

LG302*

Local Government Act 1995

Local Government (Functions and General) Amendment Regulations 2000

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Local Government (Functions and General) Amendment Regulations 2000*.

2. The regulations amended

The amendments in these regulations are to the *Local Government (Functions and General) Regulations 1996**.
[* Published in Gazette 26 June 1996, pp. 2771-97.
For amendments to 14 January 2000 see 1998 Index to
Legislation of Western Australia, Table 4, pp. 191-2.]

3. Regulation 3 repealed

Regulation 3 is repealed.

4. Regulation 11 amended

After regulation 11(2)(b) the following paragraph is inserted —

“

- (ba) the local government intends to enter into a contract arrangement for the supply of goods or services where —
 - (i) the supplier is either —
 - (I) an individual whose last employer was the local government; or
 - (II) a group, partnership or company comprising at least 75% of persons whose last employer was that local government;
 - (ii) the contract —
 - (I) is the first contract of that nature with that individual or group; and
 - (II) is not to operate for more than 3 years;

and

- (iii) the goods or services are —
- (I) goods or services of a type; or
 - (II) (in the opinion of the local government) substantially similar to, or closely related to, goods or services of a type, that were provided by the individual (or persons) whilst employed by the local government;

”.

5. Part 4A inserted

After Part 4 the following Part is inserted —

“

Part 4A — Regional price preference

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. Interpretation

- (1) In this Part —

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

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

- (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. Price percentage within which preference may be given

- (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;
 - (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. Preparation of policy

- (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);
 - (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;

- (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 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 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;
 - (b) the types and nature of businesses that may be considered for each type of preference;
 - (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 that are the subject of a tender or tenders, or to any combination of those factors; and
 - (d) any other factors that the local government may take into account when considering whether a preference is to be given.
- (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 policy applies

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.

”.

6. Regulation 29 amended

- (1) After regulation 29(1) the following subregulation is inserted —

“

- (1a) A contravention of a regulation or local law made under the Act can lead to the impounding of goods that are animals (if they are involved in the contravention) whether or not the contravention takes place in a private or a public place.

”.

- (2) Regulation 29(2) is amended after “subregulation (1)” by inserting —

“ or (1a) ”.

7. Regulation 30 amended

Regulation 30 is amended as follows:

- (a) after paragraph (d) by deleting “or”;

- (b) after paragraph (e) by deleting the full stop and inserting —
- “
- (f) it is the leasing of land to a “medical practitioner” (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or
- (g) it is the leasing of residential property to a person.

- (c) after subregulation (1) by inserting the following subregulations —

- “
- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —
- (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or
- (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable.
- (2b) Details (*see section 3.58(4) of the Act*) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

8. Regulation 32A inserted

After regulation 32 the following regulation is inserted —

32A. Excluded “authorizations” — s. 9.2

- (1) The following are excluded from being authorizations for the purposes of the definition of “authorization” in section 9.2 —
- (a) an authority to carry out private works on local government property;
- (b) an authority allowing the use of local government land or premises, or the use of local government goods or equipment.
- (2) Despite subregulation (1), an authority set out in paragraph (a) or (b) of that subregulation is to be regarded as an “authorization” under section 9.2 if —
- (a) a local law, or regulation that is to operate as if it were a local law, states that a decision in

relation to that authority is one to which Division 9 of the Act applies and that a person specified in it is an affected person for the purposes of that Division; or

- (b) a person has —
- (i) by virtue of that authority, a reasonable expectation of the enjoyment (or the continued enjoyment) of a right or interest conferred by that authority; or
 - (ii) by virtue of the usual circumstances surrounding the grant of an authority of that type, a reasonable expectation of successfully applying for the right or interest conferred by that authority.

”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
