on the Purchasing website.