

## HOPE VALE ABORIGINAL SHIRE COUNCIL

### Procurement Policy

### Document Control

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7	16 December 2019		Council Resolution
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10	24 May 2023		Council Resolution

## PROCUREMENT POLICY

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### **AUTHORITY**

*Local Government Act 2009*

*Local Government Regulation 2012*

*Section 198*

### **PURPOSE**

The Hope Vale Aboriginal Shire Council seeks to use its purchasing activities to advance Council priorities, as detailed in the Corporate Plan, while observing the principles governing the making of contracts required under the Local Government Act 2009.

In doing so, the Council will use its best endeavors to achieve value for money with probity and accountability whilst ensuring that competitive local businesses that comply with relevant legislation are given a full, fair, and reasonable opportunity to supply the Council.

This policy is required under section 198 of the Local Government Regulation 2012 and sets out Hope Vale Aboriginal Shire Council's policy for purchasing throughout the organisation. The principles and procedures outlined in this policy comply with Sec.104 of the Local Government Act 2009.

The purpose of this policy is to:

- Facilitate the procurement of goods and services for Council in the timeliest and cost-effective manner;
- Ensure that all procurement activities are within Council's legal and statutory obligations;
- Ensure all procurement activities are carried out in a professional manner and all Council officers have a clear understanding of their responsibilities and authority.

### **BACKGROUND**

The Hope Vale Aboriginal Shire Council is required to have regard to the following principles when entering into contracts for the carrying out of work, or the supply of goods or services:

#### **Open and Effective Competition**

Council will foster open and effective competition by:

- ensuring the availability of information to suppliers and the public about the Council's purchasing policy and procurement processes;
- ensuring that the format, timing and distribution of invitations to suppliers maximises the prospect of obtaining the most cost-effective outcome; and
- providing suppliers with a reasonable opportunity to do business with the Council.

#### **Value for Money**

Council will obtain value for money in its assessment of offers and purchasing of goods and services by giving consideration to:

- the advancement of Council priorities;
- non-price factors such as fitness for purpose, quality, service, and support; and
- cost related factors including whole-of-life costs and transaction costs associated with acquisition, use, holding, maintenance, and disposal.

#### **Enhancement of the Capabilities of Local Business and Industry**

Council will enhance the capabilities of local business and industry by:

- maximising the opportunity for suppliers of goods and services to be considered for Council business on the basis of merit and value for money;

- encouraging and assisting local suppliers of goods and services to enter wider markets on the basis of competitiveness, quality, performance, and long-term viability; and
- acknowledging that the local market is limited with respect to size, diversity and location when considering quotations, tenders, and expressions of interest from local suppliers of goods and services.

### **Environmental Protection**

Council will protect the environment by:

- promoting purchasing practices which conserve resources, save energy, minimise waste, protect human health and maintain environmental quality and safety; and
- being consistent with Federal and State Government policies and practices regarding sustainable development.

### **Ethical Behaviour and Fair Dealing**

Council will encourage ethical behaviour and fair dealing by:

- establishing and observing accountable and transparent purchasing and procurement processes;
- ensuring that Council officers with purchasing and procurement responsibilities behave with impartiality, fairness, independence, openness, integrity and professionalism in their dealings with suppliers and their representatives;
- advancing the interests and priorities of Council and earning the professional respect of suppliers in all dealings and transactions; and
- reviewing relationships with suppliers who are found to be conducting themselves unethically.

Council officers responsible for purchasing goods and services are to comply with these instructions. It is the responsibility of each Council employee involved in the procurement process to understand this policy as well as its meaning and intent. Should an employee have any questions, they are to be raised with their respective supervisor or manager.

### **Goods and Services Tax (GST)**

All prices for the purpose of this Procurement Policy are to be exclusive of GST where applicable.

### **FINANCIAL DELEGATION**

The Council delegates the Chief Executive Officer as the authority to incur financial expenditure on behalf of Council under the following provisions:-

- Where expenditure has been provided for in Council's Budget; or
- In the opinion of the Chief Executive Officer such expenditure is required because of genuine emergency or hardship

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

- The officer has been granted a financial delegation within their specific area of responsibility by the Chief Executive Officer and such delegation is recorded in the Register of Delegations and
- Expenditure is provided for in Council's Budget; or
- In the case of genuine emergency or hardship and the power to incur expenditure in these circumstances has also been delegated.

The Chief Executive Officer must approve financial delegations in writing by recording them in the Register of Delegations.

Any officer incurring expenditure may only do so in accordance with any constraints imposed by the Council or the Chief Executive Officer in respect to a financial delegation.

The Chief Executive Officer may at their discretion re-delegate responsibilities and record such re-delegation in the Register of Delegations.

### **PROCUREMENT DELEGATION**

The Chief Executive Officer is authorised to enter into contracts on behalf of Council with the expenditure delegation provided for in this Policy on Financial Delegation.

Other Officers can only enter into contracts on behalf of Council (including placing purchase orders) in accordance with a delegation granted by the Chief Executive Officer and recorded in the Register of Delegations.

#### **Goods and Services involving a cost of up to \$14,999**

All purchases regardless of value are to be made by placing a written purchase order, unless authorized by the CEO or exempted under exemptions below.

Purchases up to the value, exclusive of GST, of \$5,000.00 may be approved without seeking written or verbal quotations provided sound contracting principles and Local Government principles (including reasonableness, transparency, and governance) are maintained.

Purchases of greater than \$5,000.00 (exclusive of GST) but under \$14,999 (exclusive of GST) are to be undertaken by:

- a) Entering into a purchasing arrangement where practicable with a supplier:
  - From an Approved Contractor List (ACL)
  - From a Register of Pre-qualified Suppliers
  - Under a Preferred Supplier Arrangement
  - Under a LGA Arrangement
- b) Obtaining at least two (2) verbal or written quotes

Records of offers received must be kept on file.

The authority to order goods and services involving a cost of up to \$14,999 is delegated to officers as per the Financial Delegations Policy.

#### **Goods and Services involving a cost of between \$15,000 and \$199,999**

Council must invite written quotations before making a contract for the carrying out of work, or the supply of goods or services, involving a cost of between \$15,000 and \$199,000 (medium sized contractual arrangement). The invitation must be given to at least three persons who the Council considers can meet the Council's requirements, at competitive prices.

The Council may decide not to accept any of the quotes it receives.

However, if the Council does decide to accept a quote, the Council must accept the quote most advantageous to it having regard to the sound contracting principles.

Records of offers received must be kept of file.

The authority to order goods and services involving a cost of between \$15,000 and \$199,999 is delegated to the CEO, and other officers as per Financial Delegations Register.

#### **Goods and Services involving a cost of more than \$200,000.**

Council must invite tenders before making a contract for the carrying out of work, or the supply of goods or services, involving a cost of \$200,000 or more (GST excl) in a financial year (*large sized contractual arrangement*)

The invitation must:

- be by an advertisement in a newspaper circulating generally in Council's area;
- allow at least 21 days from the day of the advertisement for the submission of tenders.
- Council retains the authority to order goods and services involving a cost of

more than \$200,000 but may delegate this authority to the Chief Executive Officer once the expenditure has been approved by Council.

#### **Valuable Non-Current Assets**

Council cannot enter into a valuable non-current asset contract unless it first-

- invites written tenders for the contract; or
- offers the non-current asset for sale by auction.

#### **TENDERS**

Council cannot enter into a large-sized contract (over \$200,000) unless the Council first invites written tenders for the contract under section 228 of the Local Government Regulation 2012.

The invitation must:-

- be by an advertisement in a newspaper circulating generally in Council's area; and
- allow at least 21 days from the day of the advertisement for the submission of tenders.

Every advertisement containing an invitation to tender should state that Council might later invite all tenders to change their tenders in accordance with the provision of the Local Government Regulation 2012. The inclusion of a statement to this effect in the advertisement gives Council the right, before making a decision on the tender, to invite all persons who have submitted a tender to change their tender to take account of a change in the tender specifications.

#### **ACCEPTANCE OF TENDER OR QUOTATION**

If Council decides to accept a tender or quotation, it must accept the tender or quotation most advantageous to it.

In deciding the tender or quotation most advantageous to it, Council must have regard to the principles identified in this policy.

However, Council may decide not to accept any tender or quotation available to it.

#### **CALLING FOR EXPRESSIONS OF INTEREST**

Council may invite expressions of interest before inviting tenders if it resolves that it is satisfied that it would be in the public interest.

Council must record its reasons for making the resolution.

Expressions of interest must be invited by invitation. The invitation must:-

- be by an advertisement in a newspaper circulating generally in Council's area; and
- allow at least 21 days from the day of the advertisement for the submission of expressions of interest.

Council may prepare a short list from the persons who responded to the invitation and invite tenders from the persons on the short list.

#### **EXCEPTIONS TO SEEKING TENDERS OR QUOTATIONS**

Council may enter into contracts without calling for tenders or quotations if:

- it resolves that it is satisfied that there is only one (1) supplier reasonably available to it;
- it resolves that a genuine emergency exists;
- it resolves to obtain second-hand goods;
- it resolves to purchase goods at an auction;
- the contract is made with a person on an Approved Contractor List for service providers;
- the contract is made with a supplier from a Register of Pre-qualified Suppliers;

- the contract is made under a Preferred Supplier Arrangement;
- the contract is made under a Local Government Area arrangement;
- the contract is made with, or under an arrangement with or made by an Australian State or local government entity;
- the contract is made under a Local Buy arrangement;
- it resolves that it is satisfied that the services to be supplied are of such a specialised or confidential nature that it would be impractical or disadvantageous to the Council to invite tenders or quotations.

### **APPROVED CONTRACTOR LIST**

An “Approved Contractor List” is suitable in instances where it is often impossible in relation to the provision of services (including professionals) to determine the exact scope of a particular job and/or provide a binding tender price or quotation (eg. engineering or legal consultancies where the exact cost of the service is often not known until the work is in the process of being carried out).

Council may compile a list of names of persons suitably qualified to provide a service. This section does not apply to the provisions of goods.

The Approved Contractor List must be compiled by inviting expressions of interest from persons to be included on the list by way of a public advertisement in a newspaper circulating generally in the Council area.

At least 21 days must be allowed from the day of the advertisement for the submission of expressions of interest.

Selection of the persons on the panel must be on the basis of the principles identified in this policy.

### **REGISTER OF PRE-QUALIFIED SUPPLIERS**

A “Register of Pre-Qualified Suppliers” is suitable in instances where Council knows the standards it requires of a supplier for particular goods or services and a tender price or quotation is possible but would be pointless or possibly prejudicial to Council’s interests to go out to the market each time (eg. the purchase of aggregate, tyres and plant parts or the supply of plant for hire).

Council may compile a list of names of suitably qualified suppliers of goods and services if:

- the preparation and evaluation of invitations each time the goods or services are needed would be costly; or
- the capability or financial capacity of the supplier is critical; or
- the goods or services supplied involve significant security considerations; or
- a precondition of an offer to contract is compliance with defined standards; or
- the ability of local business to supply the goods or services needed by the Council needs to be ascertained or encouraged.

The Register must be compiled by inviting expressions of interest from persons to be included on it by way of a public advertisement in a newspaper circulating generally in the Council area.

At least 21 days must be allowed from the day of the advertisement for the submission of expressions of interest.

Selection of the suppliers to be included on the Register must be on the basis of the principles identified in this policy.

Council is not required to seek tenders or quotations from Suppliers listed on a Register of Pre-Qualified Suppliers of Goods and Services.

Inclusion on the Register does not bind the Council to an offer of work or the supply of goods



or materials.

### **PREFERRED SUPPLIER ARRANGEMENTS**

A “Preferred Supplier” arrangement may be suitable in instances where suppliers are prepared to fix pricing conditions of formulae for a specified period.

Council may establish a preferred supplier arrangement only if:

- the supply of goods or services is needed in large volumes or frequently; and
- Council is able to obtain better value for money by aggregating demand for the goods or services needed; and
- the goods or services needed can be stated in terms that would be well understood in the industry concerned.

If Council proposes to establish a purchasing arrangement, it must invite persons to tender in the same way as detailed above and the invitation must state the purchasing arrangement for which the person is tendering.

Selection of suppliers to enter a purchasing arrangement must be on the basis of the principles identified in this policy.

Council must ensure there is provision for the evaluation of a purchasing arrangement including, for example, removal of a person from an arrangement because of the person’s poor performance in a contract entered into under the arrangement.

A Council may enter a purchasing arrangement for longer than 2 years only if it is satisfied that better value will be achieved by entering into a longer arrangement.

### **WAYS OF ENTERING INTO A CONTRACT**

Council may only make, vary, or discharge a contract for the carrying out of work or the supply of goods or services:

- by resolution of the Council; or
- by a delegate in accordance with Sec.257 of the Local Government Act 2009.

### **PUBLISHING DETAILS OF CONTRACTS WORTH \$200,000 OR MORE**

Council will publish details of any contract worth \$200,000 or more that it enters into by having a register available for inspection at the Principal Council Office and on the Council’s website.

The details of a contract will include the following—

- the person with whom the Council has entered into the contract;
- the worth of the contract;
- the purpose of the contract.

### **DEFINITIONS**

A medium-sized contract is a contract worth \$15,000 or more but less than \$200,000.

A large-sized contract is a contract worth \$200,000 or more.

A valuable non-current asset contract is a contract for the disposal of a valuable non-current asset. A valuable non-current asset is—

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

The limit set by the Council cannot be more than the following amount—

- for land—\$1;
- for plant or equipment—\$5000;
- for another type of non-current asset—\$10,000.