

# Procurement Policy

FA01-CP (Superseded FA01-CP Procurement Policy v2)

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## 1. Purpose

This policy aims to provide direction for an efficient procurement process that conforms to regulatory requirements, particularly Division 12 (Quotations and tenders for supplies) of the *Local Government (General) Regulations 2021 (LGGR)*, *General Instruction 1: Procurement* and the *Procurement Entity Approval* issued by the CEO of the Department of the Chief Minister and Cabinet.

## 2. Scope

- 2.1 MacDonnell Regional Council's (MRC) Procurement Policy applies to all procurement activities including purchasing, ordering, tendering and contracting undertaken by MRC.
- 2.2 This policy does not apply to sponsorship, donations, employment contracts or disposals.

## 3. Objectives

Key objectives of this policy are that all procurement activities will be conducted in accordance with good practice considerations which include the following principles:

- 3.1. ethical behaviour and fair dealings  
OBJECTIVE – Procurement activities which instil confidence in business, industry and the public as to the probity, accountability and efficacy of the procurement policy framework, including demonstrating high standards of ethical conduct.
- 3.2. value for money  
OBJECTIVE – Procurement expenditure that delivers procurement outcomes, while meeting the objects of MRC to promote the social, economic, environmental and cultural well-being of its communities.
- 3.3. open and effective competition  
OBJECTIVE – Procurement activities which foster a competitive and innovative business environment to drive opportunities within the region and in the Northern Territory generally.
- 3.4. environmental protection and sustainability  
OBJECTIVE – Procurement activities which promote the protection of the environment through harm minimisation and sustainable practices, including a proper emphasis on environmentally sustainable development and a proper balance between economic, social, environmental and cultural considerations.
- 3.5. the enhancement of the capabilities of local enterprises and industries;  
OBJECTIVE – Procurement activities which support the growth, development and sustainability of local enterprises and industries, including the advancement of local communities. Refer Para.5 below for more detail.
- 3.6. the employment of Aboriginal people  
OBJECTIVE – Procurement activities which increase and encourage Aboriginal employment, participation and capability within the region and the Northern Territory generally, acknowledging the importance of diversity, representation and the improved social and economic outcomes that result from employment.
- 3.7. MacDonnell Regional Council Code of Conduct  
OBJECTIVE – Procurement activities which are undertaken in a lawful manner and are consistent with MRC's policies and guidelines.

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## 4. Procurement Lifecycle

To support MRC's principles and achieve its objectives it is important to understand the Procurement Cycle and the various stages entailed in making procurement decisions. In so doing MRC can ensure that these decisions support clear, transparent and accountable procurement activities and meet the objectives listed above.



### 4.1 Procurement Planning

Step one is identifying what MRC needs and whether there is a need to look externally to address it. An initial study or review may be conducted to ensure that the capability or item does not exist in house; if the gap is confirmed, there's a multitude of considerations that should be made before moving forward to the procurement phase.

### 4.2 Requirement Definition

The second step in the procurement lifecycle is Requirement Definition, when the respective MRC staff come together to collaborate on a document that summarises exactly what is needed and why. The requirements definition phase is one of the most important steps of the procurement cycle. It is at this step that the procurement team determines what procurement process will be adopted, the approach to be taken and assemble any required documents – tenders if necessary – that include the terms, conditions, delivery schedules, etc, which are being proposed.

### 4.3 Tendering or Resourcing

It is during this stage when prospective contractors will review, analyse and respond to the MRC's tender with a quotation or proposal (depending on what is decided during the procurement planning process). Tendering requires the calibration of cost and time efficiency while also making sure the needs are met optimally and within the constraints of MRC's internal policies and procedures.

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### 4.4 Evaluation & Selection

If the decision has been taken to go to tender the tender document will contain all of the criteria that a prospective offeror must accommodate and honor in order to be considered for award. Typically, the tender document includes the evaluation method so that offerors understand what matters most to MRC, along with instructions for how the offeror should structure their solution. This makes for an easy evaluation and selection phase.

### 4.5 Contract Award

The awarding of a contract occurs once MRC has reviewed the offers received and made a decision on a contractor whose proposal best meets its requirements and selection criteria. This stage is the culmination of all the prior steps in the process, and the efficiency and effectiveness of this stage is also a direct result of the diligence with which the procurement staff have followed the best practices for the prior stages.

### 4.6 Contract Management

Responsible procurement will ensure there is a plan for managing the contract to ensure that deliverables are met, items delivered on time, and services rendered under budget. It is during this Contract Management stage that diligence in the pre-award activities pays dividends.

A well-written, thoughtful contract will address a majority of potential events that may occur during performance so that questions about performance or disputes about cost can be answered simply by referencing the contract. In instances where a special circumstance arises, the contract may need to be modified, which can be done unilaterally (at the total discretion of MRC) or bilaterally (at the mutual agreement of MRC and the contractor).

## 5. Location based advantage

In support of local, regional and Territory businesses and subject to MRC's procurement policy and product or service specifications, MRC will give a competitive advantage when sourcing products and services, as follows:

LOCATION	WEIGHTING ADVANTAGE
MRC Local Government Area based businesses	15%
Local Government Area of Alice Springs Town Council	10%
Businesses located in the Northern Territory but outside of the previously mentioned areas	5%

## 6 Delegations

6.1 Before undertaking any procurement activities staff must consider whether and in what circumstances they have the delegated authority to do so. Authorisations of purchase requisitions must be within an authorised officers approved delegated authority which can be found in the MacDonnell Regional Council's Delegations Manual.

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- 6.2 If purchasing an item or service which is primarily administered by another department, the purchaser must consult with the Manager or Director of the relevant department before a purchase is made.
- 6.3 Staff must bear in mind that variations, as detailed below, may increase the scope of a contract and consequently increase the level of financial commitment. Discretionary variations must be approved by an officer with a delegation limit sufficient to cover the value of the variation.
- 6.4 All procurement is subject to approved budgets. These procurement policy values and delegation limits operate in addition to (not in place of) any budget constraints.

### 7. Separation of duties

- 7.1. The separation of duties is an essential element of a control system. MRC will implement a best practice approach through the separation of duties related to the procurement process.
- 7.2. An officer raising a purchase requisition is not permitted to approve that requisition, regardless of their financial delegation. The officer must refer the requisition to another officer who holds appropriate delegation.

### 8. Working with children clearance

- 8.1. When the procurement of services or contracts will be fulfilled in spaces dedicated to children, a Working with Children Clearance (WWCC) or Ochre Card issued by the Northern Territory Government is required. If businesses do not have a WWCC then the responsible manager or director must refer to and follow the HR13-OP Criminal History Check and Working with Children Clearance Policy and HR13-P1 Working with Children Clearance Procedure as it pertains to item 5.7 Contractors.
- 8.2. When selecting from quotations and tenders, preference will be given to those with WWCC.

### 9. Methods of Procurement

How MRC determines the method of procurement to be adopted is generally determined by the cost of the supply or service to be provided. These are defined and summarised in the following table:

Purchase Value (GST inclusive)	Quotations needed
< \$1,000	No quotations needed
\$1,000 - \$5,000	Minimum one (1) written quotation - two (2) where possible
\$5,000 - \$10,000	Minimum one (2) written quotations - three (3) where possible
\$10,000 - \$100,000	Three (3) written quotations
\$100,000 – 150,000	Public quotations
\$150,000 >	Tender

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### 9.1 Purchases Under **\$1,000**

Any purchases under \$1,000 do not require any quotations; however, this policy's objectives including value for money must be adhered to.

### 9.2 Purchases between **\$1,000 - \$10,000 – QUOTATIONS**

Where a financial transaction for goods or services is valued at greater than \$1,000 and no more than \$5,000 the responsible officer is required to request One (1) written quotation. Note this is a minimum and where possible two (2) written quotations should be obtained with this policy's objective of achieving value for money being considered.

Where a financial transaction for goods or services is valued at greater than \$5,000 and no more than \$10,000 the responsible officer is required to request Two (2) written quotations. Note this is a minimum and where possible three (3) written quotations should be obtained with this policy's objective of achieving value for money being considered.

The responsible officer shall seek written authority from their director prior to any commitment being made to purchase a new asset which has a cost of greater than \$5,000. Any item above \$500 needs to be entered onto the Portable and Attractable Items Register, if deemed to be a portable attractive item.

### 9.3 Purchases between **\$10,000 - \$100,000 – QUOTATIONS**

If MRC proposes to obtain supplies at a cost of more than \$10,000 but no more than \$100,000, the Responsible Officer must obtain written proposals from at least three (3) suppliers and then choose a supplier from amongst those submitting written quotations, in accordance with Regulation 34(2) of the LGGR.

If it is not practical to obtain quotations from 3 suppliers, the responsible officer must obtain as many as practicable and must record in writing, using FA01-F1 Quotation Exemption Form, the reasons for not obtaining 3 quotations and approved by relevant director.

Quotations are to clearly identify GST separately.

In assessing a quotation consideration should be given to best value as well as best price, including an allowance for up to 10% weighting for price for a local supplier.

Having assessed the quotations received against best value and best price, where the responsible officer recommends a supplier's quotation which is not based on best price, an explanation is to be provided in writing to a manager or director who has the delegation for that level of expenditure. That manager and/or director is required to authorise the procurement request in writing as well as the authorisation for payment.

### 9.4 Purchases between **\$100,000 - \$150,000 – PUBLIC QUOTATIONS**

Regulation 35 of the LGGR applies in situations where MRC proposes to obtain supplies at a cost of more than \$100,000 but no more than \$150,000. The Responsible Officer must take the following action:

- (a) make a public request for quotations from suppliers by notice published in a newspaper circulating in MRC's area and by notice on MRC's website or
- (b) obtain tenders – refer para.9.5.

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- 9.4.1 It is good practice to include predetermined weightings in the development of the scope of works documentation to be applied to the assessment of the public quotations or tenders. Providing potential suppliers with predetermined weightings can assist suppliers in providing competitive quotations or tenders, ensure equitable access to information for all suppliers, and leads to greater transparency in the decision making process. Consideration should be given to ensure these weightings do not detract from the quality of the quotations and tenders and that potential suppliers are encouraged to provide comprehensive information.
- 9.4.2 The notice specified in para.9.4(a) must contain a statement to the effect that notice of the successful quotation will be published on MRC's website. MRC must allow at least 10 business days for the receipt of quotations after giving the notice.
- 9.4.3 MRC may only accept a quotation for the provision of supplies from among those that submitted quotations and must record the reason for the acceptance of the quotation in writing.
- 9.4.4 If MRC accepts a quotation for the provision of supplies under this paragraph, it must:
- accept the quotation by written notice to the supplier who submitted the successful quotation; and
  - give notice of the successful quotation:
    - in writing to each other supplier who submitted a quotation; and
    - by publishing the notice on MRC's website.
- 9.4.5 The notice referred to above must include:
- the name of the supplier who submitted the successful quotation; and
  - the supplies to be provided; and
  - the quotation price.
- 9.5 Purchases greater than \$150,000 – **TENDERS**

MRC cannot enter into a contract for the provision of supplies to MRC at a cost of more than \$150,000 unless it has first called for tenders for that contract by public notice. Prior to the advertising and public availability of tender documents, they are to be authorised by a Director.

- 9.5.1 Preparation of Tender Documents
- The tender documents should comprise, but not be limited to:
- details of the goods or services to be delivered under the contract;
  - undertakings, deeds, warranties, insurances, securities, etc., required to be lodged with the tender;
  - other particular requirements relating to performance of the works or services;
  - a statement that tenders are to clearly identify GST separately;
  - a statement that all tenders shall be submitted in writing and submitted on Tenderlink;
  - a statement that MRC will not be bound to accept the lowest or any tender;
  - notice that a successful tenderer's name, the tender price and details of goods or services supplied under contract will be published on MRC's website; and
  - a form of tender and conditions of tendering.

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The Responsible Officer must call for tenders by notice published in a newspaper circulating in MRC's area and by notice on MRC's website. The notice must contain a statement to the effect that notice of the successful tender will be published on MRC's website. MRC must allow a minimum period of 10 business days for the receipt of tenders after giving the notice. The tender shall be advertised each week in one local newspaper.

The tender open period is deemed to commence at the date of the first advertisement that appears in the printed media.

The Chief Executive Officer can decrease the tender period at his/her discretion. A virtual tender box will be placed online at Tenderlink and is to be secured with a virtual key with restricted access.

Tenders shall close in accordance with the guidelines contained in *Australian Standard number AS4120 Code of Tendering*, as follows:

- a. not earlier than 2.00pm;
- b. not on a Monday or day following a public holiday;
- c. at least one clear day after a weekend and at least one week after the recognised industry Christmas close down;
- d. any tenders received after the closure of tenders will be rejected, with the exception that the chief executive officer can authorise the submission of a late tender where extreme circumstances is proved by a tenderer in writing. In this instance no tenders are to be opened prior to the expiration of the extension time; and
- e. tenders shall be opened as soon as practicable after the tender closure time and a decision should be made within one month of tender close time.

### 9.5.2 Consideration and Acceptance of Tenders

- a. A tender received in response to the notice must be assessed by a panel that includes at least 3 members of MRC's staff.
- b. The panel is to be convened by the CEO and has the following functions:
  - (i) to consider the tenders received in response to the notice;
  - (ii) to provide a report, in writing, to the CEO in relation to the tenders.
- c. The CEO may not be a member of the panel.
- d. The CEO must provide the report from the panel to Council.
- e. Council may only accept a tender for the provision of supplies from among those that submitted tenders and upon receipt of the report provided by the CEO.

If MRC accepts a tender for the provision of supplies at a cost of more than \$150,000, it must give public notice containing the following information about the successful tender:

- a. the name of the person who submitted the successful tender;
- b. the tender price; and
- c. the supplies to be provided under the contract.

Public notice is given by publishing the information on MRC'S website and separate notices to all tenderers.

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## 10. Retention of Documents

MRC must obtain all quotations and tenders received in writing and keep them in an electronic form in MRC's record management system.

## 11. Quotations and Tenders not required in certain circumstances

11.1 A quotation or tender is not required for the provision of a supply consisting of, or related to, any of the following:

- a. the purchase of land, including the leasing or licensing of land;
- b. a contract for legal services;
- c. the acquisition of insurance entered into through a broker;
- d. the renewal of an existing licence;
- e. education or training in relation to existing equipment, licences, qualifications or software from a supplier endorsed by the supplier of the equipment, licence, qualification or software;
- f. a telecommunications service if:
  - (i) the supply is ancillary to an existing telecommunications service; and
  - (ii) MRC believes on reasonable grounds that it is necessary to obtain the supply from the supplier of the existing service;
- g. recovery work during or immediately after a natural disaster and MRC believes on reasonable grounds that it is necessary to obtain the supply from a particular supplier (examples include cyclones, floods and bushfires);
- h. the acquisition of a supply from a supplier if MRC believes on reasonable grounds that it is unlikely that there is more than one supplier of the supply;
- i. the acquisition of a supply from a supplier if a Commonwealth or Territory funding agreement entered into by MRC states that a particular supplier is to provide the supply;
- j. the acquisition of a supply from a particular supplier that is the only feasible option because of an event that caused major disruption to MRC (an example would be where a public health emergency declared under the Public and Environmental Health Act 2011);
- k. the acquisition of a supply where:
  - (i) obtaining a quotation or tender for the supply would cause major operational inconvenience or have other serious consequences of a similar nature for MRC; and
  - (ii) MRC has not had prior opportunity to obtain a quotation or tender for the supply;
- l. a contract variation mentioned below at para.11.

11.2 If MRC obtains any supply mentioned above, excluding the supply mentioned in para.8.1(a), (b), (c) or (l), MRC must record the following information in relation to the provision of the supply:

- a. the name of the supplier;
- b. the supply provided;
- c. the cost of the supply;
- d. the applicable provision of para.8.1 relating to the provision of the supply;
- e. if the supply is mentioned in para.8.1(1)(f) or (g) – the reason that MRC believed on reasonable grounds that it was necessary to obtain the supplies from the particular supplier;

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- f. if the supply is mentioned in para.8.1(1)(h) – the reason MRC believed on reasonable grounds that it was unlikely that there was more than one supplier of the supply;
- g. a description of the circumstances relevant to the provision of the supply;
- h. any other information relevant to the provision of the supply.

11.3 If MRC obtains any supply mentioned para.8.1, excluding the supply mentioned in para.8.1(1)(a), (b), (c) or (l), and the cost of the supply is more than \$100 000, MRC must publish a notice on the MRC's website specifying the following information in relation to the provision of the supply:

- a. the name of the supplier;
- b. the supply provided;
- c. the cost of the supply;
- d. the applicable provision of para.8.1 relating to the provision of the supply.

## 12. Quotations and tenders not required in relation to particular entities

12.1 A quotation or tender is not required if the supply is to be obtained:

- a. from the Territory, the Commonwealth, a State or another Territory; or
- b. under a contract to which the Territory, the Commonwealth, a State or another Territory is a party and MRC is a beneficiary to the contract; or
- c. from another council; or
- d. under a contract that is facilitated by a procurement entity.

12.2 Approval of Procurement Entity

The Local Government Association of the Northern Territory (LGANT) has been approved as a procurement entity by the CEO of the Agency. Consequently quotations and tenders are **not required** for a supply if the supply is to be facilitated through LGANT's arrangements with Local Buy Pty Ltd. This arrangement is detailed in a document entitled "*Memorandum of Understanding between Local Buy Pty Ltd and Local Government Association of the Northern Territory for the period 1 July 2020 to 30 June 2025*".

12.3 Where a panel or period contract is in place, procurement of supplies may be made against the panel contract without the need to call for quotations or issue a tender, providing that the supplier of goods and/or services is an approved member of the relevant panel contract. However a quotation or tender is still to be called for when setting up the initial panel or period contract. In line with *General Instruction 1: Procurement*, no panel or period including any option period can extend past a 5 year term – refer para.17.

12.4 A contractual arrangement established by Local Buy enables Council to purchase a diverse range of goods and services from Local Buy suppliers without separately tendering. Local Buy is administered by the Local Government Association Queensland and provides an electronic portal to facilitate compliant purchasing for Councils in Queensland and the Northern Territory. Using Local Buy is fully compliant with the Council's policy as long as LGANT is a party to the contract.

## 13. Period contract

13.1 If MRC obtains supplies under a period contract for a period that is more than one financial year, the threshold amounts for quotations or tenders are taken to be:

- a. the highest cost stated in the contract for any given financial year; or

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- b. otherwise – the MRC’s highest annual budget for the supply in any given financial year.

### **Example for para.10.1(a)**

MRC intends to enter into a contract on 1 January 2022 for maintenance services for \$180,000 (exclusive of GST) for 2 years. The contract identifies the costs to be:

- (a) for 1 January 2022 to 30 June 2022 – \$45 000; and
- (b) for 1 July 2022 to 30 June 2023 – \$90 000; and
- (c) for 1 July 2023 to 31 December 2023 – \$45 000.

The relevant threshold amount is the amount in paragraph (b).

### **Example for para.10.1(b)**

MRC intends to enter into a contract on 1 January 2022 for office cleaning services for 2 years up to a spending limit. There is no fixed cost of the contract and the contract is based on a schedule of rates (which includes an hourly rate for cleaning). The schedule must be converted to a budgeted spend for the 2021-2022, 2022-2023 and 2023-2024 financial years.

If MRC’s highest annual budget for the supply is in 2022-2023, the amount for this financial year is the relevant threshold amount.

The threshold amount for para.10.1(b) is determined by converting a schedule of rates to an annual budget for the supply.

## 14. Contract with Option to Extend

- 14.1 If MRC intends to enter into a contract for supplies that contains an option for either party to extend the contract, the calculation of the threshold amounts for quotations or tenders are calculated to assume the option is exercised.

### **Example**

MRC intends to enter into a 1 month contract on 1 January 2022 to obtain roadwork services for \$60,000 (exclusive of GST), with an option for MRC to extend the contract for an additional 2 months at the same monthly rate. The relevant threshold amount for the financial year would be \$180 000 and MRC is required to call for tenders under para.6.5.

## 15 Contract variations

- 15.1 If MRC intends to enter into a contract and the contract is proposed to be varied in a manner that changes the cost of the supplies, MRC may choose to accept that variation if the variation is within the scope of the original contract. MRC’s acceptance of the variation must be in writing.
- 15.2 If the varied contract is entered into after a quotation under para.6.3 has been accepted and the total cost of supplies exceeds \$100 000 but is less than \$150 000, MRC must:
  - a. table a report on the contract variation at the next meeting of Council; and
  - b. publish a notice of the contract variation on the MRC’s website.
- 15.3 If the varied contract is to be entered into after a quotation under para.6.3 has been accepted or a public quotation under para.6.4 has been accepted and the total cost of supplies exceeds \$150,000, MRC:

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- a. is not required to call for tenders under para.6.5 in relation to the contract variation; and
- b. after entering into the varied contract, must:
  - (i) table a report on the contract variation at the next meeting of Council; and
  - (ii) publish a notice of the contract variation on MRC's website.

15.4 If the varied contract is entered into after a tender under para.6.4 has been accepted and the total cost of supplies exceeds the original tender cost by more than 10%, MRC must:

- a. table a report on the contract variation at the next meeting of Council; and
- b. publish a notice of the contract variation on MRC's website.

15.5 A notice of a contract variation under this regulation must include the following details:

- a. the name of the supplier that submitted the successful quotation or tender;
- b. the supplies to be provided;
- c. the original contract cost of supplies;
- d. the total contract cost of supplies;
- e. the percentage increase between the original contract cost of supplies and the total contract cost of supplies;
- f. the applicable provision of this policy relating to the contract variation.

## 16 Determining cost of supplies

16.1 In determining the cost of supplies for this policy:

- a. cost splitting is prohibited; and
- b. the cost cannot be offset in any way.

## 17 Contracts for more than 5 years

17.1 In relation to procurement, MRC must not enter into a contract for a supply that is for a period of more than 5 years, including any option to extend the contract, other than a contract for:

- a. a lease or licence of land; or
- b. waste management, including the collection or transportation of waste; or
- c. a particular supply approved by the CEO of the Agency under para.17.4.

17.2 A contract under clause 17.1b must not be for a period of more than 10 years.

17.3 MRC may apply to the CEO of the Agency for a particular supply to be approved by submitting the following information:

- (a) the proposed supply;
- (b) the proposed period of the contract (including any option to extend);
- (c) the reason that MRC believes on reasonable grounds that it is necessary to enter into a contract for the proposed supply that is for a period of more than 5 years.

17.4 The CEO of the Agency may approve a supply to be a particular supply under clause 4.1(c), subject to any conditions the CEO of the Agency considers appropriate.

17.5 If MRC enters into a contract in accordance with clause 4.1(c), the council or local government subsidiary must keep a copy of the approval given by the CEO of the Agency for the particular supply in the council's or local government subsidiary's records.

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### 18 Policy Details

<b>Replaces Policy No: (if applicable)</b>	FA01-CP Procurement Policy v2
<b>Responsible Directorate/Department:</b>	Director Corporate Services - Finance
<b>Approval Date:</b>	29 October 2021
<b>Minutes Reference:</b>	Item # 15.5 Resolution OCM2021-040
<b>Review Cycle:</b>	October 2025 - Review every four (4) years or after changes to relevant legislation or Council policy

### 19 Legislation and References

<b>Related Legislation:</b>	<i>Local Government Act 2019</i>
	Local Government (General) Regulations 2021
<b>Related Policies:</b>	MacDonnell Regional Council Delegations Manual
<b>Associated Documents</b>	Statutory Declaration Form

### 20 Version Control

Version No.	Approval Date	Policy No.	Minutes reference and Resolution number
1	15-Oct-17	FA01-CP	OCM Item # 13.2 – OCM2017-029
2	31-Oct-19	FA01-CP	OCM Item # 13.8 - OCM2019-119
3	29-Oct-21	FA01-CP	OCM Item # 15.5 - OCM2021-040