

RP-11 PROPOSED DEVELOPMENT OF A DRAFT REGIONAL PROCUREMENT PREFERENCE POLICY

Author: Natalie Te Pohe

Director: Natalie Te Pohe

Summary: To provide a recommendation to Council for officers to draft a Regional Procurement Preference Policy in response to resolution 19/326 from the 9 September 2019 Council meeting and subsequent workshop on 9 December 2019.

Recommendation

That Council:

- a request the General Manager, or their delegate to proceed with the development of a draft Regional Procurement Preference Policy that contains the following general components:
 - i applied to the region defined as being within the boundary of the Riverina Joint Organisation area.
 - ii applied to all procurement activities (both quotations and Tenders) \$50,000 and above.
 - iii all procurement activities \$50,000 and above are to have selection criteria developed similar to Tender activities including a Regional Content Selection Criteria
 - iv the Regional Content Selection Criteria must be no greater than 5% (so that it is not the determining factor in any procurement activity, and the appropriate weighting can still be provided for quality and price for example)
 - v that subject to public submissions and subsequent adoption, the impact of applying the Policy is to be reviewed after 12 months and reported back to Council in order to determine whether the Policy should continue or be rescinded

Report

This report provides a response to Council resolution 19/326 from the 9 September 2019 Council meeting, specifically part e being:

e conduct a Councillor workshop and receive a further report at a meeting in January 2020 regarding the option of implementing a regional price preference policy.

History and Discussions to Date

There have been several discussions in relation to establishing a local preference policy for Council prior to the current active resolution including:

Date	Matter
31 January 2011	Notice of Motion and a draft Local Preference Policy considered by Council – requested a further report

18 February 2011	Legal advice received in relation to the draft Policy
28 March 2011	Council resolved not to proceed
15 February 2016	Workshop with Councillors to discuss a Local Preference Policy and building resilience in local suppliers. No consensus on proceeding with a Policy

While there was an initial workshop with Councillors held on 9 December 2019 to discuss the potential of developing a Regional Procurement Preference Policy, Council has resolved not to proceed with this activity in the past. Officers are therefore requesting a Council resolution prior to proceeding with the development of a Policy, and to ensure consistency with the 9 September resolution of Council.

During the workshop with Councillors held on 9 December 2019, it was highlighted that the during 2017/18, Council's approximate expenditure (based on purchase orders raised and a review of contracts) demonstrated 77% (\$46.140M) was made in regional and local NSW (where an office was present). This is highlighted in Table A below:

Table A

State/Territory	Total	Regional	Local	Other	Total	Regional	Local	Other
New South Wales	49,761	14,017	26,037	9,707	82%	23%	43%	16%
Victoria	7,145	4,548	-	2,597	12%	8%	0%	4%
Queensland	2,519	501	1,036	982	4%	1%	2%	2%
Australian Capital Territory	814	-	-	814	1%	0%	0%	1%
South Australia	110	-	-	110	0%	0%	0%	0%
Western Australia	27	-	-	27	0%	0%	0%	0%
Tasmania	101	-	-	101	0%	0%	0%	0%
Northern Territory	3	-	-	3	0%	0%	0%	0%
	60,481	19,067	27,073	14,341	100%	32%	45%	24%

Such a large spend within the region is not generally seen when compared to some other councils, and is a positive outcome. It is therefore unclear as to whether the community would see the development of such a Policy as a benefit or a hindrance. In considering whether to proceed with the development of a Procurement Preference Policy and what parameters may be contained within such a Policy, some of the advantages and disadvantages were discussed:

Potential Advantages

- developing local businesses
- assists to deliver local economic growth by retaining spend within the area
- assists creating or retaining employment opportunities
- strengthens business relationships

Potential Disadvantages

- can impact on competition (some businesses outside the area may not submit to a Request for Quote/Tender) which can also lessen the drive of a business to contain costs
- adds a layer of bureaucracy in determining what inputs of an offer are classed as local/regional and those that are not
- potential increased costs to Council and the community to deliver the same services and infrastructure
- possible contravention of the *Competition and Consumer Act 2010* (formerly the *Trade Practices Act 1974*) established by the Federal Government (unlikely unless the Policy is designed to significantly reduce competition)
- increased risk of negative perceptions forming about the probity of council practices and conflicts of interest for staff and councillors.

Options for Parameters

There are numerous options for parameters that require definition, with Attachment 1 highlighting some of the differences between councils across Australia. It should be noted that each of the documents listed in Attachment A are public and available on the respective council websites. In relation to the possible parameters, the following were discussed:

- *Local or Regional and how to define*

The Policy may apply only locally in order to support the Wagga Wagga Local Government Area, or it could have expanded parameters and define a Regional Area. While this could be determined by the RDA – Riverina Region, it could also be determined as the Riverina Joint Organisation area, and given Wagga Wagga is an associate member of the Canberra Joint Organisation, it could be expanded to this area also.

While the above options were discussed, during the workshop, most Councillors indicated that if a Policy were to be developed, that it be applied regionally to the area defined by the Riverina Joint Organisation whereby the member councils are: Bland, Coolamon, Cootamundra-Gundagai, Greater Hume, Junee, Lockhart, Temora, and Goldenfields Water and Riverina Water County Councils.

- *Regional Content Definition*

If a Policy were to be developed it's proposed that Regional Content be defined as goods or services procured from a supplier or employees living permanently within the defined Riverina Joint Organisation Region. Note that this could be restricted to only those suppliers or employees living permanently in the Wagga Wagga Local Government Area, however supporting regional neighbours is important in the context of Wagga Wagga operating in a hub and spoke model for many services and trying to support economic growth across the region.

- *Regional Supplier Definition*

If a Policy were to be developed it's proposed that Regional Supplier be defined as a business, contractor or industry:

- a. Either permanently based in, or employing staff operating from permanent premises situated within the Riverina Joint Organisation Region (noting that

- this would be defined as the region containing the member Councils outlined above) for not less than six (6) months prior to the date of the Procurement Request, and
- b. Registered or licensed in New South Wales.

Part b would need to be further defined to resolve the potential for not providing a preference when a local office exists. As an example, one supplier that Council utilise have their registered office (as determined by the Australian Securities and Investments Commission (ASIC)) in metropolitan Sydney, their postal address on invoices is for a location in Melbourne and yet they have a local office established. If a Policy is resolved to be drafted, the intent of officers would be to provide a preference to a business, irrespective of size, if there is an office located in the defined region and this can be evidenced in some way.

- *Percentage Price Discount for Assessment Purposes*

There are numerous options that could be applied:

- a. Council could apply both a local and a regional content and supplier definition and scale the discount; or
- b. The discount could be scaled according to the purchase amount;
- c. There is an option to include a maximum discount amount; and
- d. Council could only apply a price discount if all qualitative assessment scores were equal.

There are other factors to consider in implementing a percentage price discount such as the requirement to set aside funds in a Reserve so as not to impact the project costs if the procurement activity is awarded overall based on price. Another consideration would be to ensure that there is transparency in the use of such a Policy and incorporating the cost of such a price discount as part of the Council resolution so that the community can see the impact. There is also the option for the reporting of the cost of the Policy impact in the Annual Report.

During discussions with officers at Port Macquarie-Hastings, it was interesting to note that while they have a Local Preference Policy, in the last two years, there would not have been a different outcome in any of the procurement activities awarded.

Officers believe that a percentage price discount for assessment purposes contains more disadvantages and risks for the region than it does provide advantages and are therefore not recommending to incorporate a price discount if a draft Policy is to proceed. This was generally supported during the workshop.

- *Regional Content Selection Criteria*

For procurement activities undertaken by Council, a regional content weighting may be incorporated into the selection criteria. Regional content may include such things as:

- a. Creation of local employment opportunities
- b. More readily available servicing support
- c. Economic growth within the region
- d. Contributions to the regional area

It would be a requirement of the supplier to demonstrate their regional content as part of the procurement process being undertaken. Discussions were then had as to what levels this could realistically be applied to from an operational perspective and whether

it should be included in Tenders only, or whether it was to be included in quotation processes also. Currently, the Procurement Team are generally involved in most procurement activities that exceed \$50,000. Many of those at a lesser value are managed by the respective officers, with the Procurement Team only being involved once the purchase requisition is raised. This process will modify with the introduction of the e-Procurement solution whereby Procurement Team will no longer see all purchase requisitions prior to them being finalised as an order, making it more difficult for there to be oversight of the assessment of Regional Content.

In summary, officers are therefore proposing that if a draft Policy is to be developed, that it contains the following general components:

- Applied to the region defined as being within the boundary of the Riverina Joint Organisation area.
- Applied to all procurement activities (both quotations and Tenders) \$50,000 and above.
- All procurement activities \$50,000 and above are to have selection criteria developed similar to Tender activities including a Regional Content Selection Criteria.
- The Regional Content Selection Criteria must be no greater than 5% (so that it is not the determining factor in any procurement activity, and the appropriate weighting can still be provided for quality and price for example).
- That subject to public submissions and subsequent adoption, the impact of applying the Policy be reviewed after 12 months and reported back to Council in order to determine whether the Policy should continue or be rescinded.

Financial Implications

While the development of a draft Policy contains no financial implications, the final components of the Policy adopted by Council, will determine if there may be financial implications when implemented.

Policy and Legislation

The OLG Tendering Guidelines in relation to Local Preference Policy – Attachment 2.

The ACCC guidelines regarding the misuse of market power – Attachment 3.

Link to Strategic Plan

Growing Economy

Objective: We are a Regional Capital

Outcome: We attract and support local businesses and industry

Risk Management Issues for Council

The risks to Council will be determined by the details of the proposed Policy, however the intent of officers is to minimise any risk imposed, hence the suggestion not to include a Price Preference for assessment purposes in a draft Policy for example.

Internal / External Consultation

A workshop was undertaken on 9 December 2019 with the following Councillors in attendance:

Mayor Greg Conkey
Deputy Mayor Dallas Tout
Cr Yvonne Braid
Cr Rod Kendall
Cr Tim Koschel
Cr Kerry Pascoe
Cr Dan Hayes
Cr Vanessa Keenan

Initial discussions have also been held with the President of the Wagga Wagga Business Chamber concerning the Local Government Procurement Toolkit that has been developed by the NSW Small Business Commissioner, and also in relation to the community education that Council intends to roll out during 2020. While it is early in the engagement process, the initial meeting was positive and will continue. Discussions will also be undertaken with appropriate representatives from the First Nations People.

Attachments

1. Comparison of Local Preferences
2. Extract from OLG Tendering Guidelines
3. ACCC Guidelines on Misuse of Market Power