

RECENT AMENDMENTS TO *LOCAL GOVERNMENT REGULATION 2012* AFFECT CONTRACTING AND PROCUREMENT THRESHOLDS

JANUARY 2014

On 6 December 2013, Queensland Parliament adopted the *Local Government Amendment Regulation (No. 4) 2013* ("Amendment Regulation"), which amended the *Local Government Regulation 2012* ("LG Reg") and *City of Brisbane Regulation 2012*.

The most significant change introduced by the Amendment Regulation is to the definition of a medium-sized and large-sized contractual arrangement in s. 224 of the LG Reg. These changes came into effect on 1 January 2014.

Prior to the amendments, a contractual arrangement for which quotes or tenders needed to be sought were:-

- contractual arrangements with an actual or expected value of \$15,000.00 or more, but less than \$200,000.00 (GST exclusive) **in a financial year** (medium-sized contractual arrangements); or
- contractual arrangements with an actual or expected value of \$200,000.00 or more (GST exclusive) **in a financial year** (large-sized contractual arrangements).

Additional wording has now been added to s. 224 of the LG Reg so that:-

- a medium-sized contractual arrangement is a contractual arrangement with a supplier that is expected to be worth, exclusive of GST, \$15,000.00 or more but less than \$200,000.00 in a financial year, **or over the proposed term of the contractual arrangement**;
- a large-sized contractual arrangement is a contractual arrangement with a supplier that is expected to be worth, exclusive of GST, \$200,000.00 or more in a financial year, **or over the proposed term of the contractual arrangement**.

Prior to 1 January 2014, a local government that sought to enter into a contract for the supply of goods and services with a value of \$10,000.00 per annum for a period of 5 years was not required to seek quotes, as the contract fell below the \$15,000.00 per-financial-year threshold for a medium-sized contractual arrangement.

Now, the wording of the legislation looks at the aggregate value of the contract for the entire term. The contract in the above example will now be considered a medium-sized contractual arrangement with an expected value of \$50,000.00. If the above contract were to be entered into now, the local government would be required to seek quotes.

These proposed amendments are likely to affect many contracts that a local government may not have ordinarily sought quotes or tendered for.

The Amendment Regulation also:-

- closes a loophole in s. 232(2) of the LG Reg by requiring local governments to tender for the register of pre-qualified suppliers, as they are required to tender for preferred supplier arrangements;
- clarifies that a "contract for the supply of goods or services" includes a contract about carrying out work.

These amendments, particularly the amendments to the medium-sized and large-sized contractual arrangement thresholds, may significantly affect Council's future dealings in respect of contracts with a term in excess of 1 year. In particular, local governments may need to reconsider the impact of these amended contracting and procurement provisions on any contracts that it is currently negotiating but has not yet tendered or sought quotes for.