

# NORTHERN TERRITORY OF AUSTRALIA

## LOCAL GOVERNMENT (ACCOUNTING) REGULATIONS

As in force at 13 November 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 13 November 2014

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## LOCAL GOVERNMENT (ACCOUNTING) REGULATIONS

### Regulations under the *Local Government Act*

#### Part 1 Preliminary

##### 1 Citation

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

##### 2 Definitions

In these Regulations:

***Accounting Standards*** means the current Australian Accounting Standards as published by the Australian Accounting Standards Board.

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

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

***income*** includes capital receipts.

***non-current asset*** means an asset with an expected life of more than 1 year acquired at a capital cost exceeding \$5 000.

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

***supplies*** means goods or services required by a council.

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

## **Part 2                    Local Government Accounting Advisory Committee**

### **3                    Establishment of Committee**

The Local Government Accounting Advisory Committee is established.

### **4                    Role of Committee**

The Committee is established to provide advice to the Minister and the Agency on:

- (a) contemporary financial management and accounting practices relevant and appropriate to local government; and
- (b) appropriate legislative changes necessary to improve standards of local government financial management and accounting.

### **5                    Composition of the Committee**

- (1) The Committee is constituted of the members (not exceeding 10) appointed by the Minister.
- (2) The members will consist of:
  - (a) up to 2 nominees of the Agency with experience in local government; and
  - (b) 2 nominees of the Institute of Chartered Accountants, the Institute of Public Accountants ACN 004 130 643 or CPA Australia, 1 of whom must be a registered company auditor and the other a professional provider of financial management services to local government; and
  - (c) up to 2 nominees of Local Government Managers Australia; and
  - (d) up to 2 representatives of the NT Finance Reference Group; and
  - (e) up to 2 nominees of LGANT.
- (3) A member of the Committee is to be appointed by the Minister for a term (not exceeding 3 years) specified in the member's instrument of appointment.
- (4) The terms and conditions of membership are to be as determined by the Minister.

- (5) The Minister must appoint 1 member to be the Chair, and another to be Deputy Chair, of the Committee.

## **6 Proceedings of Committee**

- (1) The Committee is to meet at least once in each quarter.
- (2) A meeting may be convened by the Chair of the Committee, or the Minister.
- (3) A quorum for a meeting of the Committee consists of 4 members.
- (4) The Chair will preside at a meeting of the Committee or, in the Chair's absence, the Deputy Chair or, in the absence of both, a member chosen to preside by the members present.
- (5) Decisions are to be made by majority vote of the members present and, if the votes are equal, the person presiding may exercise a second or casting vote.
- (6) The validity of proceedings of the Committee is unaffected by a vacancy or vacancies in its membership.

## **Part 3 Agency's power to issue general instructions**

### **7 Power to issue general instructions**

- (1) The Agency may issue general instructions to councils with regard to financial administration and accounting.
- (2) A general instruction issued under this regulation must:
  - (a) be made in writing; and
  - (b) given in writing to all councils; and
  - (c) published on the Agency's website.

### **8 Obligation to comply**

A council must comply with a general instruction in force under this Part.

Fault element: This is an offence of strict liability.

Maximum penalty: 50 penalty units.

## **Part 4                    Financial administration**

### **9                    Accounting procedures**

- (1) A council must maintain an accounting and policy manual.
- (2) The manual must include, or incorporate by reference, the following:
  - (a) an organisation chart showing the functions of the council, its committees and responsible officers;
  - (b) a statement of the duties and responsibilities of the CEO and responsible officers;
  - (c) a statement of the principal accounting policies of the council;
  - (d) information about the timing and content of financial management reports to the council and the CEO;
  - (e) a statement of the procedures the council considers necessary to facilitate the timely preparation of the council's annual financial statement;
  - (f) the information necessary to ensure the proper operation of any computer based accounting system in use;
  - (g) details of all administrative and accounting procedures, policies and delegations of authority, including:
    - (i) details of internal control procedures; and
    - (ii) details of personnel and financial delegations; and
    - (iii) a chart of accounts divided into assets, liabilities, income, expenses and council equity accounts; and
    - (iv) procedures relating to the receipt and banking of money, the payment of salaries and wages, the allocation of machinery operating costs to council functions, the purchase of goods and services and the granting of credit to council debtors.

### **10                   Internal controls**

- (1) The CEO must establish and maintain internal controls to:
  - (a) safeguard the assets of the council; and
  - (b) ensure the accuracy, completeness and reliability of the accounting data; and

- (c) promote the operational efficiency of the council; and
  - (d) ensure compliance with relevant laws in force in the Territory; and
  - (e) ensure adherence to council policies.
- (2) Without limiting subregulation (1), the CEO must establish and maintain a plan (a ***fraud protection plan***) to detect and prevent fraud from within and outside the council.
- (3) Without limiting subregulation (1), the CEO must establish and maintain an audit committee:
- (a) to monitor:
    - (i) compliance by the council with proper standards of financial management; and
    - (ii) compliance by the council with these regulations and the Accounting Standards; and
  - (b) whose Chairperson must not be a member of council or a member of the council's staff.

## **11 Committee to carry out financial functions**

If a council is not required to hold an ordinary meeting at least once in each month, the council must appoint a committee and delegate to the committee the necessary powers to carry out, on behalf of the council, financial functions of the council in the months the council does not hold an ordinary meeting.

## **Part 5 Accounting records**

### **12 Accounting records**

- (1) A council must keep, by computer, financial records that:
- (a) correctly record and explain:
    - (i) its transactions (including transactions undertaken as trustee); and
    - (ii) its financial position and performance; and
  - (b) enable true and fair financial statements to be prepared and audited.



- (2) The CEO must ensure that appropriate controls and procedures are implemented and maintained to ensure the integrity and security of the data files and programs.
- (3) The council's financial records must conform with the Accounting Standards.

## **Part 6                      Budget and allocation of money**

### **13                      Deficit budgeting**

A council must not budget for a deficit.

*Note*

*A deficit occurs if overall expenditure for a financial year (disregarding depreciation) exceeds income. Transfers into, and out of, specific reserves are to be taken into account.*

### **14                      Allocation of money**

- (1) A council must not allocate money for a particular purpose unless:
  - (a) provision for the allocation is made in the budget for the relevant financial year; or
  - (b) the allocation is:
    - (i) authorised by resolution of the council; and
    - (ii) made in anticipation of the adoption of a budget, or an amendment to a budget, making provision for the expenditure for the relevant financial year.
- (2) An allocation of money for a particular purpose under subregulation (1)(b) must not exceed one-quarter of the expected budgetary provision for expenditure for the relevant purpose.

## **Part 7                      Annual financial statement**

### **15                      Annual financial statement**

- (1) A council's annual financial statement must conform with the requirements of the Accounting Standards applicable to a financial report.
- (2) A council's annual financial statement must:
  - (a) contain details of rates levied for the financial year to which the statement relates; and

- (b) state the nature (capital or operating) and amounts of grants and subsidies received during the relevant financial year (distinguishing those received from the Territory, the Commonwealth and other sources); and
  - (c) disclose all reserves set aside for specific purposes; and
  - (d) describe the nature and purpose of each function (as defined in the ABS Local Government Purpose classification) to which the council's income or expenditure for the financial year is attributable and:
    - (i) show the carrying value of assets that can be reliably attributed to each such function; and
    - (ii) show the income derived from each such function (distinguishing between income by way of grant and other income); and
    - (iii) show the expenditure that can be reliably attributed to each such function; and
  - (e) contain a comparison between the budgeted and the actual result for the relevant financial year, including a comparison between estimated and actual income, outgoings and fixed assets for each council function.
- (3) The annual financial statement must (where relevant) include comparisons between income and expenditure for the financial year to which the statement relates and corresponding income and expenditure for the previous financial year.

## **16 Certification and delivery of annual financial statement**

- (1) When the annual financial statement has been prepared, the CEO must certify in writing that:
- (a) the statement has, to the best of the CEO's knowledge, information and belief, been properly drawn up in accordance with the applicable Accounting Standards, the Act and these Regulations so as to present fairly the financial position of the council and the results for the relevant financial year; and
  - (b) the statement is in accordance with the accounting and other records of the council.
- (2) The CEO must, as soon as practicable after the financial statement has been audited, lay the statement before the council.

**17 Copy of annual financial statement to be forwarded to NT Grants Commission**

- (1) A council must, on or before 15 November in each year:
  - (a) forward the council's audited annual financial statement for the previous financial year to the Northern Territory Grants Commission; and
  - (b) provide any further information required by the Commission in a manner and form required by the Commission.
- (2) A council must comply with each requirement of, or under, this regulation.

Fault element: This is an offence of strict liability.

Maximum penalty: 20 penalty units.

**Part 8 Financial reports to council****18 Financial reports to council**

- (1) The CEO must, in each month, lay before a meeting of the council a report, in a form approved by the council, setting out:
  - (a) the actual income and expenditure of the council for the period from the commencement of the financial year up to the end of the previous month; and
  - (b) the forecast income and expenditure for the whole of the financial year.
- (2) The report must include:
  - (a) details of all cash and investments held by the council (including money held in trust); and
  - (b) a statement on the debts owed to the council including the aggregate amount owed under each category with a general indication of the age of the debts; and
  - (c) other information required by the council.
- (3) If a council does not hold a meeting in a particular month, the report is to be laid before the council committee performing the council's financial functions for the particular month.

## **Part 9 Authorised accounts and expenditure**

### **19 Authorised accounts**

- (1) The name in which an authorised account is kept by a council must include the name of the council.
- (2) The CEO must ensure that, at least once in each month, the balance of an authorised account is reconciled with income and expenditure that has been or should have been paid into, or from, the account.

### **20 Disbursements from authorised accounts**

- (1) A cheque issued on behalf of a council must be signed by at least 2 persons authorised by resolution of the council to sign cheques on its behalf.
- (2) An electronic disbursement from an authorised account must be processed by at least 2 persons authorised by resolution of the council to process electronic disbursements on its behalf.
- (3) An authorisation under subregulation (1) or (2):
  - (a) may only be given to 1 or more of the following:
    - (i) the council's principal member;
    - (ii) the CEO;
    - (iii) a member of the council's staff; and
  - (b) may be given subject to limitations and conditions determined by the council and specified in its resolution.

### **21 Cash expenditure**

- (1) Council expenditure may be made in cash to an extent authorised by resolution of the council.
- (2) A council must keep an account of cash expenditure under the imprest system.

## **Part 10 Property**

### **22 Property**

- (1) The CEO is responsible for the safekeeping of all council property (including stores, materials and tools).

- (2) The CEO must ensure that adequate records are kept of council property.
- (3) The CEO must ensure that stocktakes of council property are carried out regularly in accordance with the Accounting Standards and any applicable council policies.

### **23 Writing off money or property**

- (1) If a council is satisfied, on the certificate of a responsible officer, that money has been misappropriated, or cannot be found, the council may authorise the writing off of the relevant amount in the accounts of the council.
- (2) If a council is satisfied, on the certificate of a responsible officer, that an item of property has been misappropriated, destroyed, or damaged beyond economical repair, or cannot be found, the council may authorise the writing off of the item in the accounts of the council.

## **Part 11 Rates**

### **24 Assessment record and record of rates**

- (1) Before a council adopts its budget for a financial year, the CEO must:
  - (a) check all available records to ensure that all rateable land is recorded in the assessment record; and
  - (b) certify to the council that, to the best of the CEO's knowledge, information and belief, the assessment record is a comprehensive record of all rateable land within the area.
- (2) The CEO must keep a rates record containing, for each allotment of rateable land, particulars of:
  - (a) all rates and charges levied on the allotment; and
  - (b) penalties imposed; and
  - (c) the amount of rates written off (if any); and
  - (d) the amount of payments made.

**25 Form of rates notice**

A rates notice must contain:

- (a) the name of the ratepayer to whom the notice is addressed; and
- (b) the number and description of the allotment to which the notice relates; and
- (c) particulars of the amount payable (including any interest and penalties accrued or imposed up to the date of the notice); and
- (d) the basis of calculation of the rates (including, where relevant, the valuation); and
- (e) a description of the ways to make payment; and
- (f) a statement of the due date for payment of the rates and, if payment by instalment is allowed, the due date for payment of the first instalment; and
- (g) a short statement of the consequences of a failure to pay by the due date; and
- (h) if the council has resolved to allow a discount for prompt payment of rates – a statement of the percentage discount, the conditions on which it is to be allowed, and both the discounted and the undiscounted amount payable.

**Part 12 Debts****26 Debt record**

- (1) The CEO must ensure that proper records are kept of debts owed to the council.
- (2) The records are to be kept by computer and must be capable of being arranged:
  - (a) according to the category of the debt (distinguishing in particular between debts for, or related to, rates and other debts); and
  - (b) according to the age of the debt.

## **27      Writing off debts**

- (1) A council may, by resolution, write off unpaid rates or some other debt owed to the council.
- (2) However, a resolution is not to be passed by a council unless the CEO certifies in writing:
  - (a) if the debt is for rates – that there is some doubt whether the rates were properly imposed, or are recoverable at law, or it would be impracticable or uneconomical to recover the rates;  
or
  - (b) if the debt falls within some other category – that the CEO has made all reasonable efforts to recover the debt and it is not reasonably possible to recover it.
- (3) The writing off of a debt under this regulation does not prevent the council from subsequently taking action for the recovery of the debt.

## **Part 13      Quotations and tenders**

### **Division 1      General requirements**

#### **28      Quotations**

- (1) Subject to the council's policies, a council need not obtain quotations for the provision of supplies if the cost of the supplies is \$10 000 or less.
- (2) If a council proposes to obtain supplies at a cost of more than \$10 000 but not more than \$100 000, the council must obtain written quotations from at least 3 possible suppliers and the council must choose a supplier from amongst those submitting written quotations.
- (3) If it is not practicable to obtain quotations from 3 possible suppliers under subregulation (2), the council must obtain as many as practicable and must record in writing its reasons for not obtaining the 3 quotations.

#### **29      Tenders**

- (1) A council must not enter into a contract for the provision of supplies to the council at a cost of more than \$100 000, unless it has first called for tenders for that contract by public notice published in a newspaper circulating in the council's area.

- (1A) The notice must contain a statement to the effect that notice of the successful tender will be published on the council's website.
- (2) A tender received in response to the public notice may only be opened in the presence of:
  - (a) the council itself; or
  - (b) a committee of 3 members of the council's staff delegated by the council to open and consider the tenders and report to the council on the tenders.
- (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.

### **30           Quotations and tenders not required in certain circumstances**

- (1) Quotations or tenders are not required:
  - (a) for the provision of supplies consisting of, or related to:
    - (i) the purchase of land; or
    - (ii) a consultancy or other professional services; or
    - (iii) travel and accommodation; or
  - (b) if the Minister dispenses, in a particular case, with the requirement to call for quotations or tenders; or
  - (c) if the supplies are to be provided under a contract entered into before the commencement of these Regulations.



- (2) Subject to subregulation (3) and any contrary direction by the council, quotations or tenders are not required if the supplies are to be obtained under a contract to which 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) 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.

## **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.
- (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
  - (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.
- (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.

## **Part 14                    Miscellaneous**

### **31                    Exemptions**

- (1) The Agency may, on application by a council or on the Agency's own initiative, exempt a council or councils from compliance with a provision of these Regulations or an applicable Accounting Standard.
- (2) An exemption under subregulation (1) may be made on conditions the Agency thinks fit.

### **32                    Requests from government authorities for information**

- (1) A recognised authority may, by written request, ask a council to provide the authority with information about the council's local government activities in a manner, and within the time, specified in the request.
- (2) A council must comply with a request under this regulation.

Fault element:                    This is an offence of strict liability.

Maximum penalty:                20 penalty units.

(3) In this regulation:

***recognised authority*** means:

- (a) the Minister; or
- (b) a department, Agency or other authority of the Territory or the Commonwealth.

### **33 Distribution of annual reports**

A council must, not later than 15 November next following the end of the financial year to which an annual report relates:

- (a) publish the annual report; and
- (b) forward a copy of the annual report to the Agency.

Fault element: This is an offence of strict liability.

Maximum penalty: 100 penalty units.

### **34 Repeals**

The Regulations specified in the Schedule are repealed.

## **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.

**Schedule Repealed Regulations**

regulation 34

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<i>Local Government (Accounting) Regulations 1991</i>	Subordinate Legislation No. 40 of 1991
<i>Amendments of Local Government (Accounting) Regulations</i>	Subordinate Legislation No. 18 of 1994
<i>Amendment of Local Government (Accounting) Regulations</i>	Subordinate Legislation No. 2 of 1996
<i>Amendments of Local Government (Accounting) Regulations</i>	Subordinate Legislation No. 32 of 2002
<i>Amendments of Local Government (Accounting) Regulations</i>	Subordinate Legislation No. 52 of 2003

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Local Government (Accounting) Regulations (SL No. 18, 2008)***

Notified	1 July 2008
Commenced	1 July 2008

***Local Government (Accounting) Amendment Regulations 2012 (SL No. 6, 2012)***

Notified	8 February 2012
Commenced	8 February 2012

***Local Government Amendment Act 2014 (Act No. 19, 2014)***

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014, (s 2)

***Statute Law Revision Act 2014 (Act No. 38, 2014)***

Assent date	13 November 2014
Commenced	13 November 2014

**3 LIST OF AMENDMENTS**

r 2	amd No. 6, 2012, r 3
r 5	amd Act No. 38, 2014, s 2
r 10	amd Act No. 19, 2014, s 26
pt 13	
div 1 hdg	ins No. 6, 2012, r 4
r 29	amd No. 6, 2012, r 5
r 30	amd No. 6, 2012, r 6
pt 13	
div 2 hdg	ins No. 6, 2012, r 7
rr 30A – 30D	ins No. 6, 2012, r 7
pt 15 hdg	ins No. 6, 2012, r 8
r 35	ins No. 6, 2012, r 8