



## STATUTORY POLICY

### MOUNT ISA CITY COUNCIL

### 2023/2024 Financial Year – Procurement Policy

RESOLUTION NO. OM10/07/23 VERSION 13

#### APPLIES TO STATUTORY POLICIES ONLY

This is an official copy of the **2023/2024 Financial Year - Procurement Policy**, made in accordance with the provisions of the *Local Government Act 2009* and *Local Government Regulations 2012*, *Public Records Act*, *Mount Isa City Council's Local Laws*, *Subordinate Local Laws*, and current Council Policies.

Statutory Policies comply with a legislative requirement; the **2023/2024 Financial Year - Procurement Policy** is approved by the Mount Isa City Council for the operations and procedures of the Council. Note that Financial Year Policies are reviewed annually.

Tim Rose

**Acting Chief Executive Officer**

#### DOCUMENT VERSION CONTROL

Governance/Policies/Statutory Doc ID# 672393				POLICY TYPE	Statutory (Council)
VERSION	DATE	RESOLUTION NO.	DETAILS		
V1	06.2011		Dataworks 270216, 10381. 2011-2012		
V2	03.08.2012		2012-2013		
V3			2013-2014		
V4	10.2014	OM53/10/14	2014-2015		
V5	29.04.2015	OM42/04/15	Responsible Officer - Manager Corporate and Financial Services 2015-2016		
V6	15.06.2016	OM09/06/16	Responsible Officer - Manager Corporate and Financial Services 2016-2017		
V7	14.02.2018	OM08/02/18	Responsible Officer - Manager Corporate and Financial Services 2017-2018		
V8	27.07.2018	SM01/07/18	Responsible Officer - Manager Corporate and Financial Services 2018-2019		
V9	28.08.2019	OM22/08/19	Responsible Officer - Manager Corporate and Financial Services 2019-2020		
V10	25.11.2020	OM29/11/20	Responsible Officer-Manager Corporate and Financial Services 2020-2021		
V11	21.07.2021	OM21/07/21	Responsible Officer-Manager Finance and Information Technology 2021-2022		
V12	15.06.2022	OM14/06/22	Responsible Officer-Manager Finance and Information Technology 2022-2023		
V13	19.07.2023	OM10/07/23	Responsible Officer-Interim Manager Finance 2023-2024		
				REVIEW DUE	30.06.2024

#### DISTRIBUTION AND DISSEMINATION

Internal email to all employees	X	Section meetings / Toolbox talks	X
Internal email to all Councillors		Included in employee inductions	
Employee noticeboards	X	Uploaded to Council website	X
Internal training to be provided	X	External training to be provided	
Registered in magiQ	X		

#### 1. PURPOSE

### MOUNT ISA CITY COUNCIL STATUTORY POLICY

- 1.1 To satisfy Mount Isa City Council's ("Council") statutory obligations under Section 198 of the *Local Government Regulation 2012* and to establish Council's intent with respect to Procurement. This document sets out the Council's policy for the Procurement of goods and services, construction, and services contracts.

1.2 Policy Objectives

Council's Procurement activities aim to achieve advantageous Procurement outcomes by:

- a) Promoting value for money with probity and accountability; and
- b) Advancing Council's economic, social, and environmental policies; and
- c) Providing a reasonable opportunity for competitive local businesses that comply with relevant legislation to supply to Council; and
- d) Promoting compliance with relevant legislation.

In accordance with Section 198 of the *Local Government Regulation 2012*, this policy incorporates relevant requirements regarding the procurement of goods and services and the carrying out of sound contracting principles.

**2. COMMENCEMENT**

The Mount Isa City Council Procurement Policy will take effect following adoption at the Ordinary Meeting on 19 July 2023.

**3. APPLICATION**

This policy applies to employees, agents, and contractors (including temporary contractors) of the Council, collectively referred to in this policy as "employees".

**4. PRINCIPLES**

**4.1 Sound Contracting Principles**

Council employees must have regard to the following sound contracting principles when procuring goods and services on behalf of the Council:

**a) Value for Money**

Council must harness its purchasing power to achieve the best value for money. The concept of value for money is not restricted to price alone. The value for money assessment must include consideration of:

- i. Contribution to the advancement of Council's priorities;
- ii. Fitness for purpose, quality, services and support; and whole-of-life costs including costs of acquiring, using and maintaining and disposal;
- iii. Internal administration costs;
- iv. Technical compliance issues;
- v. Risk exposure;
- vi. The value of any associated environmental benefits; and
- vii. Advantages of local knowledge, networks and relationships, availability and access to after sales and support.

**b) Open and Effective Competition**

Purchasing should be open and result in effective competition in the provision of goods and services. Council must give fair and equitable consideration to all prospective suppliers.

**c) The Development of Competitive Local Business and Industry**

Council encourages the development of competitive local businesses within its local government area.

In accordance with Section 104(3)(c) of the *Local Government Act 2009*, Council wishes to pursue the principle of development of competitive local business and industry as part of the process of making its purchasing decisions.

**d) Environmental Protection**

Council promotes environmental protection through its purchasing procedures. In undertaking any purchasing activities Council will:

- i. Promote the purchase of environmentally friendly goods and services that satisfy value for money criteria; and
- ii. Foster the development of products and processes of low environmental and climatic impact; and
- iii. Provide an example to business, industry, and the community by promoting the use of climatically and environmentally friendly goods and services; and
- iv. Encourage environmentally responsible activities.

**e) Ethical Behaviour and Fair Dealing**

Council officers involved in purchasing are to behave with impartiality, fairness, independence, openness, integrity, and professionalism in their discussions and negotiations with suppliers and their representatives.

Officers are to facilitate the ethical procurement of goods and services for Council in the most timely and cost-effective manner and ensure that all procurement activities are within Council's legal and statutory obligations.

**4.2 Goods and Services Tax**

All values quoted in this policy are exclusive of GST unless stated otherwise.

**5. PROCUREMENT AND CONTRACTING REQUISITES**

**5.1 Local Preference**

**5.1.1 Scope**

A **Local Supplier** is a company, trust, or sole trader that meets at least one of the following criteria:

- i. is a ratepayer in the Mount Isa City Council local government area;
- ii. has a physical premises open to the public located in the Mount Isa City Council local government area and is owned by locals or employs local staff; or
- iii. employs staff permanently based in the Mount Isa City Council local government area.

Mount Isa City Council acknowledges that it has an important role to play in the local economy and is committed to assisting local industry to engage in business with Council.

To assist local industry and local economic development, Council will:

- i. Encourage a 'buy local' culture within the Council;
- ii. Advertise all tenders, contracts, and expressions of interest in a manner readily available to the local community;
- iii. Package requirements in appropriately sized contracts to suit market capacity and encourage local competition;
- iv. Encourage local businesses to promote their goods and services to Council;
- v. Encourage the use of local distributors within the delivery chain whenever goods, materials or services have to be sourced from outside the local government area; and
- vi. Apply a price preference in favour of local suppliers as set out in this policy.

#### **5.1.2 Local Content Price Preference**

A local price preference will apply to all quotes, contracts and tenders invited by the Council for the supply of goods and services and construction services, unless the Council resolves that this policy does not apply to a particular purchase or another provision of this policy is applied.

For the purposes of selecting the successful supplier tendered by local and non-local suppliers, the following levels of price preference (including GST) will be applied under this policy;

- Purchases up to \$1,000 with local content given 15% preference
- Purchases over \$1,000 and up to \$5,000 with local content given 10% preference
- Purchases over \$5,000 and up to \$15,000 with local content given 5% preference
- Purchases over \$15,000 and up to \$50,000 with local content given 4% preference
- Purchases over \$50,000 and less than \$200,000 with local content given 3% preference
- Purchases of \$200,000 and over – no price preference provided

#### **EXAMPLE ASSESSMENT**

Bid A \$9,750 (non-local supplier) No preference is applicable - **\$9,750** *assessment price*  
Bid B \$10,000 (local supplier) 5% price preference applied (\$500) - **\$9,500** *assessment price*

#### **5.1.3 Price Preference Comparison**

The preference rate to be applied is based on the actual price quoted to Council. The preference is to be the same rate for all local suppliers irrespective of whether one supplier quotes in one discount bracket and another qualifies for a higher discount rate.

#### **5.1.4 Part Local Purchases**

The above discounts may also apply to suppliers based outside the Mount Isa City Council area where such suppliers:

- Use goods, materials or services of a significant amount via sub-contracts that are sourced within the Mount Isa City Council area. The discount applies to the value of the goods, materials or services sourced and used from the local government area; or
- Can demonstrate the use of locally sourced products and services as opposed to using products and services from outside the Mount Isa City Council area.

In these circumstances, the discount is only applicable to the local content component of the price, and not the total price submitted. Normal processes of assessment of non-price considerations still apply, and this policy does not necessarily mean that the lowest tender will be successful. The purpose of the policy is to give preference to local suppliers compared to non-local suppliers, where all else is equal.

**EXAMPLE ASSESSMENT**

A bid is received for \$40,000 (non-local supplier) however they have arranged to use \$10,000 of goods from a local supplier. The discount applied to the local content is always based on the total value of the contract.

The calculation to determine the value of their bid is:

$\$30,000 * 0\%$  non-local content plus  $\$10,000 * 4\%$  local content = \$400 local price preference is applicable.

Therefore, the bid would be assessed at a value of  $\$40,000 - \$400 = \mathbf{\$39,600}$

**5.1.5 Tendering Preference**

For procurements over \$200,000 obtained through a tender process, no price preference will be applied. Where applicable, it will be a requirement that the tender assessment criteria will include at least a 5% local content weighting criteria.

**5.2 Environmentally Relevant Activities**

The *Environmental Protection Act 1994* requires that an operator of an environmentally relevant activity (ERA) holds appropriate authorisation issued by a relevant authority stipulated by the Act. Services that fall under the definition of an ERA must not be procured from operators who are not licensed or approved under the relevant legislation.

Officers sourcing services which are, or could be, classified as an ERA must ensure that the supplier holds appropriate authorisation and that the requirement for the environmental authority is included in any specification of work or services to be performed.

**5.3 Work Health and Safety (WHS)**

Council is required to ensure, as far as reasonably practicable, the health and safety of all workers throughout Council's business or undertaking, and that its activities do not place other persons at risk from work carried out as part of the business or undertaking.

In order to ensure that Council meets its obligations during procurement and contracting activities, Officers should:

- identify all foreseeable hazards, and health and safety risks associated with a potential contract
- develop specifications that comply with relevant legislation
- ensure evaluation criteria requests sufficient and appropriate WHS systems to ensure that risks are minimised and/or eliminated
- ensure Council's operational obligations with regards to WHS contract performance monitoring and management are actioned under the contract.

Officers involved in procurement and contracting activity must comply with the requirements of Council's *Workplace Health and Safety Policies*).

#### **5.4 Probity**

During the pre-procurement planning stage, and throughout the procurement process all officers involved, and/or intend to have any input or influence must abide by Council's *Code of Conduct for Employees* to uphold the highest standards of probity, honesty and integrity and comply with the following interlinked principles and objectives of probity.

- Use of a competitive process.
- Integrity, honesty, fairness and impartiality.
- Transparent and auditable processes.
- Independence through effective management of conflicts of interest.
- Consistency and accountability of process.
- Security and confidentiality of information and materials.

#### **5.5 Managing conflicts of interest**

Officers participating in pre-procurement planning, procurement and contracting activities must comply with the requirements of the Council's Code of Conduct for Employees and Employee Gifts and Benefits Policy and must:

- advise the Procurement Officer and Governance Officer of all conflicts of interest (perceived, potential or actual) even if these conflicts have been previously declared elsewhere,
- notify the Procurement Officer and Governance Officer immediately they become aware of any conflict of interest (perceived, potential or actual),
- not accept gifts from parties related to any procurement or contracting activity,
- action all declarations of conflict of interest and confidentiality as applicable.

### **6. PROCUREMENT MANAGEMENT**

#### **6.1 Optimisation of Value in Procurement**

In order to optimise value in procurement, where applicable, Council will establish annualised or biannual purchasing arrangements. This is generally to occur where multiple similar purchases are likely to be required, the total value of goods for the financial year is expected to exceed \$100,000, and the cost of obtaining quotes for each purchase is high in value of time and effort. This may include entering into arrangements for preferred suppliers.

An **approved contractor list** may be compiled after inviting expressions of interest from suitably qualified persons and assessing those expressions on the basis of sound contracting principles as required under Section 231 of the *Local Government Regulation 2012*.

A **pre-qualified supplier register** may be compiled only after inviting tenders in accordance with Section 232 of the *Local Government Regulation 2012*.

A **preferred supplier arrangement** may be enacted only after inviting tenders in accordance with Section 233 of the *Local Government Regulation 2012*.

#### **6.2 Contract arrangements**

Council may enter into a contract without first inviting competitive offers, if the contract is entered into with a supplier from a:

- register of prequalified suppliers



- panel arrangement
- preferred supplier arrangement

Suppliers on these arrangements have been assessed by Council as having the technical, financial and managerial capability to perform contracts on time and in accordance with agreed requirements.

Contract arrangements may only be established by Council, if:

- the preparation and evaluation of invitations every time that the works, goods and/or services are needed would be costly; or
- the capability or financial capacity of the supplier of the works, goods and/or services is critical; or
- the delivery of works or the supply of the goods and/or services involves significant security considerations; or
- a precondition of an offer to contract for the works, goods and/or services is compliance with particular standards or conditions set by Council; or
- requires goods and/or services in large volumes, or frequently; and
- is able to obtain better value for money by accumulating the demand for the goods and/or services; and
- is able to describe the goods and/or services in terms that would be well understood in the relevant industry.

Council will establish a contract arrangement through a public invitation to offer process. Council will seek to include terms allowing a supplier to be omitted or added to the arrangement.

Council will have regard to the sound contracting principles when:

- deciding on which suppliers should be added to the contract arrangements
- selecting a supplier for an individual project from the contract arrangement.

Before requesting a contract arrangement be created; there should be reasonable likelihood that any supplier included will, subject to satisfactory performance, be awarded work off the arrangement.

Officers must not request the creation merely to provide coverage for a possible contingency.

### **6.3 Purchasing Thresholds**

Where the value of the contractual arrangement with the supplier in a financial year or over the proposed term of the contract (including any initial term and options to extend) is, or is expected to be:

**Table 1: Purchasing Thresholds**

Amount of Purchase GST Exclusive	POLICY
Under \$500	<ul style="list-style-type: none"> <li>• For purchases under the value of \$500 the advertised price or price listed is considered acceptable</li> </ul>
\$500 or more but less than \$5,000	<ul style="list-style-type: none"> <li>• For purchases equal to or greater than \$500 but less than \$5,000 at least one written quote must be obtained. A copy of the quote must be attached to the invoice.</li> </ul>

\$5,000 or more but less than \$15,000	<ul style="list-style-type: none"> <li>Purchases equal to or greater than \$5,000 but less than \$15,000 two (2) or more written quotes must be obtained. If not possible to obtain a second quote, record of suppliers approached must be kept and attached to the Council copy of the purchase order as well as any quotes obtained.</li> </ul>
\$15,000 or more but less than \$200,000	<ul style="list-style-type: none"> <li>Council cannot enter into a <b>medium sized contract</b> unless it first invites written quotes for the contract. <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.</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 in this policy.</li> <li>There are limited exceptions to this requirement, and they are listed below in the section titled <b>exceptions</b>.</li> </ul> </li> </ul>
\$200,000 and above	<ul style="list-style-type: none"> <li>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>.</li> <li>Under Section 228 <i>Local Government Regulation 2012</i> Council must either invite written tenders or invite expressions of interest before considering whether to invite written tenders.</li> <li>There are limited exceptions to this requirement, and they are listed below in the section titled <b>exceptions</b>.</li> </ul>

When a staff member 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.

#### 6.4 Acceptance of Quotations

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.

#### 6.5 Purchase orders

Purchase orders will be raised for:

- day-to-day transactional procurement against previously established Council or other eligible contracts
- contracting activities where the standard purchase order terms and conditions are considered appropriate to mitigate the anticipated risks inherent in the purchase. This is generally for low value, one-off purchases.

Officers must not enter into verbal agreements with suppliers. The provision of the goods and/or service must not commence until the purchase order has been issued.



### **Separation of Goods Receipts**

Council officers must ensure there is a separation of duties between the authorised officer who orders goods and materials and the officer who certifies receipt of those goods or materials.

An exemption to this requirement applies to the Chief Executive Officer and Directors when dealing with emergency situations.

### **Training**

All officers that have a purchasing authority must undertake Procurement training with the Procurement Team.

### **6.6 Determination/aggregation of the worth of contract requirements**

The requirements for procurement thresholds are determined by the total anticipated worth or value of the related transaction.

The worth of a proposed contract must be calculated on the total amount, including options such as extensions or provisional items, of the requirement over the proposed required period.

Contracts/purchase orders must not be split to:

- circumvent administrative levels of authority or delegations; or
- manipulate the method of inviting offers in relation to the contract worth thresholds.

## **7. Tender Process**

Section 228 of the *Local Government Regulation 2012* sets out how Council must invite written tenders or invite expressions of interest for:

- a) A large-sized contract; or
- b) Disposal of a valuable non-current asset contract

An invitation for written tenders/expressions of interest must:

- a) be made by an advertisement in a newspaper that circulates generally in the local government area; and
- b) allow written tenders/expressions of interest to be submitted to Council for at least 21 days after the advertisement is published.

Records of tenders/expressions of interest and the evaluation process must be kept on file.

### **7.1 Non-conforming or alternative offers**

It is acceptable to encourage alternative offers. This supports innovative ways and alternative solutions or may provide different risk allocation than has been specified by the Council. The decision, if any, non-conforming or alternative offers may be accepted with or without a conforming offer should be specified in the invitation to offer documents.

## **7.2 Management of communications**

Following the issue of the invitation to offer documentation and during the invitation to offer process:

- all communications to suppliers must be carried out through the nominated representative specified in the invitation to offer documents
- an accurate written record must be made of all communications
- the nominated representative will keep all relevant parties informed of progress and any issues arising.

In the event that an amendment to the invitation to offer documentation becomes necessary, all suppliers are to receive the same information by way of an addendum to the invitation of offer.

## **7.3 Supplier briefings/site inspections**

Supplier briefings and/or site inspections may be undertaken and should include all suppliers wishing to respond to the invitation to offer.

Briefing presentations, questions, and answers must be published as an addendum to the invitation to offer documents to ensure all potential suppliers have access to the same information as some suppliers may not be able to attend a supplier briefing or site inspection. Attendance should not be a mandatory condition or utilised as an opportunity to provide additional information to those who elect to attend.

## **7.4 Invitation to change an offer**

Where the Council makes a change to the requirements of the invitation to offer documents after the invitation to offer period has closed and before any offer is accepted, Council may invite all suppliers who submitted an offer to change their offers.

Where the change (if it had been included in the original documentation) would have resulted in alternative suppliers submitting an offer, the invitation to offer should be withdrawn and readvertised.

It is advisable to ensure that change requests do not breach the commercial confidentiality or intellectual property rights of any supplier whose offer has been submitted.

## **7.5 Evaluation of offers**

The Council will evaluate offers in accordance with the process, methodology and criteria defined in the Evaluation Plan.

To ensure transparency and probity in the evaluation process:

- the evaluation process, methodology and criteria (but not necessarily the weightings) will be outlined in the invitation to offer documentation
- once the invitation to offer period has closed neither the evaluation process, methodology nor the criteria (including weightings) may be changed.

Evaluation of offers will:

- determine the most advantageous offer for recommendation for acceptance
- have regard to the procurement and contracting principles and requisites
- apply the local benefits weightings
- be adequately documented to demonstrate how the recommendation of the most advantageous offer has been determined
- ensure that all supplier information in response to an invitation to offer is regarded as confidential.

### **7.6 Evaluation process**

Offers will generally be evaluated via a three-gate evaluation process.

A due diligence check is performed on all offers to enable Council to filter offers that do not conform to the invitation to offer requirements or pose unacceptable risk.

Due diligence checks may include, but are not limited to:

- ensuring fully completed documentation, pricing, insurances, registrations, and licences
- legal entity, reference, financial, legislative, and corporate checks
- deviations, alternative offers, and conflicts of interests
- discussions with tenderers, demonstrations, and site visits.

These due diligence checks are ongoing and allow Council to assess the risk of an offer at any stage of the evaluation process to determine whether the offer is acceptable to continue in the evaluation process.

**Gate 1. Evaluate against Mandatory Criteria** - disqualify non-conforming offers.

Mandatory criteria are designed to enable Council to filter out offers that do not conform to the mandatory requirements that are specified in the invitation to offer documentation. These non-conforming offers will generally not be further evaluated.

**Gate 2. Evaluate against Capability Scoring Criteria** - select capable offers based on a combination of capability and local benefits.

These criteria are designed to enable Council to assign a relative score for each capability criterion. Each capability scoring criterion has a percentage weighting allocated to it to represent its relative importance and worth in the selection process or risk to the delivery of the works, goods, or services.

Local benefits weightings are mandatory scoring criteria to be applied after the other scoring criteria have been scored.

Capability scoring criteria enable Council to focus on evaluating which suppliers have the required capability based on their scores, to move through to Gate 3.

**Gate 3. Value for money criteria** - select offers based on pricing criteria. After review of submitted pricing information and any subsequent supplier negotiations the best value pricing submission(s) is chosen.

Additional gates to accommodate product demonstrations, presentations, etc can be included. A Total Cost of Ownership (TCO)/pricing gate can be added which will include a weighted combination of capability and TCO to determine the most advantageous offer(s).

A four-gate evaluation considers both qualitative and quantitative criteria relative to each other in accordance with the pre-determined weightings as documented in the Evaluation Plan, to determine the most advantageous offer to Council.

### **7.7 Post offer negotiations**

Negotiations with suppliers who have progressed to the value for money gate may occur if the negotiations might improve value for money.

A negotiation strategy should be developed and agreed prior to commencing any negotiation and must encompass the following:

- All short-listed suppliers are invited to participate where appropriate.
- At the conclusion of each round of negotiations, all suppliers may be invited to submit an amended offer.
- Suppliers must be advised when they are to submit their best and final offer.

Probity considerations for negotiations include the following.

- Negotiations are not to be used for the purpose of clarifying aspects of an offer. Clarification of offers must be completed before a short-list of suppliers for negotiations is finalised.
- Once the short-list has been established, it is essential that the equality of opportunity for the short-listed suppliers is maintained throughout the negotiations.
- During a negotiation, the identities or commercial-in-confidence information of any other supplier with whom negotiations are taking place must not be disclosed to another supplier. Commercial-in-confidence information includes (but is not limited to) prices, value-adds, operational methodology or other information identified by a supplier as being commercial-in-confidence.
- To avoid any misunderstanding as to the nature and extent of any negotiations, the basis of the negotiations must be provided in writing to the suppliers invited to negotiate.
- A record of negotiations must be kept.

A supplier's offer will not be considered unsuccessful until formally notified. The commencement of negotiations with one or more other suppliers is not an indication that a particular supplier's offer has been unsuccessful.

### **7.8 Acceptance of offers**

Where Council decides to accept an offer, it may accept the offer it determines to be the most advantageous, having regard to Council's contracting principles and requisites. Council may decide not to accept any offers it receives.

Council approval is required to accept a recommendation and enter into a contract where a delegate does not have the power to make such decisions, and/or where the expenditure required to service the contractual commitment has not been included in an approved budget.

### **7.9 Exceptions**

None of the exceptions below remove the need to issue a purchase order or a letter of acceptance authorised by an officer with a sufficiently high purchasing limit to cover the cost of the purchase.

Chapter 6 Part 3 Division 3 of the *Local Government Regulation 2012* identifies exceptions for medium and large-sized contracts. If one of the exceptions applies, Council may enter into:

- a) a medium-sized contractual arrangement without first inviting multiple written quotes; or
- b) a large-sized contractual arrangement without first inviting written tenders.

The exceptions are:

- a) the preparations of a quote or tender consideration plan in accordance with the requirements of Section 230 of the *Local Government Regulation 2012*; and
- b) where a preferred supplier arrangement exists containing a schedule of rates fixed for the term nominated in the arrangement; and

- c) entering into a contract under a Local Government Arrangement (LGA) established in accordance with the requirements of Section 234 of the Regulation 2012 e.g., LocalBuy; and
- d) Section 235 Local Government Regulations 2012 entering into a medium-sized contract or a large-sized contract if:

Council resolves that it is satisfied that there is only one supplier who is reasonably available; or

- i. Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous to invite quotes or tenders; or
- ii. A genuine emergency exists; or
- iii. The contract is for purchase of goods and is made by auction; or
- iv. The contract is for the purchase of second-hand goods; or
- v. The contract is made with, or under an arrangement with, a government agency.

A range of Local Government Arrangements have been put in place by LocalBuy. When assessing the most effective method of obtaining goods and/or services, Council officers should consider the administrative costs to Council of seeking tenders or quotations independently, and the reduction of these costs which can be achieved by use of Local Buy arrangements.

In the event that a Local Government Arrangement is used, the Local Buy contract number must be stated on the order requisition for entering onto Council's Purchase Order.

#### **7.10 Disposal of Valuable Non-Current assets**

Section 227 of the *Local Government Regulation 2012* provides that Council cannot enter into a contract for the sale of a valuable non-current asset unless it first:

- a) invites written tenders for the contract under Section 228 of the *Local Government Regulation 2012*; or
- b) offers the non-current asset for sale by auction.

There are a range of exceptions to this set out in Section 236 *Local Government Regulation 2012*.

In addition, all non-current assets that have been identified as being obsolete or surplus to Council requirements, and with a written down value less than the Asset Thresholds in Table 2 are to be offered for sale by inviting written quotations or via public auction.

The invitation for written quotation for the sale of non-current assets must:

- a) be made by an advertisement in the newspaper that circulates generally in the local government area; and
- b) allow written quotes to be given to Council for at least 21 days after the advertisement is published.

**Table 2: Asset Thresholds**

Asset Class	Council Limit
Buildings and other Structures	\$20,000
Plant and Equipment	\$10,000
Land	\$1
Furniture and Fittings	\$10,000
All Infrastructure	\$20,000

### 7.11 Exceptions for valuable non-current assets

Section 236 of the *Local Government Regulation 2012* will apply to contracts for the disposal of land or an interest in land.

Council may dispose of valuable non-current assets, other than by tender or auction if:

- the valuable non-current asset:
  - was previously offered for sale by tender or auction but was not sold, and
  - is sold for more than the highest tender or auction bid that was received
- the valuable non-current asset is disposed of to:
  - a government agency
  - a community organisation
- for the disposal of valuable non-current assets, other than land, by way of a trade in, if:
  - the supply is, or is to be, made under the requirements of this Policy, and
  - the disposal is, or is to be, part of the contract for the supply
- for the disposal of a valuable non-current asset by the grant of a lease - the grant of a lease has been previously offered by tender or auction, but a lease has not been entered into.

Where Council makes a decision to donate valuable non-current assets, this may be done as an exercise of beneficial enterprise powers and must usually comply with this policy and the sound contracting principles.

## 8. Communication and confidentiality

Information gathered relating to procurement activities is treated in line with the *Right to Information Act 2009* and the *Local Government Act 2009*.

Invitation to offer documentation should ensure that this is explained and invites suppliers to:

- submit all and any information on the basis that the public has a right to know all
- specifically label any information that is supplied on the basis that it is to be kept confidential, only if the Council agrees to receive and accept such on those terms.

Contracts & Procurement will supply information to suppliers who request feedback on their offers in terms of the following.

- Communications to unsuccessful suppliers may provide information identifying gaps in their offer to provide an opportunity for improvement in future offers.



- The initial communications to an unsuccessful supplier must be in writing. Suppliers can seek further information.
- Where the request is made a full debriefs can be carried out with a Council officer. Comparative information with other suppliers (e.g. other suppliers scores) must not be shared.
- Information that has been made public via the approval process (e.g. Council agenda report) may be made available to suppliers.

## **9. Supplier complaints**

All complaints from suppliers regarding procurement and contracting activity must be directed to the Procurement Officer as the first point of contact to provide the opportunity for Procurement to assist the supplier with the matter and help resolve the issue.

## **10. CONTRACTS ADMINISTRATION**

### **10.1 Legal advice/services and selection of contract terms**

Officers requesting advice/services on procurement and contracting activities, including the development and management of contracts must do so through the relevant Director who will source legal advice as and when required on matters such as:

- determination on which contract terms and conditions are to be used
- insert or depart from the standard terms and conditions

All contractual disputes or complaints about the conduct of procurement and contracting activities must be referred to the Chief Procurement Officer for action. The Chief Procurement Officer in consultation with the relevant Director and where necessary other key stakeholders will determine what further support and assistance is required to resolve the dispute.

### **10.2 Contracting Delegations**

Section 238 of the *Local Government Regulation 2012* applies if a local government delegate, under section 257 of the *Local Government Act 2009*, power to make, amend or discharge a contract for the local government.

Officers with the requisite administrative authorisations may authorise spending from approved annual budgets by requesting delegates to enter into, vary or discharge contracts.

A delegate may enter into, vary or discharge a contract for Council if:

- Council's expenditure has been provided for in the approved annual budget for the financial year:
  - when the contractual action is taken or
  - in which the delegation resolution is made, if the expenditure is within the limits stated in the resolution, or
- the contractual action has been taken because of a genuine emergency or hardship (*Local Government Regulation 2012* section 238(2)).

### **10.3 Contracting administrative authorisations**

Administrative authorisations must be exercised in line with the Delegated Power and Authorisations Policy. When authorising any request to enter into, vary or discharge a contract; the authorised officer certifies that:

- sufficient funds are available in the current approved annual budget
- the value to be used for determining the authorised amount is the total value of the expenditure (excluding GST) estimated for each procurement or the total sum of a contract over the period for which the agreement will be in place. Trade-in values must not be deducted from purchase values when determining the administrative authority level
- the estimates for which the goods or services are to be contracted are accurate and reflect the actual requirements
- all required approvals have been received for the contracting activity to proceed

Council officers listed in the Financial Delegations Register 23-24 are entitled to sign orders up to their stated purchasing limit.

### **10.4 Contract management and administration**

Council undertakes performance management of contracts commensurate with the value, strategic nature and risk posed by the contract or activity.

Contract management and administration activities include:

- finalisation of the contract management plan and contract risk assessment
- operational management of the contract
- managing contract and supplier performance
- managing contract and operational WHS performance
- developing and managing supplier relationships
- administering the contract (including documentation, financial and contract risk administration)
- managing contract variations and extensions
- managing complaints, non-conformances and disputes
- contract close-out, lessons learnt and final performance review
- reviewing ongoing category performance.

### **10.5 Contract performance management**

Contract performance management must be undertaken throughout the life of the contract. Along with performance indicators (KPIs) and standards, arrangements for monitoring and assessment should be set out in the contract, along with the action that would result from underperformance.

Performance management involves:

- Performance monitoring – collecting data on performance
- Performance assessment – deciding whether performance meets Council's needs; and
- Taking appropriate action – such as understanding and extending features of good performance, correcting areas of underperformance, or amending the contract requirements to meet changing needs.

It is the responsibility of the contract manager to initiate discussions with the contractor regarding performance issues to resolve them. A formal performance management process must be undertaken where there is a possibility that the performance issues may result in unsatisfactory outcomes to Council.

All performance discussions must be documented and stored in the corporate document management system and relevant contract file.

Where a supplier fails to satisfy the performance requirements of a contract, engage EMT for advice and assistance to rectify the issue. Officers managing contracts must ensure that full details of any supplier performance issues (including verbal) are recorded in the corporate document management system and relevant contract file.

### **10.6 Contract variation management**

A variation is an agreed amendment (addition to, or omission from the scope of work that was originally agreed) to a contract that changes the original terms, conditions, or scope of the contract.

Key reasons why variations are needed include:

- Specification revisions and/or adjustments
- Technology changes or improvements
- Changes in legislation that impact on the contract and specification
- Demand fluctuations
- Requests for additional goods and services outside of the original contract scope
- Latent conditions (a physical condition on or near the site that could not reasonably have been anticipated by a competent contractor at the time of tendering)

Any proposed variation must be assessed to ensure that it complies with the provisions of this policy and must be carried out in the format advised by Procurement. Officers must analyse all consequences of the proposed contract amendment to make sure there are no unintended effects of the variation and value for money continues to be received.

Officers must ensure that the contract variations continue to provide value for money, are not of such a level that they significantly change the contract requirements and/or substantial parts of the original procurement.

If this is the case, it may be necessary to undertake another procurement process because the revised arrangements are substantially different to those selected during the original procurement. The risk assessment must be reviewed in line with the requested variation.

Adjustments to a contract are where changes are made that were allowed for in the contract and include:

- Provisional items – use or removal
- Adjustments to the schedule of rates – quantity adjustments
- Extensions of time where the option is available
- Consumer Price Index (CPI) increase
- Rise and fall

Where the adjustment has a financial impact, holders of administrative authorisations in the Directorates verify that funds are in approved budgets to meet the costs prior to the adjustment being actioned.

### 10.7 Contract variation thresholds

Officers must ensure that the contract variations are approved in line with Council's Financial Delegations Register.

**Table 1: Contract Variation Thresholds**

POSITION	VARIATION THRESHOLD (GST Exclusive)
Council Resolution	*Unlimited or more than 10% of the original contract value
Chief Executive Officer	Lower of 10% of contract value or \$300,000
Directors	Lower of 10% of contract value or \$150,000
Managers	Lower of 10% of contract value or \$30,000
Team Leaders	Lower of 10% of contract value or \$15,000
Coordinators / Specialists Senior Officers	\$5,000
Executive Assistants Work Health and Safety Officer	\$1,000

*\*Variations over 10% of the total initial/signed contract (total original) should be reported and referred to the Council.*

For a **"medium-sized contractual arrangement"** (expected to be worth, exclusive of GST, \$15,000 or more but less than \$200,000 in a financial year, or over the proposed term of the contractual arrangement), contract variations are to be approved in line with Council's Financial Delegations Register.

For a **"large-sized contractual arrangement"** (expected to be worth, exclusive of GST, \$200,000 or more in a financial year, or over the proposed term of the contractual arrangement), contract variations are to be approved by the Chief Executive Officer in line with Council's Financial Delegations Register. Any contract variations over the Chief Executive Officer's financial delegation should be approved by Council unless specifically pre-approved by Council resolution.

Officers must ensure that all contract variations are supported by adequate documentation describing the nature and reasons for the variations including the associated cost, time, and scope implications. The cumulative impact of variations on a contract should be reviewed and an assessment made of whether a separate procurement process should be undertaken.

### 10.8 Contract extension option management

A contract extension option clause usually gives one party to a contract the right to elect to continue its term for further periods at certain prices or with pricing payable to be adjusted by an objective formula.

Where an extension option is present, Council must first assess whether value for money will best be achieved by exercising the extensions option or by going back out to the open market.

Where a contract extension option is taken up, the contract must be managed in accordance with the terms of the contract. In addition, relevant approvals and/or authorisations must be obtained prior to the delegate actioning the extension.

### **10.9 Contract record keeping/administration**

Information management is an important part of contract management as accurate records must be maintained and accessible. Key contract information must be kept updated in the centralised contract management system to enable a single source of truth.

Contract files must be maintained in Council's document management system to fully document all processes and decisions relevant to administration and management of the contract.

Following award of the contract, all correspondence issued to the supplier must be in writing and all instructions (including amendments and variations), notices, approvals, minutes of meetings, performance issues, Key Performance Indicator (KPI) reviews and acknowledgements must be kept in the contract file.

The contract spend must be monitored throughout the lifecycle of the contract and the information must be maintained within the contract management system to reflect any agreed variations to the contract value.

Financial reconciliations must be conducted between purchase orders/work orders approved, invoices paid against the contract, and the approved contract value.

### **10.10 Contract close-out and review**

Prior to close-out of the contract, the contract manager must conduct a final performance review to evaluate the contractor performance and provide feedback that may be used as a reference for future evaluations/work. The depth and detail of the review process will vary depending on the contract. However, the review process is critical regardless of the size and value of the contract.

Where appropriate, the contract manager must provide all or part of the feedback from the contract review to the other contracted party or parties. This will enable any future arrangements to better meet the needs of the Council. Once a contract has concluded, it is important that the contract is reviewed, and lessons are captured in the contract management system and the contract file in the corporate document management system. This supports the Council's objective to continually improve its contract management capability.

Where there is a transition period from one contract to another it is the responsibility of the contract manager to develop a transition plan. The contract manager must consider the following aspects when developing the transition plan for both the outgoing and incoming contractors:

- Identify any specific differences between the current and future contracts,
- Develop a new communication plan, identify stakeholders, both internally and externally who may be impacted by the change, and
- Update internal processes or procedures with any changes required under the new contract.

At the conclusion/expiry of the contract, the contract manager must formally close the contract according to the agreed terms and conditions.

Where a contract is managed by the Superintendent the contract finalisation will be managed in accordance with the contract entered into.

### **10.11 Termination of contracts**

Where a decision is made to terminate a contract, the prevailing conditions must be adhered to in consultation with Procurement and Legal Services providers.

The Council must follow the conditions specified in the contract to terminate that contract.

#### **11. BREACH OF POLICY**

Where Council reasonably believes an employee has breached this policy, the matter will be dealt with under the Performance and Misconduct Policy.

#### **12. COMMUNICATION AND DISTRIBUTION**

Council will make available to the public, the 2023/2024 Financial Year – Procurement Policy on our website at [www.mountisa.qld.gov.au](http://www.mountisa.qld.gov.au).

The responsible officer shall liaise with People and Culture Team to create and deliver internal OR external appropriate and regular training to the following Council employees.

Supervisors will ensure the policy is distributed as per the Distribution and Dissemination table on this policy.

#### **13. DEFINITIONS**

- a) **Medium-sized contract** is a contract worth \$15,000 (GST exclusive) or more but less than \$200,000 (GST exclusive).
- b) **Large-sized contract** is an individual contract worth \$200,000 (GST exclusive) or more which can extend beyond one financial year.
- c) **Valuable non-current asset contract** is a contract for the disposal of a valuable non-current asset.
- d) **Valuable non-current asset** is:
  - Land; or
  - Another non-current asset that has an apparent value that is equal to or more than a limit set by the local government. Refer to Table 2 Asset Thresholds.
- e) **Government agency** includes:
  - The State, a government entity, a corporatised business entity, or another local government; or
  - The Australian Federal government or an entity of the Australian Government; or
  - A local government of another State.
- f) **Pre-qualified supplier** is a supplier who has been assessed as having the financial, technical, and managerial capability to perform on time and within agreed requirements.  
**Quotes are still required.**
- g) **Preferred supplier arrangement (PSA)** means an arrangement set up by Council to allow contracts to be entered into with one or more suppliers (the preferred suppliers) for the supply of goods or services. The PSA is a contract for a period, usually 12 months with options for a further two periods of 12 months each. The contract locks in the rates for the goods and services for the first 12 months. The review after 12 months includes the supplier's performance and, if considered suitable for the continuing of the arrangement, an opportunity for the supplier to adjust their rates is offered. This is usually based on the CPI unless the supplier can justify a larger increase.
- h) **Approved contractor** is a person or company who Council considers to be appropriately qualified to provide the services. **Quotes are still required.**
- i) A contract manager is the officer responsible for administering and managing a contract, as well as overseeing the process by which contracts are consolidated, created, and executed.



- j) **Procurement Initiation Form (PIF)** - *is required for all procurements equal to or greater than \$15,000 GST exclusive. This is the expenditure level where the Local Government Regulations 2012 apply. Chapter 5; 'Financial Planning and Accountability'.* The PIF identifies the requirement for the RFQ/RFT, budget, funding, justification, evaluation criteria and is approved by the relevant authority responsible for the budget. The PIF with accompanying documents (scope/specification/brief/drawings/pricing schedule, and other supporting information), is forwarded to Procurement Team for actioning by the user department.
- k) **Request for Quotation (RFQ)** - a request for quotation is used for medium-sized contracts and is by invitation unless an exception applies.
- l) **Request for Tender (RFT)** - a request for tender is used for large-sized contracts and is by public tender unless an exception applies.
- m) **Council Resolution** - a Council decision passed by the majority of Councillors at an ordinary meeting of Council.

REASONS ONLY ONE OR NO QUOTES REQUIRED

OEM	Original Equipment Manufacturer	Only to be used if parts are purchased that only one Creditor can supply so unable to get other quotes.
SS	Sole Supplier	No other supplier in Mount Isa can provide this service i.e. QH2O, MIWB, Telstra

**ASSOCIATED LEGISLATION AND POLICIES**

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- Mount Isa City Council Financial Delegations Register
- Performance and Misconduct Policy
- Code of Conduct for Employees