

Section 2 – Roles and Responsibilities

Contents		Page
2.1	Background	3
2.2	Role and Responsibilities of the Council and Councillors	5
2.3	Responsibilities and Functions of the CEO	7
2.4	Audit Committee	9
2.5	Investment Policy	10
2.6	Review of Financial Management Systems	11
2.7	Development of Financial Policy	11
2.8	Payment of Accounts.....	12
2.9	Tendering and Purchasing.....	14
	2.9.1 Calling for and Accepting Tenders.....	14
	2.9.2 Purchasing.....	15
2.10	Delegations.....	16
2.11	Reporting and Compliance Time Frame.....	16

This page has been intentionally left blank.

Roles and Responsibilities

2.1 Background

Local governments require effective processes and procedures to facilitate efficient financial management. This is critical to the overall operations of a local government and for the protection of assets used for the delivery of sustainable services.

In achieving this goal, local governments should ensure that they embrace the sound principles of good governance by ensuring the sustainability of a local government's long-term financial performance and position. The responsibility for good governance including proper control and operation of a local government's affairs, the allocation of resources and determination of policies rests with council.

The *Local Government Act 1995* (the Act) and associated Regulations provides for a framework for the administration and financial management of local government. The Act and Regulations define the roles and responsibilities of council, councillor and Chief Executive Officer. This section of the manual will provide a general overview of aspects of the financial management framework pursuant to the Act and associated Regulations. Certain topics have been discussed in greater details in the *Local Government Operational Guidelines*, these guidelines are provided under "*Section 12 – Attachments and Reference Material*" of the Manual.

This page has been intentionally left blank.

2.2 Role and Responsibilities of the Council and Councillors

The roles and responsibilities of council and councillors are prescribed by the Act:

Role of the Council

Section 2.7 of the Act provides that the role of council is to:

- govern the local government's affairs;
- be responsible for the performance of the local government's functions;

Without limiting the above, the council is to:

- oversee the allocation of the local government's finances and resources; and
- determine the local government's policies.

Role of the Councillor

Section 2.10 of the Act states the role of a councillor is to:

- represent the interests of electors, ratepayers and residents of the district;
- provide leadership and guidance to the community in the district;
- facilitate communication between the community and the council;
- participate in the local government's decision-making processes at council and committee meetings; and
- perform such other functions as are given to a councillor or by this Act or any other written law.

In providing for the good governance of the community, a council needs to plan for the future and take on responsibilities for the local government's financial performance.

Planning for the Future

Note: New planning for the future regulations take effect from 1 July 2013. These are prescribed in regulations 19C, 19DA and 19D of the *Local Government (Administration) Regulations 1996*. Regulation 19DB prescribes planning for the future transitional arrangements that apply until 30 June 2013.

All local governments are required to plan for the future of the district. A plan for the future has to set out the broad objectives of the local government for the period specified in the plan. This forms a significant part of the local government's forward planning process. The transitional arrangements no longer require the existing plan for the future to be reviewed every 2 years with different review periods applying to plans developed under the regulations effective from 1 July 2013.

It is important (under existing and future planning for the future requirements) for a local government to have a long term financial plan underpinning the plan for the future and outlining spending commitments, both current and in the future to ensure its future sustainability.

Preparation of Plan for the Future

Section 5.56 of the Act requires each local government to prepare a Plan for the Future of its district and plans made under this section are to be in accordance with regulations.

Local Government (Administration) Regulations 19C and 19D (former regulations which apply up until 30 June 2013) set out the information to be included in the Plan, and the process for developing the Plan in consultation with electors and ratepayers.

Regulations 19C, 19DA and 19D which take effect from 1 July 2013 sets out the requirements for a plan for the future. These include a strategic community plan (developed in consultation with electors and ratepayers) and a corporate business plan which incorporates matters relating to resources including asset management, workforce planning and long-term financial planning.

The Plan for the Future is expanded in "*Section 5- Financial Reporting*" of the Manual.

Governing Finances

Council is responsible for the financial affairs of a local government. Throughout the year, reports are prepared to enable council to review the local government's finances and to ensure it is adhering to the annual budget or approve appropriate amendments. As with all local government business, finance is a matter for discussion and resolution by the full council.

2.3 Responsibilities and Functions of the CEO

General Function

The Chief Executive Officer (CEO) is the chief non-elected officer and his or her general function is to advise and provide information to council in relation to the local government's functions and ensure the resources of the local government are effectively and efficiently managed. CEOs are also responsible for the employment, management, supervision, direction and dismissal of other employees and proper keeping of records and documents of the local government. The CEO's functions are detailed in Section 5.41 of the Act.

With council's role focused on the broader governance and financial responsibilities, the CEO has substantial operational responsibility to ensure the financial matters are handled effectively and efficiently.

Financial Management Responsibilities

The financial management responsibilities of the CEO are established under Regulation 5 of the *Local Government (Financial Management) Regulations 1996*:

"Efficient systems and procedures are to be established by the CEO of a local government:

- (a) for the proper collection of all money owing to the local government;
- (b) for the safe custody and security of all money collected or held by the local government;
- (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
- (d) to ensure proper accounting for municipal or trust:
 - i) revenue received or receivable;
 - ii) expenses paid or payable; and
 - iii) assets and liabilities;
- (e) to ensure proper authorisation for the incurring of liabilities and the making of payments;
- (f) for the maintenance of payroll, stock control and costing records; and
- (g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these Regulations."

Financial Management Responsibilities of CEO (Continued)

In addition,

"The CEO is to –

- (h) ensure that the resources of the local government are effectively and efficiently managed;
- (i) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and
- (j) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews."

2.4 Audit Committee

Division 1A Part 7 of the *Local Government Act 1995* (the Act) requires a local government to establish an audit committee. The Committee is a formally appointed committee of council with the primary responsibility for reviewing the scope of the audit, undertaking the selection process of the external auditor and to liaise with the auditor on the performance and management of a local government's financial affairs.

The audit requirements are addressed under Part 7 of the Act and the *Local Government (Audit) Regulations 1996*. The main requirements comprise of:

- (2) each local government is to establish an audit committee consisting of three or more persons;
- (3) members of the committee are to be appointed by an absolute majority decision of council;
- (4) the CEO is not to be a member of the committee and may not nominate a person to be a member;
- (5) an employee is not to be a member;
- (6) the only powers and duties that can be delegated to an audit committee are only the powers and duties of the local government under Part 7 of the Act. The committee cannot on-delegate the powers and duties delegated to it;
- (7) a decision of the committee is to be made by simple majority.

Scope of the Audit

The Act and Regulations prescribe the scope of the external audit of the annual financial statements of a local government. A local government's audit committee should assess the adequacy of the minimum scope prescribed under legislation, and if appropriate, expand the scope of the audit to meet its own requirements.

The function and operation of the audit committee and external auditor are discussed in greater detail in *Local Government Operational Guidelines – Number 09: Audit Committees in Local Government, their appointment, function and responsibilities* included in "Section 12 - Attachments" of the Manual.

2.5 Investment Policy

An investment policy is a document designed to provide guidance on various matters to be considered when investing surplus monies not required for the time being. Many local governments hold significant cash reserves and should develop a policy on investment to provide guidance to employees who have the role to invest surplus funds.

From 20 April 2012, new regulations were prescribed that placed restrictions on local government investment practices.

The Western Australian laws regarding investments by Local Governments include the following:

- Section 6.14(1) of the *Local Government Act 1995* provides that "Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the *Trustees Act 1962 Part III*".
- Section 6.14(2A) requires a local government to comply with regulations when investing money referred to in subsection (1).
- Regulation 19 of the *Local Government (Financial Management) Regulations 1996* (FMR) requires a local government to establish and document internal control procedures to be followed by employees to ensure control over investments.
- Regulation 19C provides that a local government can only invest money:
 - With an authorised deposit taking institution or the WATC
 - For a fixed term of no more than 12 months
 - In bonds guaranteed by the Commonwealth, State or Territory governments
 - In bonds for a term on no more than 3 years
 - In Australian currency **but not** in foreign currency
- Regulations 28 and 49 of the FMR prescribe the disclosure requirements for investments in the annual budget and annual financial report.
- Local governments when investing are to follow the provisions under the *Trustees Act 1962* and exercise the care, diligence and skill of a "Prudent Person" (s 18).

When reporting investment information, local governments are to consider the disclosure requirements provided under AASB 132, AASB 7, AASB 139 and AASB 136.

The decision to use a particular approach on how a local government structures its policy will depend on the particular circumstances of each local government. This includes an assessment of the scale of funds under management, safeguards in place to manage the investment portfolio, the level of risk aversion, the capability of management, systems capacity,

internal procedures and controls to protect the investment and operational risk.

For further information relating to an investment policy, including the process of developing an investment policy refer to *Local Government Operational Guidelines – Number 19: Investment Policy* (DLGRD) in “Section 12 – Attachments” of the Manual.

2.6 Review of Financial Management Systems

Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* requires the Chief Executive Officer to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every four financial years) and report to the local government the results of those reviews.

The Chief Executive Officer may appoint the external auditors to carry out a review of the financial management systems. This review provides the external auditor with greater assurance of the effectiveness of internal control of systems and procedures used to prepare the annual financial statements, and whether they provide information free of material misstatement.

2.7 Development of Financial Policy

Many issues associated with financial performance can be addressed with the development of proper policies and procedures. These provide for the smooth running of the organisation, whilst providing for the stewardship function of the public moneys under the control of the local government.

The legislative requirements for establishing efficient systems and procedures are covered under “Section 2.3 - Responsibilities and Function of the CEO” in the Manual. A local government’s accounting policies will need to be consistent with Australian Accounting Standards and legislation.

2.8 Payment of Accounts

Local governments are required under legislation to develop proper procedures and processes for payment of accounts.

Regulation 11 of the *Local Government (Financial Management) Regulations 1996* states:

- (1) "A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of –
 - (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
 - (b) petty cash systems.
- (2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.
- (3) Payments made by a local government –
 - (a) subject to subregulation (4), are not to be made in cash; and
 - (b) are to be made in a manner which allows identification of –
 - i) the method of payment;
 - ii) the authority for the payment; and
 - iii) the identity of the person who authorised the payment.
- (4) Nothing in subregulation (3)(a) prevents a local government from making payments in cash from a petty cash system. "

Legislation specifies the making of payments from the municipal fund or trust fund. Regulation 12 of *Local Government (Financial Management) Regulations 1996* states:

- (1) "A payment may only be made from the municipal fund or the trust fund –
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council. "

Regulation 13 of *Local Government (Financial Management) Regulations 1996* provides:

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name;
 - (b) the amount of the payment;
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) for each account which requires council authorisation in that month—
 - (i) the payee's name;
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction;
 and
 - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub regulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

In regulation 13(2)(a)(iii), "sufficient information to identify the transaction" is considered to include the cheque number, or voucher number or EFT number together with a brief description of the goods or services for which the payment is made.

Monthly credit card payments should not be listed as a single line entry but should list details of every credit card transaction made during the month to ensure full disclosure and openness and transparency in the use of cards.

2.9 Tendering and Purchasing

□ 2.9.1 Calling for and Accepting Tenders

The general provisions for calling for and accepting tenders under the legislation are summarised below.

Section 3.57(1) of the *Local Government Act 1995* states that:

“A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.”

Section 5.43 of the Act states that:

“A local government cannot delegate to a CEO any of the following powers or duties —

- (a)
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph; ”

Part 4 of the *Local Government (Functions and General) Regulations 1996* regulates and provides the procedures for local government tenders for providing goods or services.

Under Regulation 11, tenders are to be publicly invited before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is worth more than \$100,000 unless subregulation (2) states otherwise.

The section 5.43(b) restriction relates to accepting tenders. A council may delegate to its CEO the power to invite tenders under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*, without the necessity of setting a maximum limit on the tenders which the CEO may invite.

□ 2.9.2 Purchasing

Regulation 11A of the *Local Government (Functions and General) Regulations 1996* states the following in regards to purchasing policies:

- (1) "A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100 000 or less or worth \$100 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
 - (a) the form of quotations acceptable; and
 - (b) the recording and retention of written information, or documents, in respect of —
 - i) all quotations received; and
 - ii) all purchases made.
- (4) Different requirements may be imposed under a purchasing policy in respect of different classes, or types, of any of the following —
 - (a) goods and services;
 - (b) suppliers;
 - (c) contracts;
 - (d) any other thing that the local government considers appropriate."

The Western Australian Local Government Association (WALGA)

"Purchasing and Tendering Guide" provides a useful best practice reference to the process and procedures of tendering. For Further information email WALGA Tender Bureau Service at purchasing@walga.asn.au.

2.10 Delegations

The provisions of the *Local Government Act 1995* which provide for delegations by a local government or its CEO are as follows:

Section 5.16 –

- (1) Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.

Section 5.42 –

- (1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

Section 5.44 –

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

For more information on delegations, refer to *Local Government Operational Guidelines – Number 17: Delegation (DLGRD)* provided in "*Section 12 - Attachments*" of the Manual.

2.11 Reporting and Compliance Time Frame

Reporting and Compliance Time Frame		
Plan for the Future	LGA s. 5.56 LGA s. 6.2(2)	<ul style="list-style-type: none"> A local government is to plan for the future of the district. In the preparation of the annual budget the local government is to have regard to the contents of the plan for the future of the district made in accordance with section 5.56.
Annual Budget	LGA s. 6.2(1) FMR r. 33	<ul style="list-style-type: none"> Council is to adopt the budget between 1 June and 31 August or such extended time as the Minister approves. [the extension request must be made before 31 August]. A copy of the annual budget of a local government is to be submitted to the Department's CEO within 30 days of its adoption by the local government.
Annual Financial Report	LGA s. 6.4(3) FMR r. 51(2)	<ul style="list-style-type: none"> By 30 September following each financial year or such extended time as the Minister allows, [the extension request must be made before 30 September] a local government is to submit to its auditor: <ol style="list-style-type: none"> the accounts of the local government, balanced up to the last day of the preceding financial year; and the annual financial report of the local government for the preceding financial year. A copy of the annual financial report of a local government is to be submitted to the Department's CEO within 30 days of receiving the auditor's report on that financial report.
Annual Report	LGA s. 5.54(1) LGA s. 5.54(2) LGA s. 5.55	<ul style="list-style-type: none"> Subject to subsection (2) the annual report is to be accepted by council's absolute majority, no later than 31 December. If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available. The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.
Monthly Statement of Activities	FMR r. 34(1) FMR r. 34(4)	<ul style="list-style-type: none"> A local government is to prepare each month a statement of financial activity. The Statement is to be presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates and recorded in the minutes of the meeting at which it is presented.
Audit Report and Management Letter	LGA s. 7.9	<ul style="list-style-type: none"> The auditor of a local government is to forward a copy of the audit report and management letter to the mayors/presidents and CEO of the local government and Minister for Local Government.
Mid year budget review	FMR r. 33A(1) FMR r. 33A(2) FMR r. 33A(2A) FMR r. 33A(4)	<ul style="list-style-type: none"> Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year. The review is to be submitted to council within 30 days for determination. The review must consider financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year. Within 30 days after a council has made a determination, a copy of the review and council's determination is to be submitted to the Department.
Review of Financial System	FMR r. 5(2)(C)	<ul style="list-style-type: none"> The CEO is to undertake a review of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly, not less than once in every 4 financial years.