

1996—No. 1

LOCAL GOVERNMENT ACT 1993—REGULATION

(Relating to tenders for council contracts)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1993, has been pleased to make the Regulation set forth hereunder.

ERNEST THOMAS PAGE, M.P.,
Minister for Local Government.

The Local Government (Tendering) Regulation 1993 is amended:

- (a) by inserting in clause 7 (b) after the words “to tender for a” the word “particular”;
- (b) by omitting clause 7 (c) and by inserting instead the following subclause:
 - (C) the selective tendering method—by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.
- (c) by inserting after clause 8 (2) (b) the following paragraph:
 - (b1) specify the name of a person to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted; and
- (d) by inserting in clause 9 (1) after the words “for allocating a” the word “particular”;
- (e) by omitting clause 9 (3) and by inserting instead the following subclause:
 - (3) A council must consider all applications made in response to such an advertisement and, in so doing, must take into account:
 - (a) the experience of the applicants in fulfilling the requirements of similar contracts; and

- (b) the capacity of the applicants to fulfil the requirements of the proposed contract.
- (f) by omitting clause 10 (1) and by inserting instead the following subclause:
 - (1) Before using the selective tendering method referred to in clause 7 (c) for the allocation of proposed contracts of a specified kind, a council must publish in the relevant newspapers an advertisement inviting applications from persons interested in tendering for proposed contracts of that kind so that the council may prepare a list of suitable tenderers.
- (g) by omitting clause 10 (2) (a) and (b) and by inserting instead the following paragraphs:
 - (a) a brief description of the kind of work, goods, facilities, services or property concerned; and
 - (b) the name of a person to whom requests for information concerning proposed contracts of the kind referred to in subclause (1) may be addressed and how the person may be contacted; and
- (h) by omitting from clause 10 (4) (a) “or services” and by inserting instead “, services or property”;
- (i) by inserting in clause 10 (7) (a) after the words “to be performed” the words “or the property to be disposed of”;
- (j) by omitting clause 10 (8) and by inserting instead the following subclauses:
 - (8) As an alternative to listing persons as recognised contractors in accordance with subclauses (1)–(4), a council may adopt a list of contractors prepared by another public authority, but only if the list was prepared by the authority following the publication of an advertisement similar to that provided for under subclause (1).
 - (9) If a council adopts such a list, the persons whose names appear on the list are taken to be recognised contractors for the kinds of work, goods, facilities, services or property specified in the list.
 - (10) A person who is a contractor recognised by a council ceases to be so recognised if the person informs the council in writing that the person no longer wishes to be listed as a recognised contractor for the purposes of this clause.
 - (11) Nothing in this clause requires a council to take the action referred to in subclause (1) on each occasion that it decides to invite tenders under this clause.

- (k) by inserting in clause 11 (1) after the figure “8” the figures “or 9”;
- (l) by inserting in clause 12 (1) after the figure “8” the figures “or 9”;
- (m) by omitting from the heading to Part 3 the word “CONSIDERATION” and by inserting instead the word “OPENING”;
- (n) by inserting at the end of clause 14 the following subclause:
 - (2) A council must ensure that, whenever the council’s office is open for business, its tender box is kept in a place that allows tenderers who wish to do so to deposit their tenders personally.
- (o) by omitting clause 15 (3) and by inserting instead:
 - (3) As soon as practicable after the tenders for a proposed contract have been opened, the appropriate person:
 - (a) must record the amounts that appear to have been tendered for the contract; and
 - (b) must prepare a tender list specifying, in apparent order of those amounts, the names of the tenderers.
 - (4) Immediately after preparing a tender list, the appropriate person must display the list in a place where it can be readily seen by members of the public. That person may add to the list such information as he or she considers appropriate..
- (p) by inserting after clause 20 (2) the following subclause:
 - (3) Nothing in this clause of itself requires a council or a committee of a council to close a meeting of the council or committee to the public when considering tenders.
- (q) by omitting from the note to clause 20 the figure “5” and by inserting instead the figure “50”.

EXPLANATORY NOTE

The object of this Regulation is to make miscellaneous amendments to the Local Government (Tendering) Regulation 1993.

Certain amendments are consequential on amendments made to section 55 of the Local Government Act 1993 by the Local Government Legislation (Miscellaneous Amendments) Act 1994. (Section 55 requires a council to invite renders before entering into certain kinds of contracts and deals with the requirements for tendering.) Other minor amendments to the Principal Regulation relate to the following matters:

- councils’ decisions as to which method of tendering should be used;
- selective tendering;

- shortening and extending tender periods;
- ensuring that councils' tender boxes are accessible to tenderers who want to submit their tenders personally;
- the opening of tenders;
- preparing a list of tenderers for a proposed contract and listing them according to the amounts tendered;
- making it clear that a council or committee of a council does not have to close a meeting when tenders are being considered.

This Regulation is made under the Local Government Act 1993, including section 748 (the general regulation making power) and 55.
