

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT (ACCOUNTING) AMENDMENT REGULATIONS 2012

Subordinate Legislation No. 6 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 6 of 2012*

Local Government (Accounting) Amendment Regulations 2012

I, Sally Gordon Thomas, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Local Government Act*.

Dated 31 January 2012

S. G. THOMAS
Administrator

By Her Honour's Command

K. VATSKALIS
Minister for Health
acting for
Minister for Local Government

* Notified in the *Northern Territory Government Gazette* on 8 February 2012.

1 Citation

These Regulations may be cited as the *Local Government (Accounting) Amendment Regulations 2012*.

2 Regulations amended

These Regulations amend the *Local Government (Accounting) Regulations*.

3 Regulation 2 amended

Regulation 2

insert (in alphabetical order)

collective procurement agreement, for Part 13, Division 2, see regulation 30A.

entity, for Part 13, Division 2, see regulation 30A.

procurement group, for Part 13, Division 2, see regulation 30A.

tender committee, for Part 13, Division 2, see regulation 30A.

4 Part 13, Division 1 heading inserted

After Part 13, heading

insert

Division 1 General requirements

5 Regulation 29 amended

(1) Regulation 29(1), after "notice"

insert

published in a newspaper circulating in the council's area

(2) After regulation 29(1)

insert

(1A) The notice must contain a statement to the effect that notice of the successful tender will be published on the council's website.

(3) Regulation 29(3) and (4)

omit, insert

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- (3) If a council accepts a tender for the provision of supplies to the council at a cost of more than \$100 000, it must:
- (a) accept the tender by written notice to the person who submitted the successful tender; and
 - (b) give notice of the successful tender:
 - (i) in writing to each other person who submitted a tender; and
 - (ii) by publishing the notice on the council's website.
- (4) Notice for subregulation (3)(b) must include:
- (a) the name of the person who submitted the successful tender; and
 - (b) the supplies to be provided; and
 - (c) the tender price.

6 Regulation 30 amended

- (1) Regulation 30(2), after "Subject to"
- insert*
- subregulation (3) and
- (2) Regulation 30(2)
- omit*
- the Commonwealth, the Territory or a State is a party.
- insert*
- any of the following is a party:
- (a) the Territory;
 - (b) the Commonwealth;
 - (c) a State or another Territory;
 - (d) another council;
 - (e) a local government subsidiary;
 - (f) LGANT.

(3) After regulation 30(2)

insert

(3) Subregulation (2)(d), (e) and (f) apply only if:

- (a) obtaining the supplies under the particular contract has been authorised by resolution of the council; and
- (b) notice of the resolution has been published on the council's website.

7 Part 13, Division 2 inserted

After regulation 30, in Part 13

insert

Division 2 Collective procurement

30A Definitions

In this Division:

collective procurement agreement, see regulation 30B(2).

entity means any of the following:

- (a) a council;
- (b) a local government subsidiary;
- (c) LGANT.

procurement group, see regulation 30B(1).

tender committee, means the committee provided for in the collective procurement agreement under regulation 30C(1)(e).

30B Collective procurement

- (1) Two or more entities that propose to obtain supplies may form a group (a ***procurement group***) to act collectively for the purpose of obtaining the supplies.
- (2) Before commencing to act as a procurement group, the entities in the group must enter into a written agreement (a ***collective procurement agreement***) setting out the arrangements for the collective procurement by the group.

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- (3) If a procurement group complies with this Division in relation to obtaining supplies, a council that is in the group is not required to separately comply with Division 1 in relation to obtaining those supplies.

30C Collective procurement agreement

- (1) A collective procurement agreement must set out:
- (a) the entities that constitute the group; and
 - (b) the supplies that are to be obtained; and
 - (c) which of the entities in the group is to be the lead entity for the group; and
 - (d) any matters required for regulation 30D(2)(b); and
 - (e) for regulation 30D(3) – the individuals who are to constitute the group's tender committee; and
 - (f) multiple contract arrangements; and
 - (g) partial acceptance arrangements; and
 - (h) the decision making process for acceptance of quotations or tenders for the group will be made, including any variations in that process necessary to accommodate the group's multiple contract arrangements and partial acceptance arrangements; and
 - (i) how administrative and other costs associated with the collective procurement are to be allocated between the members of the group; and
 - (j) the process for settling disputes between the entities in the group about the collective procurement; and
 - (k) the process by which the agreement may be terminated.

Examples for subregulation (1)(h)

Whether the decision to accept a quotation for the group is to be made by the lead entity on behalf of the group, by unanimous agreement of all entities in the group, by majority vote of the entities in the group, or in some other way.

- (2) For subregulation (1)(e):
- (a) the committee must include at least one person representing each entity in the group; and

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- (b) the person representing a council must be a member of the council or a member of the council's staff designated by the council for that purpose; and
 - (c) a member of the committee may be identified by name or as the person from time to time holding or occupying a named office, designation or position.
- (3) For subregulation (1)(f), **multiple contract arrangements** are arrangements as to whether the members of the group will consider quotations or tenders for the provision of supplies:
- (a) only under a single contract entered into by all members of the group; or
 - (b) only under separate contracts entered into by each member of the group; or
 - (c) under either a single contract or separate contracts.
- (4) For subregulation (1)(g), **partial acceptance arrangements** are arrangements as to:
- (a) whether a quotation or tender received by the group may be accepted by some but not all of the entities in the group; and
 - (b) if a quotation or tender may be accepted by some but not all entities:
 - (i) the amount or proportion of supplies being sought that relate to each entity in the group; and
 - (ii) what variation in the quotation or tender price will be allowed in the event of partial acceptance.
- (5) A copy of the collective procurement agreement must be made available to a prospective supplier or tenderer on request.

30D Collective procurement procedure

- (1) The following provisions apply in relation to the obtaining of supplies by a procurement group as if the group were a council:
- (a) regulation 28;
 - (b) regulation 29, other than subregulation (2);
 - (c) any other provision of the Act imposing requirements in relation to quotation or tendering procedures for a council.

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- (2) Subject to subregulation (4), the group's functions under those provisions must be exercised:
 - (a) by the lead entity on behalf of the group; or
 - (b) if the collective procurement agreement provides for a function to be exercised in a different way – in the way provided in the agreement.
 - (3) If the procurement group is required to call for tenders for a contract, a tender received in response to the call may only be opened in the presence of at least 3 members of the group's tender committee.
 - (4) The decision as to which (if any) quotation or tender is accepted must be made in accordance with the collective procurement agreement.

8 Part 15 inserted

After regulation 34

insert

Part 15 Transitional matters for Local Government (Accounting) Amendment Regulations 2012

35 Notification of current tenders

- (1) This regulation applies if:
 - (a) public notice calling for a tender was published under regulation 29(1) before the commencement of the *Local Government (Accounting) Amendment Regulations 2012*; and
 - (b) as at that commencement, public notice of the successful tender had not been published under regulation 29(3).
- (2) Regulation 29 as in force immediately before the commencement of the *Local Government (Accounting) Amendment Regulations 2012* continues to apply in relation to the tender as if regulation 5 of those regulations had not commenced.