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1. OBJECTIVE

This policy sets out Flinders Shire Council's policy for the acquisition of goods and services and applies to all procurement activities of Council.

2. SCOPE

All purchasing is represented in a contractual arrangement of one form or another and is governed by contract law. In establishing contracts for the purchase of goods or services or the carrying out of work, all delegated officers must have regard to the sound contracting principals under Chapter 4 Part 3 Section 104 of the *Local Government Act 2009*. The sound contracting principles are:

- Value for money; and
- Open and effective competition; and
- Development of competitive local business and industry; and
- Environmental protection; and
- Ethical behaviour and fair dealing.

To remove any doubt, the Act declares that it does not require equal consideration to be given to each of the sound contracting principles.

3. FINANCIAL DELEGATION

Council delegates the Chief Executive Officer (CEO) the authority to incur financial expenditure on behalf of Council under the following provisions:

- The expenditure has been provided for in Council's Budget; or
- In the opinion of the CEO such expenditure is required because of genuine emergency or hardship.

Other officers may only incur expenditure on behalf of the Council if they have been granted a financial delegation by the CEO and this has been recorded in the Financial Delegations, as per Appendix 2 of this policy.

4. SOUND CONTRACTING PRINCIPLES

Council Officers must have regard to the following contracting principles in all procurement activities:

Value for Money

The concept of 'value for money' involves taking into account both costs and non-cost factors. The value for money assessment process will take account of the following:

- Contribution to the advancement of Council's priorities by:
 - Direct benefit of a supplier commitment to supporting local businesses and the local economy through sub-contracting and other supplier arrangements; and
 - Indirect benefit of a Stronger Local Economy (community support provided by local businesses, in particular their contribution to the advancement of Council's strategic priorities); and
- Suppliers knowledge, experience and ability; and
- Fitness for purpose (with specifications, guidelines and requirements), quality, readily available after sales service and support; and
- Internal administration costs; and
- Timeliness of supply; and
- Whole of life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing; and
- Risk exposure; and

- Environmental protection;
- Price; and
- All other factors relevant to consideration of a particular procurement request.

Obtaining value for money does not mean Council is obliged to accept the lowest price, but rather the one most advantageous to it having regard to the sound contracting principles. Not all of the above factors will be relevant to all procurement activity but all relevant factors are to be considered.

Wherever the lowest price is not accepted, a documented justification from the delegate will have to be provided.

Open and Effective Competition

All procurement activities are to be undertaken with the appropriate rigor and documentation to encourage and support supplier confidence through:

- Transparency of process and decision making; and
- Confidentiality of offers and security of information; and
- Documentation of all requests and evaluations for quotations, tenders and offers is to be maintained.
 - All prospective suppliers/vendors must be treated (and be seen to be treated) fairly in an open and transparent manner with the same access to information about the procurement to enable them to submit prices/quotations/tenders on the same basis.

Flinders Shire Council must adequately test the market in a consistent manner without any bias, or perception of bias, so that potential suppliers and the public have confidence in the outcome.

Development of Competitive Local Business and Industry

Flinders Shire Council encourages the development of competitive local business within the Shire. In order to enhance the capabilities of local business and industry, employees issuing invitations to suppliers must:

- Actively seek out potential local suppliers and encourage such suppliers to submit a bid where they are qualified and able to meet the necessary requirements; and
- Ensuring comparisons include freight costs to the delivery point; and
- Ensuring that purchases and projects are not structured to exclude local suppliers where possible; and
- Avoid non-standard technical requirements that local suppliers cannot meet where possible; and
- Ensure local suppliers are given equal opportunities to respond and are treated without prejudice; and
- Encourage local suppliers to do business with Flinders Shire Council.

In this policy a Local Supplier is a supplier which:

- Is beneficially owned and operated by persons who are residents and ratepayers of Flinders Shire; or
- Is a registered business or individual that has its principal place of business within the Flinders Shire; or otherwise
- Has a place of business within the boundaries of Flinders Shire and where possible, employs persons who are residents or ratepayers of the Flinders Shire.

Council may accept a tender or offer from a local supplier in preference to a comparable tender or offer from a non-local supplier even if the tender or offer from the non-local supplier has been assessed as more favourable in terms of one or more of the assessment criteria applied (including but not limited to price), so long as performance, quality, suitability and other evaluation criteria are comparable to that of other offers. The following factors may be considered in evaluating offers:

- Creation of new and/or maintenance of existing local employment opportunities.
- More responsive and readily available servicing support.
- More convenient communications.
- Assist local business to become more sustainable and ongoing.
- To assist local businesses to remain competitive.

- Economic growth within the local area.
- The benefit to Council of associated local commercial transactions.
- Community support provided by local businesses, in particular their contribution to the advancement of Council's strategic priorities.

The preference weighting to be applied as a guide to the quoted price is shown in the table below. These preference weightings can be applied to each procurement contract. These preference weightings can be applied by increasing the non-local supplier's price.

Contract Value	Local Preference Weighting/\$Amount	Maximum Cost
Up to \$200,000	10%	Capped at \$10,000
>\$200,000	10%	Council Resolution
Exceptional Cases	1.5%	

Wherever the lowest price is not selected the delegate must document the basis for the decision to go to a local supplier via the preference route.

In exceptional cases, where the procurement of a particular item results in a number of separate annual contracts the local preference weighting for Exceptional Cases is to be applied on each separate purchase.

Council seeks to engender strong competition at a local level for supply of goods and services and to maintain an active local economy with consequent community benefit by applying a major/minor rule to local suppliers where the bulk of supply will be based on competitive price, reliability, quality, timeliness of supply and all other relevant criteria; and a minority will be based on encouraging suppliers to earn more Council orders with more competitive pricing in the future.

ILLUSTRATION

Major Rule Supplier A – Highly competitive and is awarded most contracts.
Minor Rule Supplier B – Competitive to Highly competitive and is awarded some contracts.

- Supplier A has received several contracts to the value of \$600,000 during the year
- Supplier B has received one contract to the value of \$60,000
- A new contract is being awarded
 - Supplier A submits a price of \$84,600
 - Supplier B submits a price of \$85,000
- All other criteria assessed as being equal
- The contract may be awarded to Supplier B to retain competitive local business.

This approach to local contractors needs to be applied **sparingly and deliberately** – Council should feel comfortable that paying a higher price for supply will help keep local industry in the Flinders Shire, rather than propping up inefficient and uncompetitive business at the ratepayers cost.

Where the application of the Minor Rule occurs, the decision must be supported by documentation, such as a contract evaluation detailing the reasons why the contract is being awarded to Supplier B, the total contract value awarded to all relevant suppliers during the year and must be approved by a Director.

Environmental Protection

Council promotes environmental protection through its procurement activities by:

- Prevention or minimisation of waste; and
- Promote the use of recycled products and recycling; and
- Energy conservation in buildings and use of equipment; and
- Avoiding over ordering of quantities to avoid stock build-up, minimizing storage requirements and reducing possible obsolescence; and
- Maintain and improve environmental quality and safety; and

- Using environmentally-friendly products; and.
- in the context of whole-of-life value for money, select products and services which have lower environmental impacts across their life cycle compared to competing products and services; and
- foster a viable (Australian and New Zealand) market for sustainable products and services by supporting businesses and industry groups that demonstrate innovation in sustainability; and
- support suppliers to government who are socially responsible and adopt ethical practices.

Ethical Behaviour and Fair Dealing

Council Officers must behave with impartiality, fairness, independence, openness, integrity and professionalism in their discussions and negotiations with suppliers and their representatives.

Ethical Behaviour and Fair Dealing will be achieved by fulfilling the requirements of Council's Codes of Conduct by:

- Ensuring the Council and suppliers achieve accountability requirements; and
- Ensuring that procurement processes are transparent so that suppliers are seen to be treated equally by:
- Ensuring that officers involved in the procurement process avoid and/or declare, to their supervisor, any conflicts of interest or material personal interest, consistent with the Code of Conduct and the *Local Government Act 2009*.

5. COMPLIANCE WITH PROCUREMENT POLICY

Compliance with Council's Procurement Policy is mandatory. Any instances of non-compliance shall be brought to the attention of appropriate Manager and Director for remedial action. Appendix 1 contains examples of what constitutes policy breaches.

6. CONFLICT OF INTEREST

Any matter that may result in a conflict or perceived conflict of interest should be referred to the relevant Director and or Chief Executive Officer for an appropriate resolution as soon as the conflict arises.

All employees must perform their duties in a fair and unbiased way, ensuring that decisions made are not impacted by self-interest, private affiliations, or the likelihood of gain or loss for them or others that they may wish to benefit or disadvantage.

A conflict of interest occurs when private interests interfere, or appear to interfere with the performance of official duties.

Private interests include personal, professional or business interests, as well as the interests of individuals that you associate with, such as family, dependants and friends.

Conflicts of interest fall into three categories.

- Actual – there is a direct conflict between your current duties and your existing private interests.
- Potential – your duties and private interests could conflict in the future.
- Perceived – it could appear that your private interests could improperly influence the performance of your duties.

All procurements transactions with related persons must be notified immediately to the Director Corporate and Financial Services to provide for appropriate disclosure under AASB 124.

7. AGGREGATION

In order to be efficient, effective and achieve value for money Councils must practice aggregation. Where significant amounts are spent in aggregate on one supplier, or for one service, over time, it is possible to achieve greater savings by leveraging this aggregate spend, rather than treating each discrete arrangement as a separate procurement exercise, whether undertaken competitively or not.

8. ORDER SPLITTING

Council Officers are prohibited from splitting purchase orders to avoid financial procurement thresholds of quotes or in any way attempting to split the full purchase cost across different or multiple requisitions or budget items.

9. PROCUREMENT THRESHOLDS

Procurement may be undertaken by considering the sound contracting principles. Procurement of goods and services will be undertaken as follows and in accordance with the processes set out in the Procurement Procedure.

Purchases less than \$10 should be made using petty cash where possible. Where items are frequently required the officer should liaise with the Stores Supervisor to request the item be held in stores to reduce administrative costs in processing repeat orders.

Purchases expected to be worth less than \$5,000

Purchases expected to be worth less than \$5,000	
<\$1,000	At least one verbal or written quote (or estimate) is to be obtained, and recorded on the field requisition or purchase order where possible. Note: Purchases to be made from a local supplier where possible.
≥\$1,000 to <\$5,000	Where possible, a minimum of two (2) written quotes must be obtained and recorded, or provide evidence that two or more quotes have been sought. Verbal quotes may be accepted but they must be followed up with emailed or written verification. Note: At least one (1) quote shall be sought from a local supplier where possible. Where there is more than one (1) local supplier all should be considered.

Procurement may be undertaken by considering the sound contracting principles before making any decision and using any of the processes for exceptions for medium sized and large sized contracts set out in the regulations, including:

- Quote or tender consideration plan (Section 230 of the Regulations)
- Approved Contractor List (Section 231 of the Regulations)
- Pre-Qualified Suppliers (Section 232 of the Regulations)
- Preferred Supplier Arrangements (Section 233 of the Regulations)
- LGA Arrangement (Section 234 of the Regulations)
- Other Exceptions (Section 235 of the Regulations)

Purchases expected to be worth \$5,000 or more but less than \$15,000

Purchases expected to be \$5,000 or more but less than \$15,000	
≥\$5,000 to <\$15,000	<p>Where possible, a minimum of three (3) fully documented written quotes must be sought and recorded.</p> <p>Verbal quotes may be accepted but they must be followed up with emailed or written verification.</p> <p>Note: At least one (1) quote shall be sought from a local supplier where possible. Where there is more than one (1) local supplier all should be considered.</p>

Procurement may be undertaken by considering the sound contracting principles before making any decision and using any of the processes for exceptions for medium sized and large sized contracts set out in the regulations, including:

- Quote or tender consideration plan (Section 230 of the Regulations)
- Approved Contractor List (Section 231 of the Regulations)
- Pre-Qualified Suppliers (Section 232 of the Regulations)
- Preferred Supplier Arrangements (Section 233 of the Regulations)
- LGA Arrangement (Section 234 of the Regulations)
- Other Exceptions (Section 235 of the Regulations)

Purchases expected to be worth \$15,000 or more but less than \$200,000 in a financial year, or over the proposed term of the contractual arrangement

Procurement of this amount is considered to be a **medium-sized contractual arrangement**. Procurement should be undertaken using the default contracting procedures set out under Chapter 6 Part 3 Sections 224 (2), 225 of the *Local Government Regulation 2012*.

Purchases expected to be \$15,000 or more but less than \$200,000	
≥\$15,000 to <\$200,000	<p>At least three (3) written quotes are to be sought, where possible, and recorded.</p> <p>At this level it is mandatory under Chapter 6, Part 3 Section 225 of the <i>Local Government Regulation 2012</i> that a minimum of three written quotations, whenever possible, be sought from suppliers/providers which the Council considers can meet its requirements. Tenders may also be invited for the supply of goods/services, the value of which falls within this category if the Chief Executive Officer or officer so delegated is of the opinion that this course of action would be desirable.</p> <p>Note: At least one (1) quote shall be sought from a local supplier where possible. Where there is more than one (1) local supplier all should be considered.</p>

Procurement may be undertaken by considering the sound contracting principles before making any decision and using any of the processes for exceptions for medium sized and large sized contracts set out in the regulations, including:

- Quote or tender consideration plan (Section 230 of the Regulations)
- Approved Contractor List (Section 231 of the Regulations)
- Pre-Qualified Suppliers (Section 232 of the Regulations)
- Preferred Supplier Arrangements (Section 233 of the Regulations)
- LGA Arrangement (Section 234 of the Regulations)

- Other Exceptions (Section 235 of the Regulations)

Purchases expected to be worth \$200,000 or more in a financial year or over the proposed term of the contractual arrangement

Procurement of this size is considered to be a **large-sized contractual arrangement**. Procurement should be undertaken using the default contracting procedures set out under Chapter 6 Part 3 Section 224 (3), 226 and 228 of the *Local Government Regulation 2012*.

Purchases expected to be \$200,000 or more	
≥\$200,000*	Public tender required. Note: Subject to Exceptions under Section 229 to 235 of the Regulations.

Procurement may be undertaken by considering the sound contracting principles before making any decision and using any of the processes for exceptions for medium sized and large sized contracts set out in the regulations, including:

- Quote or tender consideration plan (Section 230 of the Regulations)
- Approved Contractor List (Section 231 of the Regulations)
- Pre-Qualified Suppliers (Section 232 of the Regulations)
- Preferred Supplier Arrangements (Section 233 of the Regulations)
- LGA Arrangement (Section 234 of the Regulations)
- Other Exceptions (Section 235 of the Regulations)

For purchases of \$200,000 or more that do not involve a Preferred Supplier Arrangement (Section 233 of the Regulations) or LGA (Section 235 of the Regulations) tenders must be sought in accordance with the *Local Government Regulation 2012*.

10. USE OF A PUBLIC NOTICE FOR PROCUREMENTS BELOW THE THRESHOLD

Council may undertake a public tender where the value of goods, services or works **does not** reach the threshold sums. These may be situations where a public tender is preferred or prudent, managing risk considerations are paramount, or there is a desire for greater transparency of the procurement. Sections 226 and 228 do not preclude Council's conducting tenders under the threshold amounts.

11. SEGREGATION OF DUTIES

The accounting functions of authorisation, custody and recording must be separated to minimise the opportunity or ability to commit fraud. The separation of assigned duties and responsibilities is necessary so that no single Officer can both perpetrate and conceal errors or irregularities.

12. SOLE SUPPLIER

Situations arise where there may only be a single supplier of a good or service who is capable of carrying out work. Often, however, the ability to access a competitive market will vary especially in the context of Flinders Shire Council's regional location.

The only transparent means of demonstrating that multiple suppliers do not exist is to place a public notice. If that action demonstrates that there is only one supplier then Council is free to enter into a contract with that supplier (mindful of its obligation to obtain value for money).

13. VARIATIONS

For the purpose of this policy, variation refers solely to a financial deviation from the original contract value. The contract can be a Council's purchase order or an agreement signed by a delegated Council Officer with a supplier or an external service provider/organisation. Other variations such as non-financial scope changes, extension of time etc. are to be managed and documented by the delegated Council Officers.

Variation procedures for contracts are as follows:

- Each variation can only be approved by a delegated Officer up to their authorised financial and contractual delegation;
- All variations are to be approved in writing by the delegated Officer; and
- Each variation requires an additional line item on the purchase order stated the change in scope and cost;
- Must be an approved budget item.

Variations should not exceed 15% of the original contract price. Variations, for contracts over \$200,000, in excess of 15% must be approved by Council.

14. PETTY CASH

Items with a value of less than \$10 to a maximum of \$200 should be made from Petty Cash. Purchasing expenditure in excess of \$200 must be processed in accordance with Council's Procurement Policy.

15. CREDIT CARD

Purchases up to \$4,000 may be made with a corporate credit card, as approved by the CEO or Director Corporate and Financial Services. No purchase order is required when using the corporate credit card. However an internal Recipient Created Tax Invoice must accompany the request and all credit card purchases must follow the policy requirements as above (quotes etc.). Relevant approval is to be sought prior to making the purchase.

Credit card purchases are not exempted from the requirement to seek quotations in ordinary circumstances. Where it is not possible to obtain a quotation, the reasons must be documented.

16. PURCHASE ORDERS

Official on-line purchase orders using Council's finance software are used for the majority of Council's purchasing requirements.

Council purchase orders must be authorised by officers with appropriate financial delegation. Financial delegations are set out in the appendix 2.

17. NON PURCHASE ORDERS

In certain instance purchase orders may not be required. Instances where purchase orders are not required are ongoing accounts such as fixed and mobile telephone, internet, utilities, subscriptions, vehicle registrations, employee reimbursements, medical examinations, pathology tests.

18. EXCEPTIONS

Exceptions to when a Council may enter into a medium or large-sized contractual arrangement without first inviting written quotes are listed under Division 3 Sections 229 to 235 of the *Local Government Regulations 2012*. The Exceptions are:

If quote or tender consideration plan prepared (Section 230)

1. Council may enter into a medium or large-sized contractual arrangement without first inviting written quotes or tenders if Council:
 - a. Decides by resolution, to prepare a quote or tender consideration plan; and
 - b. Prepares and adopts the plan.
2. A **quote or tender consideration plan** is a document stating:
 - a. The objectives of the plan; and
 - b. How the objectives are to be achieved; and
 - c. How the achievement of the objectives will be measured; and
 - d. Any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
 - e. The proposed terms of the contract for the goods or services; and
 - f. A risk analysis of the market from which the goods or services are to be obtained.

Contractor on Approved Contractor List (Section 231)

1. This section applies to a medium-sized contractual arrangement or a large-sized contractual arrangement for services.
2. Council may enter into the contract without first inviting written quotes or tenders if the contract is made with a person who is on an approved contractor list.
3. An approved contractor list is a list of persons who Council considers to be appropriately qualified to provide the services.
4. Council must put together the approved contractor list by:
 - a. Inviting expressions of interest from suitably qualified persons, by an advertisement in a newspaper that circulates generally in the local government area; and
 - b. Allowing expressions of interest to be given to the local government for at least 21 days after the invitation is advertised; and
 - c. Choosing persons for the approved contractor list on the basis of the sound contracting principles.

Register of Pre-Qualified Suppliers (Section 232)

1. This section applies to a medium-sized contractual arrangement or a large sided contractual arrangement for the supply of goods or services
2. A local government may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers that is made in compliance with subsections (3) to (6).
3. A local government may establish a register of pre-qualified suppliers of particular goods or services only if—
 - a. the preparation and evaluation of invitations every time the goods or services are needed would be costly; or
 - b. the capability or financial capacity of the supplier of the goods or services is critical; or
 - c. the supply of the goods or services involves significant security considerations; or
 - d. a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the local government; or
 - e. the ability of local business to supply the goods or services needs to be discovered or developed.
4. A local government must invite suppliers to tender to be on a register of pre-qualified suppliers.
5. The invitation must—
 - a. be made by an advertisement published in a newspaper that circulates generally in the local government area; and
 - b. allow tenders to be given to the local government for at least 21 days after the advertisement is published in the newspaper.

6. When selecting a supplier to be a pre-qualified supplier for the register, the local government must have regard to the sound contracting principles.
 - a. A **pre-qualified supplier** is a supplier who has been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

Preferred Supplier Arrangement (Section 233)

1. This section applies to a medium-sized contractual arrangement or large-sized contractual arrangement for goods or services if a local government—
 - a. needs the goods or services—
 - i. in large volumes; or
 - ii. frequently; and
 - b. is able to obtain better value for money by accumulating the demand for the goods or services; and
 - c. is able to describe the goods or services in terms that would be well understood in the relevant industry.
2. A local government may enter into a contract for the goods or services without first inviting written quotes or tenders if the contract is entered into with a preferred supplier under a preferred supplier arrangement that is made in compliance with subsections (3) to (8).
3. A local government must invite persons to tender for a preferred supplier arrangement.
4. The invitation to tender for a preferred supplier arrangement must—
 - a. be made by an advertisement in a newspaper that circulates generally in the local government area; and
 - b. allow tenders to be given to the local government for at least 21 days after the advertisement is published; and
 - c. describe the terms of the preferred supplier arrangement.
5. When selecting a person to be a preferred supplier under a preferred supplier arrangement, the local government must have regard to the sound contracting principles.
6. The local government must ensure the terms of the preferred supplier arrangement allow the contract to be cancelled for the poor performance of the preferred supplier.
7. A preferred supplier arrangement may be entered into for a term of more than 2 years only if the local government is satisfied the longer term will result in better value for the local government.
8. For subsection (7), the term of a preferred supplier arrangement includes any period provided for under the arrangement by which the term of the arrangement can be extended.

LGA Arrangement (Section 234)

1. A local government may enter into a contract for goods and services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.
2. An **LGA arrangement** is an arrangement that—
 - a. has been entered into by—
 - i. LGAQ Ltd; or
 1. See section 287 of the Act.
 - ii. a company (the **associated company**) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and
 - b. if LGAQ Ltd. or the associated company were a local government, would be either—
 - i. a contract with an independent supplier entered into under section 232 by LGAQ Ltd. or the associated company; or
 - ii. a contract with an independent supplier entered into under a preferred supplier arrangement under section 233.
3. An **independent supplier** is an entity other than a subsidiary (a **relevant subsidiary**) of LGAQ Ltd. or the associated company under the Corporations Act.
4. Despite subsection (2)(b), an **LGA arrangement** may include a contract with a relevant subsidiary from a register of pre-qualified suppliers or a preferred supplier arrangement with a relevant subsidiary if the arrangement is approved by the Minister.
5. For deciding whether to approve an LGA arrangement under subsection (4), the Minister—
 - a. must have regard to the sound contracting principles; and

- b. may ask LGAQ Ltd. or the associated company to give the Minister information or documents relevant to the arrangement.

Examples of relevant information or documents—

information or documents relating to assessment of the relevant subsidiary's suitability to be on the register of pre-qualified suppliers or the tender process for the preferred supplier arrangement information or documents relating to the potential impact of the arrangement on local government employees

Other Exceptions (Section 235)

1. A local government may enter into a medium-sized contractual arrangement or a large-sized contractual arrangement without first inviting written quotes or tenders if –
 - a. The local government resolves it is satisfied that there is only 1 supplier who is reasonably available; or
 - b. Council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the Council to invite quotes or tenders; or
 - c. A genuine emergency exists; or
 - d. The contract is for the purchase of goods and is made by auction; or
 - e. The contract is for the purchase of second-hand goods; or
 - f. The contract is made with, or under an arrangement with, a government agency.

Functional or Practical Exceptions under \$5,000

From time to time there will be transactions where the requirement to seek quotations is not operational, and does not fall under the exceptions above. Any purchases of this kind must have a valid reason for not seeking quotations. The types of transactions that would fall under this category are -

- a) Where there is only one supplier (Officers must clearly be able to demonstrate there is only one supplier);
- b) Specialised equipment;
- c) Where the use of a substitute may void the warranty;
- d) Operational repairs where investigation is required prior to subsequent repairs being undertaken. Sometimes it is not operational to seek quotations where diagnostic work is required. Examples might be where a pump breaks down and officers are required to call an electrician to fix the problem. Officers need to use their judgement as to which service provider is best placed to undertake the works and if the Officer has any doubts, should seek clarification.

19. EMERGENCIES

Council may enter into a contract, the value of which reaches the threshold amounts, for the provision of goods, services or works without first putting that contract to public tender if the council resolves that the contract must be entered into because of an emergency.

Council delegates to the CEO the power to declare that a contract must be entered into because of an emergency and thus avoid delays in responding to an emergency.

The Act does not define what constitutes an emergency situation. However, for the purposes of these guidelines the usual meaning of the term is used and an emergency should be taken to be a sudden or unexpected occurrence requiring immediate action.

As a matter of policy and principle, the use of this emergency provision, should be limited to situations where a real emergency has arisen. Situations where this might occur include:

- the occurrence of a natural disaster such as flooding, bushfire or epidemic which may require the immediate procurement of goods, services or works to provide relief
- the occurrence of an event such as flooding or fire at a council property which may require the immediate procurement of goods, services or works to ensure business continuity
- the unforeseen cessation of trading of a core service provider due to bankruptcy and a need to appoint a replacement service provider on the grounds of public safety
- any other situation which is liable to constitute a risk to life or property.

20. RELATED LEGISLATION

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Work Health and Safety Act 2011*
- *Public Sector Ethics Act 1994*
- *Crime and Corruption Act 2001*
- *Criminal Code*

21. ASSOCIATED DOCUMENTS

- *Procurement Procedure*
- *Employee Code of Conduct*
- *Disciplinary Policy*
- *Fraud and Corruption Prevention Policy*
- *Corporate Plan*
- *Operational Plan*
- *Gifts and Benefits Policy*
- *Delegation Register*

22. REVIEW TRIGGER

This policy must be reviewed annually or with change in legislation affecting this policy.

23. PRIVACY PROVISION

Council respects and protects people's privacy and collects, stores, uses and discloses personal information responsibly and transparently when delivering Council services and business.

24. APPROVAL

The latest approved copy of this policy is available in our website at the following hyperlink
<http://www.flinders.qld.gov.au/policies>

Adopted at the August 2021 Council Meeting - Resolution Number 3296.

APPENDIX 1 – Sample outline of Policy Breaches

The following list represents examples of common procurement practices that constitute a breach of this policy. This list is not intended to be exhaustive and provides guidance only.

- Procuring items without a purchase order – Subsequently creating or directing the creation of a purchase order after the invoice has been received. This example does not apply to utilities, legal fees, insurances etc. invoices, bank charges, loan payments and employee expense claims, which are legitimately processed without purchase orders.
- Requisition/Order splitting – Where the total value of a procurement transaction is broken into smaller pieces (“split”) to bring the value under a certain level, to remain within an officer’s delegation limit, or fall into a less rigorous procurement category.
- Invoice Splitting by Suppliers – Where the total value of the work of a supplier is expected to be above the payment frequency threshold or the line manager’s delegation of authority. Yet officers are complicit and signing off invoices for the supplier that can result in a more favourable outcome for the supplier/contractor than ought to have been the case if Council procedures had been followed as intended. This type of supplier preferential treatment is not in the public interest or demonstrated appropriate management of public funds.
- Failure to utilise stock, consumables and standardised equipment acquired by Council. In an attempt to achieve value for money and standardise equipment, Council aggregates common use items to the extent possible. Common use items may be acquired in bulk, such as stationery, for all employees to utilise on an as needed basis. Failure to use the items already procured by Council and acquire similar items to suit individual preferences represents unnecessary, inappropriate expenditure (irrespective of whether a budget exists for such items) and does not represent a legitimate business need.
- Inaccurate/inappropriate use of sole supplier provision – The use of the term “sole supplier” to justify procurement where an officer feels that there is only one qualified supplier in the market is inaccurate and inappropriate and fails to abide by the sound contracting principles within this policy. Sole supplier status can usually only be demonstrated by testing the market through request for quotations or tenders from various parties.
- Inaccurate/inappropriate use of “local buy” arrangements – Attributing the status of “local buy” to Council’s local business preference and failing to obtain quotations or tenders on the basis that Council is required to spread its procurement amongst the suppliers within the Flinders Shire Council. Failure to obtain the relevant numbers of quotes or seek tenders is in direct contravention of the Local Government Regulations 2012 and Council’s policy. The only legitimate mechanism Council has to obtain services in a Local Buy arrangement is from the LGAQ Local Buy service.
- Inappropriate use of “emergency” procurement provisions – Failure to adequately plan or schedule projects and procurement needs resulting in the inability to undertake formal tendering and quotations due to time pressure does not constitute “emergency” procurement. All emergency procurement must be retrospectively approved by Council; irrespective of the reason it was required.
- Historical or informal contracting arrangements – Ad hoc, informal or historical supplier arrangements that have developed over many years are a breach of this policy. All arrangements with suppliers must be contracted either through quotation or tender or satisfy the tests for exceptions detailed in the policy.
- Unauthorised or implicit contract extensions – Failure to track and renew contracts that have expired, whilst continuing to utilise the supplier’s services. All contracting arrangements entered by Council have expiry dates including preferred supplier and pre-qualified supplier arrangements. The expiry dates may be detailed within the contract or cease when a specific procurement activity or project is fulfilled.
- Knowingly creating inaccurate purchase orders - To generate a purchase order number simply to provide to a supplier and then amending/varying the purchase order at a later time to reflect the actual price on the invoice.

- Acceptance of low value gifts, promotional material, items of interest, giveaways, hospitality, loyalty bonuses, prizes, supplier events, free or discounted tickets etc – Could be perceived to engender favour or promote bias when inviting quotations or awarding contracts, irrespective of value, or when aggregated these items exceed the dollar thresholds for declaration in Council's Gifts and Interests register.

APPENDIX 2 – Financial Delegations by Position (Including GST)

Position	Delegation (Including GST)
Chief Executive Officer	Unlimited
Director Corporate and Financial Services	\$220,000
Director of Engineering	\$220,000
Director Community Services and Wellbeing	\$220,000
Finance Manager	\$55,000
Senior Civil Works Coordinator	\$55,000
Project Engineer	\$55,000
Senior Operational Works Coordinator	\$55,000
Community Care Coordinator	\$11,000
Senior Fleet Services Coordinator	\$11,000
Senior Advisor – Legal, Risk and Governance	\$11,000
Rural Lands Manager	\$11,000
Human Resources Manager	\$11,000
Environmental Health Officer	\$11,000
Road Maintenance Supervisor	\$11,000
Senior Safety Systems Coordinator	\$11,000
Community Services Coordinator	\$11,000
Building Supervisor	\$5,500
Road Construction Supervisor 1	\$5,500
Road Construction Supervisor 2	\$5,500
Concrete Supervisor 2	\$5,500
Water & Sewerage Supervisor	\$2,200
Parks & Gardens Supervisor	\$2,200