



<b>POLICY NO</b>	CP/FIN-3217	
<b>POLICY</b>	<b>Regional Price Preference</b>	
<b>RESPONSIBLE DIRECTORATE</b>	Corporate Services	
<b>RESPONSIBLE OFFICER</b>	Director Corporate Services	
<b>COUNCIL ADOPTION</b>	Date: 30/08/2016	Resolution No: 11466
<b>REVIEWED/MODIFIED</b>	Date:	Resolution No:
	Date:	Resolution No:
<b>REVIEW DUE</b>	Date: August 2017	
<b>LEGISLATION</b>	<ol style="list-style-type: none"> <li>1. Local Government Act 1995 – Sections 3.57, 5.41</li> <li>2. Local Government (Functions and General) Regulations 1996 – Part 4A – Regional Price Preference</li> <li>3. State Records Act 2000</li> </ol>	
<b>RELATED POLICIES</b>	<ol style="list-style-type: none"> <li>1. RM1 – Records Management</li> <li>2. CP/FIN-3204 Purchasing</li> </ol>	
<b>RELATED PROCEDURES</b>	<ol style="list-style-type: none"> <li>1. Code of Conduct for Council Members, Committee Members and Employees</li> <li>2. Audit (Finance and Risk) Committee Terms of Reference</li> <li>3. Organisational Directive – Purchasing Process (currently being developed)</li> </ol>	

## 1. PURPOSE:

The purpose of this policy is to promote and support local businesses and the community by giving preferential consideration to Regional Businesses when considering the provision of goods and services via tender and quotation.

## 2. DEFINITIONS:

**Prescribed Area** is the Shire of Wyndham East Kimberley.

**Regional Business Preference** is defined as an incentive for businesses located with the Prescribed Area.

**Regional Price Preference** is defined as the willingness to pay a higher price for the procurement of goods and/or services that are supplied by a Regional Business.

**Regional Quoter** (also referred to as a **Regional Business**) is a business that submits a quotation and meets the following condition:

- (a) A permanent office in the Prescribed Area for at least six (6) months prior to the closing date of quotations.

**Regional Tenderer** (also referred to as a **Regional Business**) is a business that submits a tender and meets the following condition:

- (a) A permanent office in the Prescribed Area for at least six (6) months prior to the closing date of tenders.

### 3. POLICY STATEMENTS:

#### 3.1 Regional Business Preference

This preference enables businesses within the Prescribed Area to claim a price preference for their whole bid, regardless of the origin of the labour or materials, as all labour and materials are deemed to be regional content.

The preference will apply to all quotations of \$10,000 or greater, and all tenders invited by the Shire of Wyndham East Kimberley.

To qualify as a Regional Business, a business must meet the following conditions:

- (a) A permanent office in the Prescribed Area for at least six (6) months prior to the closing date of tenders/quotations.
- (b) The Regional Business is required to provide written evidence within the quotation/tender submission which demonstrates compliance with 3.1(a).

The price of the bids from the Regional Business will be reduced (for evaluation purposes only), by the amounts set out in section 3.2 of this policy.

#### 3.2 Price Preference

Preference will be given to a Regional Business by assessing their submission as if the price bids were reduced by:

- (a) 5% (up to a maximum price reduction of \$25,000) for goods and/or services; or
- (b) 2.5% (up to a maximum price reduction of \$25,000) for construction (building) services; or
- (c) 5% (up to a maximum price reduction of \$25,000) for goods and/or services (including construction (building) services) if tenders/quotations are being sought for the first time for goods or services currently undertaken by Council.

#### 3.3 Value for Money

Whilst price is a competitive consideration in the provision of goods and/or services via quotation/tender, it is only one aspect of the evaluation process. Value for Money principles, as described within *CP/FIN-3204 Purchasing*, will be employed by assessing the price component in conjunction with the quotation/tender selection criteria and requirements.

### 4. EXPLANATORY NOTES

#### 4.1 Example of the Application of the Regional Price Preference Policy

##### Example 1

Consider a scenario where the following two tenders, to supply goods or services, are received by a local government that has chosen a 5% rate of preference.

- Tender 1 is from a Regional Business (as defined by the Council in its policy).
- Tender 2 is from a metropolitan based firm and uses goods and services sourced from the metropolitan area.

Tenders Received	Price of Tender	Price Reduction at 5% Rate of Preference	Adjusted Price for Evaluation Purposes
Tender 1	\$170,000	\$8,500 (5% of \$170,000)	\$161,500 (\$170,000 – \$8,500)
Tender 2	\$163,000	No preference applicable	\$163,000

As can be seen from the table, in terms of price, the tender from the Regional Business (Tender 1) is the most advantageous once the preference has been applied.

## **4.2 Legislation**

In February 2000, the *Local Government (Functions and General) Regulations 1996* were amended to allow non-metropolitan local governments to offer a price preference to regional suppliers when deciding which Tender to accept. A price preference can only be applied if a local government authority has adopted a regional price preference policy.

### **Local Government (Functions and General) Regulations 1996 Part 4A**

#### **24A. Application of this Part**

*The provisions of Part 4 may be varied in accordance with this Part, if the local government is located outside the metropolitan area and intends to give a regional price preference in accordance with this Part.*

#### **24B. Terms used**

(1) *In this Part —*

*regional price preference, in relation to a tender submitted by a regional tenderer, involves assessing the tender as if the proposed tender price were discounted in accordance with regulation 24D;*

*regional tenderer means a supplier of goods or services who satisfies the criteria in subregulation (2).*

(2) *A supplier of goods or services who submits a tender is regarded as being a regional tenderer for the purposes of this Part if —*

- (a) *that supplier has been operating a business continuously out of premises in the appropriate region for at least 6 months before the time after which further tenders cannot be submitted; or*
- (b) *some or all of the goods or services are to be supplied from regional sources.*

#### **24C. Regional price preference may be given**

*A local government located outside the metropolitan area may give a regional price preference to a regional tenderer in accordance with this Part.*

#### **24D. Discounts permitted for regional price preferences**

(1) *A preference may be given to a regional tenderer by assessing the tender from that regional tenderer as if the price bids were reduced by —*

- (a) *up to 10% — where the contract is for goods or services, up to a maximum price reduction of \$50 000; or*
- (b) *up to 5% — where the contract is for construction (building) services, up to a maximum price reduction of \$50 000; or*
- (c) *up to 10% — where the contract is for goods or services (including construction (building) services), up to a maximum price reduction of \$500 000, if the local government is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by the local government.*

(2) *Although goods or services that form a part of a tender submitted by a tenderer (who is a regional tenderer by virtue of regulation 24B(2)(b)) may be —*

- (a) *wholly supplied from regional sources; or*

- (b) *partly supplied from regional sources, and partly supplied from non-regional sources,*

*only those goods or services identified in the tender as being from regional sources may be included in the discounted calculations that form a part of the assessments of a tender when a regional price preference policy is in operation.*

- (3) *Despite subregulation (1), price is only one of the factors to be assessed when the local government is to decide which of the tenders it thinks would be most advantageous to that local government to accept under regulation 18(4).*

**24E. Regional price preference policies for local governments**

- (1) *Where a local government intends to give a regional price preference in relation to a process, the local government is to —*
  - (a) *prepare a proposed regional price preference policy (if no policy has yet been adopted for that kind of contract); and*
  - (b) *give Statewide public notice of the intention to have a regional price preference policy and include in that notice —*
    - (i) *the region to which the policy is to relate; and*
    - (ii) *details of where a complete copy of the proposed policy may be obtained; and*
    - (iii) *a statement inviting submissions commenting on the proposed policy, together with a closing date of not less than 4 weeks for those submissions;*

*and*

  - (c) *make a copy of the proposed regional price preference policy available for public inspection in accordance with the notice.*
- (2) *A regional price preference policy may be expressed to be —*
  - (a) *for different regions in respect of different parts of the contract, or the various contracts, comprising the basis of the tender;*
  - (b) *for different goods or services within a single contract or various contracts;*
  - (c) *for different price preferences in respect of the different goods or services, or the different regions, that are the subject of a tender or tenders (subject to the limits imposed by regulation 24D),*

*or for any combination of those factors.*

- (3) *A region specified under this Part —*
  - (a) *must be (or include) the entire district of the local government; and*
  - (b) *cannot include a part of the metropolitan area.*
- (4) *A policy cannot be adopted by a local government until the local government has considered all submissions that are received in relation to the proposed policy and, if that consideration results in significant changes to the proposed policy, then the local government must again give Statewide public notice of the altered proposed regional price preference policy.*

**24F. Adoption and notice of regional price preference policy**

- (1) *A policy cannot be adopted by a local government until at least 4 weeks after the publication of the Statewide notice of the proposed policy.*
- (2) *An adopted policy must state —*

- (a) *the region or regions within which each aspect of it is to be applied; and*
  - (b) *the types and nature of businesses that may be considered for each type of preference; and*
  - (c) *whether the policy applies to —*
    - (i) *different regions in respect of different parts of the contract, or the various contracts, comprising the basis of the tender;*
    - (ii) *different goods or services within a single contract or various contracts;*
    - (iii) *different price preferences in respect of the different goods or services, or the different regions, that are the subject of a tender or tenders,*
- or to any combination of those factors.*
- (3) *An adopted policy cannot be applied until the local government gives Statewide notice that it has adopted that policy.*
  - (4) *The local government is to ensure that a copy of an adopted regional price preference policy is —*
    - (a) *included with any specifications for tenders to which the policy applies; and*
    - (b) *made available in accordance with regulation 29 of the Local Government (Administration) Regulations 1996.*

**24G. Adopted regional price preference policy, effect of**

*A local government that has adopted a regional price preference policy in relation to a certain type of contract may choose not to apply that policy to a particular tender in the future for a contract of that type but, unless it does so, the policy is to apply to all like tenders.*

**RISK:**

**Risk:** Inability to fund the infrastructure gap.

**Control:** Develop LTFP to ensure critical assets maintained in Annual Budgets.

**Risk:** Inability to deliver levels of service expected by the community.

**Control:** Current budget and service levels.

**Risk:** Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

**Control:** Review policies and procedures in accordance with review schedule.