

# Purchasing Policy



November 2022

*This policy was adopted by Council to set governing principles in place that align with the Strategic Community Plan 2040: Focus Area Performance: PL.4 Resilient circular local economy.*

## Objectives

The objectives of this Policy are to ensure that:

- Best value for money is attained for the Shire in its purchasing activities, by delivering the most advantageous outcome reasonably possible
- Sustainable economic development is fostered through the maximisation of participation by local businesses in the delivery of goods and services
- Sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment
- Openness, transparency, fairness and equity are apparent throughout the purchasing process, across all suppliers and potential suppliers of the Shire
- Purchasing processes and decision-making are consistent, efficient and promote accountability
- Purchasing activities demonstrate probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest
- Risks associated with purchasing activities are identified and managed in accordance with the Shire's Risk Management Framework, and given due consideration in determining the most appropriate method for purchasing goods, services and works
- Records evidence purchasing activities in accordance with the *State Records Act 2000* and the Shire's Records Management Policy.

## Application

This policy applies to all Shire officers undertaking purchasing activities.

## Policy

### 1. Ethics and Integrity

All officers shall observe the highest standards of ethics and integrity in undertaking purchasing activities and act in an honest and professional manner that supports the standing of the Shire.

The Shire's Code of Conduct and Statement of Purchasing Ethics apply when undertaking purchasing and decision-making.

Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

## 2. Value for Money

Value for money shall be the overarching principle governing purchasing and is determined through consideration of price, risk, qualitative and other factors to determine the most advantageous outcome to be achieved for the Shire. The Shire acknowledges that the lowest price may not always provide the best value for money.

An assessment of the best value for money outcome for any purchasing process should consider the following:

- All relevant whole of lifecycle/contract costs and benefits including transaction costs associated with acquisition, delivery and distribution, as well as other costs such as, but not limited to, holding costs, consumables, deployment, maintenance and disposal
- The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality, including but not limited to an assessment of warranties and guarantees
- The supplier's financial viability and capacity to supply without risk of default, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history
- Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier(s) and the goods or services required
- The safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers
- Providing opportunities for businesses within the Shire's boundaries to quote for providing goods and services
- The environmental, local economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy, the Shire's Overarching Sustainability Policy, and any other relevant Shire Policy incorporating local economic benefit
- Alignment with the objectives and initiatives outlined in the Shire's Overarching Sustainability Policy, and with the Shire's commitment to reduce emissions and taking action on climate change.

## 3. Purchasing Requirements

### 3.1 Supplier order of priority

The Shire will consider and apply, where applicable, the following order of priority when inviting quotes:

<b>Priority 1:</b>	<b>Existing Contracts</b> Current contracts, including a Panel of Prequalified Suppliers, must be used where the Shire's supply requirements can be met through such a contract.
<b>Priority 2:</b>	<b>Local Suppliers</b> Where the expected contract value does not exceed the tender threshold and a supplier located within the Shire region is capable of providing the required goods or services, the Shire shall ensure that wherever possible and appropriate, quotations are obtained from such suppliers.
<b>Priority 3:</b>	<b>Regional Suppliers</b> Where the expected contract value does not exceed the tender threshold and a supplier located within the South West region is capable of providing the required goods or services, the Shire shall ensure that wherever possible and appropriate, quotations are obtained from such suppliers.
<b>Priority 4:</b>	<b>Other Suppliers</b>

	Where no existing contract are in place and or suitable local suppliers are identified, the Shire shall consider other suppliers – including those included on a WALGA Preferred Supplier Program (PSP), WA State Government Common Use Arrangement (CUA), other tender-exempt arrangements, and other suppliers.
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### 3.2 Purchasing Thresholds

The following purchasing thresholds apply:

Purchase Value (ex GST) <sup>1</sup>	Purchasing Requirements
Up to \$5,000	Obtain at least one (1) verbal or written quotation from a suitable supplier in accordance with the Supplier Order of Priority outlined in section 5.1 above.
\$5,001 - \$15,000	Obtain at least one (1) written quotation from a suitable supplier in accordance with the Supplier Order of Priority outlined in section 5.1 above.
\$15,001 - \$50,000	Seek at least two (2) written quotations from suitable suppliers in accordance with the Supplier Order of Priority outlined in section 5.1 above.  If purchasing from a tender exempt arrangement, such as a WALGA PSA or State CUA, a minimum of one (1) written quotation is to be obtained.
\$50,001 - \$250,000	Seek at least three (3) written quotations from suitable suppliers by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority outlined in section 5.1 above.
Over \$250,000 (ex GST)	Tender exempt arrangements, as defined under regulation 11(2) of the Regulations, require officers to seek at least three (3) written quotes from suitable suppliers under a formal Request for Quotation in accordance with the Supplier Order of Priority outlined in section 5.1 above  or  Conduct a Public Tender in accordance with the Act and Regulations, and relevant Shire policy and procedures.
Emergency Purchases <sup>2</sup>	Where goods or services are required for an emergency response and are within scope of an existing contract or Panel of Pre-qualified Suppliers, the emergency supply must be obtained from that contract or Panel, using relevant unallocated budgeted funds.  If no such contract exists, and due to the urgency of the situation compliance with the provisions in the Purchasing Policy would cause unreasonable delay in providing the required urgent response to the emergency situation, the supply may be obtained from any supplier capable of providing the emergency supply.

	<p>The emergency supply is only to be obtained to the extent necessary to facilitate the urgent emergency response and must be subject to due consideration of best value and sustainable practice.</p> <p>The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Records Management Policy and other Shire procedures and guidelines.</p>
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<sup>1</sup> With regards to the purchase value, note that:

- (i) all values are to be calculated exclusive of Goods and Services Tax (GST)
- (ii) all values relate to the total actual or expected cost value of goods or services *over the life of the contract*, including any options to extend.
- (iii) The appropriate length of a contract is to be determined based on market volatility, ongoing nature of supply, historical purchasing evidence and estimated future purchasing requirements.

<sup>2</sup> See section 6 for the definition of an Emergency Purchase.

### 3.3 Other Considerations

The Shire recognises that the effective management of risk in procuring goods, services and works from external contractors and suppliers is integral to achieving the best procurement outcome and to meet the Shire's strategic and operational objectives. Risk management shall be applied in accordance with the Shire's Risk Management Policy and Framework.

Shire officers are expected to demonstrate sound judgement in seeking quotations. The number of quotations obtained, and level of evaluation required, should be determined by having regard not just to the above purchasing thresholds, but also factors such as the nature of the purchase and associated business risk.

Shire officers may choose to undertake a more rigorous procurement process than required based on purchase value if they deem it appropriate and beneficial.

### 3.4 Inviting Tenders under the Tender Threshold

Where an assessment determines that the use of a public tender process will enhance value for money outcomes despite the purchase value falling below the tender threshold, the tender process must comply with the legislative requirements for public tenders as outlined in the applicable legislation.

## 4. Other Purchasing Exemptions

Notwithstanding that the principles of ethics and integrity as outlined in Section 3 apply at all times, in addition to the regulatory tender exemptions for purchasing as set out in legislation and this policy, certain circumstances may arise where it is not reasonably practicable to adhere to the purchasing thresholds outlined in Section 3.

The following purchases are specifically exempt from the requirement to undertake a competitive purchasing process as outlined in Section 3, where the purchase value is within the Shire's approved annual budget and does not exceed \$50,000:

- Annual memberships/subscriptions
- Annual service/software maintenance/support fees
- Purchases of consumables, defined as items which can be consumed and liable to be used up or depleted over a short period of time

- Purchase of works of art in accordance with the Shire's Public Art Policy
- Procurement of performing arts, defined as forms of creative activity that are performed in front of an audience, such as drama, music or dance
- Purchases from Original Equipment Manufacturer (OEM's), or a sole agent thereof, where warranty provisions may otherwise be void
- Where the appropriate delegated authority has waived the requirement to obtain multiple quotations, in which case the waiver must be in writing and retained in accordance with the Shire's Records Management Policy and other Shire procedures and guidelines.

## 5. Sole Source of Supply

The procurement of goods, services or works available from only one private sector source of supply (e.g. manufacturer, supplier or agency) is only permitted without undertaking a competitive procurement process in circumstances where the Shire is satisfied that there is genuinely only one source of supply for those goods, services or works.

The Shire must use its best endeavours to determine if the supplier is genuinely a sole source supplier by exploring if there are any alternative sources of supply and once determined, written confirmation must be kept on file for audit purposes.

Any determination of sole source of supply must be justified in writing and signed off by the purchasing officer and an officer with the relevant delegated authority.

For any sole source arrangements with an anticipated contract term of more than one year, approval must be obtained from the Chief Executive Officer prior to the contract being entered into.

## 6. Emergency Purchases

An emergency purchase is defined as the supply of goods, services or works associated with:

- (a) a local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; or
- (b) a local emergency and the expenditure is required (with no relevant available budget allocation) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets in accordance with s6.8 of the Act and r11(2)(a) of the Regulations; or
- (c) a State of Emergency declared under the Emergency Management Act 2005 and therefore r11(2)(aa), r11(2)(ja) and r11(3) of the Regulations apply to vary the application of this Policy.

Time constraints are not a justification for an emergency purchase. Every effort must be made to anticipate purchases in advance and to allow sufficient time for planning and scoping proposed purchases and to then obtain quotes and tenders, whichever may apply.

Emergency purchases outside of the Shire's annual budgeted amount must be approved by the Shire President in line with the requirements of the Act and reported to Council at the next Ordinary Council Meeting.

Emergency purchases to be made from existing annual budget allocations must be approved in advance by a Shire officer with appropriate delegated authority.

## 7. Sustainable Procurement

The Shire is committed to implementing sustainable procurement by providing a preference to suppliers that demonstrate sustainable business practices (social advancements, environmental protection and local economic benefits).

The Shire will apply Sustainable Procurement criteria as part of the value for money assessment to ensure that wherever possible, suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes.

## **6.1 Local Economic Benefit**

The Shire encourages the development of competitive local businesses within the Shire boundaries, and within its broader region. As much as practicable, the Shire will:

- Consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses
- Consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support)
- Ensure that procurement plans address local business capability and local content
- Explore the capability of local businesses to meet requirements and ensure that procurement specifications are designed to accommodate the capabilities of local businesses, where appropriate
- Provide adequate and consistent information to local suppliers.

To this extent, a qualitative weighting of up to 20% for Local Economic Benefit may be included in the evaluation criteria for Requests for Quotation and Tenders where suppliers are known to be located within the Shire boundaries, or where there is an opportunity to substantially demonstrate a benefit or contribution to the local economy.

The Shire has adopted a Regional Price Preference Policy, which may be applied when undertaking a purchasing activity worth more than \$50,000.

The application of a qualitative weighting for local economic benefit and the application of a Regional Price Preference are mutually exclusive. Officers must determine which method for considering local economic benefit is more relevant to their purchasing activity.

## **6.2 Purchasing from Environmentally and Socially Responsible Businesses**

The Shire is committed to environmentally and socially responsible procurement as part of its overarching sustainability commitment, and wherever possible shall consider minimisation of environmental and negative social impacts as part of the procurement process.

The Shire shall endeavour to utilise suppliers, and procure goods and services, that demonstrate:

- Diversity and inclusion – including the identification and consideration of new suppliers who may be able to quote for the supply of goods or services, as well as consideration of businesses listed as an Australian Disability Enterprise, or on the Aboriginal Business Directory WA or with Supply Nation
- Environmental protection – including suppliers, goods and services that best respond to climate change mitigation and adaptation. This includes the purchase of goods which are environmentally sound in manufacture, operation, and disposal, minimise waste, and avoid single-use plastics and other toxic or polluting materials.
- Respect for human rights – including suppliers who can demonstrate their efforts to embed human rights in their everyday operations that they operate in a socially responsible manner, and do not contribute to their products and/or services do not contribute to

## **8. Anti-Avoidance**

The Shire will not conduct multiple purchasing activities with the intent of splitting the purchase value or contract value, so that the effect is to avoid a particular purchasing threshold or the need to call a public tender.

## **9. Panels of Pre-Qualified Suppliers**

### **9.1 Objectives**

The Shire will consider creating a Panel of Pre-qualified Suppliers (Panel) when a range of similar goods and services are required to be purchased on a continuing and regular basis.

### **9.2 Establishing and Managing a Panel**

If the Shire decides that a Panel is to be created, it will establish the Panel in accordance with the Regulations.

Panels will be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Invitation of applications to join a Panel will be undertaken through a state-wide public notice.

Evaluation criteria, by which applications to join a Panel will be assessed and accepted, will be determined prior to issue of an Invitation to join a Panel of Pre-qualified Suppliers (IPQS), and will be communicated within the IPQS.

The Shire will set out in the IPQS how it intends to purchase goods or services through the Panel. This may either be by seeking written quotations from each Panel member for all purchases, or alternatively all purchases above a specified threshold.

Where the Shire determines to obtain written quotations from each Panel member only above a specified threshold, goods and services may be purchased below that threshold on the basis of the relative ranking of the Panel members.

Where Panel members are ranked, the IPQS will state the frequency at which rankings will be reassessed based on written quotations received from members of the Panel.

The Shire will state the expected number of suppliers it intends to put on the Panel in the IPQS.

If a Panel member leaves the Panel, the Shire will consider replacing that organisation with the next ranked supplier that meets/exceeds the requirements in the value for money assessment, subject to that supplier agreeing.

Where the vacant position on the Panel cannot be filled by an alternate supplier, a new procurement process may be undertaken to fulfil the requirement. Current Panel members shall be invited to take part in this process, if appropriate.

This approach shall be disclosed in the IPQS documentation.

A panel arrangement needs to be managed to ensure that the performance of the panel arrangement and the panel members under the contract are monitored and managed. This will ensure that risks are managed and expected benefits are achieved. A Panel Management Plan should be established that outlines the requirements for the panel arrangement and how it will be managed.

### **9.3 Distributing Work amongst Panel Members**

When establishing a Panel, the IPQS will prescribe one of the following as to whether the Shire intends to:

- Obtain quotations from each pre-qualified supplier on the Panel with respect to all discrete purchases; or
- Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- Develop a ranking system for selection to the Panel, with work awarded in accordance with the Regulations; or
- Utilise a combination of all three methodologies listed above.

In considering the distribution of work amongst Panel members, the IPQS will also prescribe whether:

- Each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote, to assess the suitability of the supplier for particular items of work. Contracts under the Panel will be awarded on the basis of value for money in every instance; or
- Work will be awarded on a ranked basis, which is to be stipulated in the IPQS set out under Regulation 24AD(5)(f) when establishing a Panel. The Shire will invite the highest ranking Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Requirements stated in Section 5 of this Policy.

When a ranking system is established, the Shire is to determine the rankings from time to time on the basis of written quotations obtained from panel members.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

### **9.4 Purchasing from the Panel**

The invitation to apply to be considered to join a Panel must state whether quotations are either to be invited to every panel member (within each category, if applicable) for each purchasing requirements, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire's electronic records system.

## **10. Purchasing Policy Non-Compliance**

Purchasing activities are subject to financial and performance audits which review compliance with legislative requirements and compliance with the Shire's policies and procedures.

Shire officers are required to comply with the Shire's Purchasing Policy and any relating procedures.

A failure to comply with the requirements of this policy will be subject to investigation, with findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

## 11. Records Management

Records of all tenders, quotations, panels and any relevant exemptions must be retained in compliance with the *State Records Act 2000* and the Shire's internal Records Management Policy.

All records and documents associated with the tender, quotation or panel process must be recorded and retained as defined within the *State Records Act 2000* and the Shire's Records Management Policy.

This includes:

- Tender, quotation and panel documentation
- Internal documentation
- Evaluation documentation
- Enquiry and response documentation
- Approval and award documentation
- Order forms and requisitions.

All records and documents associated with Request for Tender or Request for Quotation processes must be reviewed for completeness prior to recording on the Shire's electronic document management system.

### Legislation

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996 – Part 4*

*State Records Act 2000*

### Relevant documents

Regional Price Preference Policy

Records Management Policy

Delegations Register

Document and version control table			
<b>Responsible Directorate</b>	Corporate and Community Services		
<b>Contact officer</b>	Project Management & Procurement Officer		
<b>Adopted / approved by:</b>	Council		
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1.0	14 August 2013	OM1308/4	Initial Issue
2.0	22 October 2014	OM2014/232	Review
3.0	25 November 2015	OM2015/250	Review

4.0	28 November 2018	OM2018/316	Major review and transfer to new template.
5.0	24 June 2020	OM2020/117	Major review following changes to LG (Functions and General) Regulations 1996 and in response to Covid-19
6.0	9 November 2022	OM2022/199	Major review, transfer to new template, update to Sustainable Procurement and other sections of policy