

4.8 Purchasing

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| Policy Owner | Audit and Risk Committee Corporate Services |
| Person Responsible | Deputy Chief Executive Officer |
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PURPOSE

To ensure that the Shire of Wongan-Ballidu's (Shire's) procurement practices and processes are compliant with all relevant legislation and best practice.

OBJECTIVE

The objectives of this Policy are to ensure that all purchasing activities:

- Demonstrate that value for money is attained for the Shire;
- Are compliant with relevant legislation, codes and standards, including the *Local Government Act 1995 (Act)*, and the *Local Government (Functions and General) Regulations 1996 (Regulations)*;
- Are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire;
- Demonstrate probity by establishing consistent processes that promote transparency, fairness and equity to all potential suppliers;
- Ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- Ensure that goods and services to be procured are necessary and fit for purpose;
- Properly evaluate and consider the safety and health characteristics of any goods and/or services prior to being introduced into the Shire's workplaces;
- Are supported by the necessary budget provisions or comply with section 6.8(1) of the Act; and
- Are conducted in a consistent and efficient manner across the Shire and that ethical decision making is demonstrated.

RESPONSIBILITY FOR IMPLEMENTATION

All officers involved in a purchasing process must adhere to this Policy. The Deputy Chief

Executive Officer is responsible for ensuring this Policy is adhered to.

POLICY

1. ETHICS & INTEGRITY

All officers and employees of the Local Government must have regard for the Code of Conduct and shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Local Government.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- Full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money.
- All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the local government policies and code of conduct.
- Purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
- All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements.
- Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- Any information provided to the local government by a supplier shall be treated as commercial in confidence and should not be released unless authorised by the supplier or relevant legislation.

2. VALUE FOR MONEY

Value for money is an overarching principle governing purchasing that is the difference between the total benefit derived from a good or a service against its total cost, when assessed over the period the goods or services are to be used.

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

- An initial needs assessment to determine the ongoing relevance and necessity for the procurement and mode of delivery.
- All relevant whole-of-life costs and benefits including transaction costs associated with acquisition, delivery, 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.

- Financial sustainability and viability of the supplier(s) to ensure risk of default is as low as possible.
- Competency of supplier(s) to provide the goods and/or services (technical, managerial, compliance).
- A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.
- Providing opportunities for local businesses within the shire to provide quotations for goods and services wherever possible.
- 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;
- Purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility.

3. SUSTAINABLE PROCUREMENT

Sustainable Procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing goods and services.

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Shire's sustainability objectives.

Practically, sustainable procurement means the Shire shall always endeavour to identify and procure products and services that:

- Demonstrate environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling.
- Demonstrate environmental best practice in water efficiency.
- Are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage.
- Products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste.
- For motor vehicles – select vehicles featuring the highest fuel efficiency available, based on vehicle type and where feasible within the designated price range, consider non-combustible engines

- For new buildings and refurbishments – where available use renewable energy technologies.

4. LOCAL SUPPLY

Where the supply of goods or services can be undertaken by a business that has a registered address in the Shire of Wongan-Ballidu or in an adjoining district and it is for the supply of goods and/or services where in the opinion of the Manager (must have delegated purchasing authority) it is not practical to obtain the required quotations as outlined under section 7.4 of this Policy, the Manager may approve the purchase.

5. ABORIGINAL AND TORRES STRAIGHT ISLANDER BUSINESSES

The Shire is committed to ensuring that all Aboriginal and Torres Strait Islander businesses have full, fair, and reasonable access to procurement opportunities. To achieve better outcomes in attracting, supporting, and procuring Aboriginal and Torres Strait Islander businesses and to increase contracting opportunities, therefore supporting employment and business opportunities for the Aboriginal community, where a value for money assessment of multiple offers has an equal result, then preference will be given to procure goods and/or services from Aboriginal and Torres Strait Islander businesses.

6. DISABILITY ENTERPRISES

The Shire is committed to working toward equity for all community members including people with disability, their family members and carers. The Shire values diversity and believes that supporting participation and inclusion for all makes a stronger, more vibrant community. In recognition of the potential for procurement processes to assist in supporting this vision, the Shire, where practicable, where a value for money assessment of multiple offers has an equal result, then preference will be given to procure goods and/or services from Disability Enterprises and Disability owned or run businesses. Such businesses include Charities and Not for Profits whose core business is providing services for people with a Disability.

7. GENDER EQUALITY

In recognition of the Shire's commitment to promoting workplace gender equality, the Shire, where practicable, will not procure any goods and/or services from employer's listed on the Workplace Gender Equality Agency's Non-Compliant List.

8. PURCHASING REQUIREMENTS

8.1 VALUES

Purchasing that is \$250,000 or below in total value (excluding GST) must be in accordance with

the purchasing requirements under the relevant threshold as defined under section 7.4 of this Purchasing Policy.

Purchasing that exceeds \$250,000 in total value (excluding GST) must be put to public Tender when it is determined that a regulatory Tendering exemption, as stated under section 7.6 of this Policy is not deemed to be suitable.

| Purchase Value Threshold | Purchasing Requirement | Purchasing Requirement |
|---------------------------------|--|---|
| | Open Market | Pre-Qualified Suppliers |
| Up to \$2,000 | <p>Direct purchase from the open market with zero (0) quotations required.</p> <p>This purchasing method is suitable where the purchase is in a known market or is very low risk and where the cost of seeking quotes would be unreasonable on a cost to benefit analysis basis.</p> | <p>Purchase directly from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the Shire; or • a pre-qualified supplier on the WALGA Preferred Supply Program (PSP) or State Government Common Use Arrangement (CUA); <p>with zero quotations required.</p> |
| Over \$2,000 and up to \$5,000 | <p>Direct purchase from open market.</p> <p>A minimum of one (1) quotation is required.</p> <p>When a verbal quote is received the Officer must provide a written record of the quote details.</p> | <p>Purchase directly from WALGA PSP or CUA.</p> <p>A minimum of one (1) written quotation is required.</p> |
| Over \$5,000 and up to \$20,000 | <p>Seek two (2) written quotes from the open market.</p> <p>It is recommended to use professional discretion and occasionally undertake market testing with a greater number of quotations to ensure best value is maintained.</p> | <p>Purchase directly from WALGA PSP or CUA.</p> <p>A minimum of one (1) written quotation is required.</p> |

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| <p>Over \$20,000 and up to \$100,000</p> | <p>Seek three (3) written quotations from the open market including a brief scope of works outlining the specified requirement.</p> | <p>Purchase directly from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the Shire; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; <p>requiring two written (2) quotations including a brief scope of works outlining the specified requirement.</p> |
| <p>Over \$100,000 and up to \$250,000</p> | <p>Seek at least three (3) written quotations from the open market by formal invitation under a Request for Quotation (RFQ), containing pricing schedule and detailed specification of goods and services required.</p> <p>Contract required upon award of the RFQ.</p> <p>The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations, both qualitative and quantitative, in accordance with the definition stated within this Policy.</p> | <p>Seek three (3) written quotations from a pre-qualified panel of suppliers (whether administered by the Shire, through the WALGA preferred supply program, or State Government CUA).</p> <p>A formal Request for Quotation (i.e. Shire of Wongan-Ballidu template, WALGA Template or State Government CUA template) must be used.</p> <p>Contract required upon award of the RFQ.</p> <p>The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations, both qualitative and quantitative, in accordance with the definition stated within this Policy.</p> |
| <p>Over \$250,000</p> | <p>Conduct a public Request for Tender process in accordance with Part 4, Division 2 and 3 of the <i>Local Government (Functions and General) Regulations 1996</i>, this Policy, and the Shire’s tender procedures.</p> | <p>Conduct a public tender process in accordance with Part 4, Divisions 2 and 3 of the <i>Local Government (Functions and General) Regulations 1996</i>, and this Policy.</p> <p>As per Regulation 11(2) of the <i>Local Government (Functions and General) Regulations 1996</i>, if any of the legislated tender exemptions can be met, utilising the most applicable exemption will negate the requirement to conduct a public tender. Refer to section 7.6 of this Policy.</p> |

8.2 PURCHASING VALUE DEFINITION

Determining purchasing value is to be based on the following considerations:

- Exclusive of Goods and Services Tax (GST).
- The actual or expected value of the contract over the full contract period, including all options to extend, or the extent to which it could be reasonable expected that the Shire will continue to purchase a particular category of good and/or service and what total value is or could be reasonably expected to be purchased.
- If a purchasing threshold would be reached within three years for a particular contract for procurement, then the purchasing requirement under the relevant threshold (including the tender threshold) would need to be considered.

8.3 PURCHASING FROM EXISTING CONTRACTS

Where the Shire has an existing contract in place, it must ensure that goods and services required are purchased under these contracts to the extent that the scope of the contract allows.

8.4 PURCHASING THRESHOLDS

The below table prescribes the purchasing process to be complied with based on each purchasing value bracket, and this includes contracts that are to deliver goods and/or services over an extended period.

8.5 SOLE SOURCE OF SUPPLY

The procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be kept on file for later audit.

Once determined, the justification for a sole source of supply must be endorsed by the Chief Executive Officer or Manager, prior to a contract being entered into, or a purchase order raised.

Note: The application of provision "sole source of supply" should only occur in limited cases and procurement experience indicates that generally more than one supplier is able to provide the requirements.

8.6 TENDERING EXEMPTIONS

The Shire limits the discretion from the requirements to call for public tenders as

provided under Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*, to the values of \$250,000. Accordingly, tenders to not have to be publicly invited for contracts over \$250,000 if the following exemptions can be evidenced:

- The supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the *Local Government Act 1995*; or
- The supply of goods or services is associated with a state of emergency or a COVID-19 declaration; or
- The supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or
- The supply of the goods or services is to be obtained through the State Government Common Use Arrangement (CUA); or
- The supply of the goods or services is to be obtained from a Regional Council or another Local Government; or
- The purchase is from a pre-qualified supplier under a Panel established by the Shire; or
- Any of the other exclusions under Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996* apply.

8.7 QUOTATION EXEMPTIONS

The Shire limits the discretion from the requirement to call for quotations to all purchasing threshold (excluding over \$250,000) for the following goods/services:

- Subscriptions;
- Association and professional memberships;
- Conferences, seminars and training programs;
- Government gazette advertising (regulatory requirement – local government act section 3.12);
- Government rates;
- Non-contestable utility services;
- Banking fees and costs;
- Insurance premiums with LGISWA;
- Proprietary consumables, parts and maintenance for existing equipment where there is no substitute or warranty is voided if a substitute is used;

8.8 ACCEPTING TENDERS/QUOTATIONS

For any tenders publicly invited as per Regulation 11(1) of the *Local Government (Functions and General) Regulations 1996*, an agenda item will be presented to Council to seek formal approval of accepting the tender and awarding the contract for goods and services.

In all other cases, either whereby the value is under \$250,000 or whereby an exemption to public tender was evidenced as per Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*, the local government employee(s) can accept the quotation and award contracts for goods and services. Notwithstanding that the individual employee delegated purchasing authority limits still apply. The expenditure must also be authorised through the annual budget or approved in accordance with section 6.8(1) of the *Local Government Act 1995*.

8.9 TENDER PROCESS

The Shire of Wongan-Ballidu shall comply with the complete tender process, as legislated through Regulations 14 to 24 of the *Local Government (Functions and General) Regulations 1996*.

9.0 ANTI-AVOIDANCE

The Shire of Wongan-Ballidu shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$250,000, thereby avoiding the need to publicly tender.

10.1 VARIATIONS TO SCOPE OF GOODS OR SERVICES REQUIRED PRIOR TO ENTERING CONTRACT

As per Regulation 20 of the *Local Government (Functions and General) Regulations 1996*:

- (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.
- (2) If –
 - a. The chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or
 - b. The local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

That the tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

- (3) In subregulation (1) –
Minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

10.2 VARIATIONS TO AWARDED CONTRACTS FOR THE SUPPLY OF GOODS AND SERVICES

As per Regulation 21A of the *Local Government (Functions and General) Regulations 1996*:

If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless –

- (a) The variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- (b) The variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j), (ja) or (jb).

10.3 COST VARIATIONS

Contract variations that would result in the procurement of additional goods or services where the value of those additional goods or services would exceed the initial contract price by more than 10% to a maximum of \$50,000 may, in exceptional circumstances, be approved by the Chief Executive Officer, subject to the variation not being contrary to the requirements of clause 10.2 above, and the reasons for the variation being documented and registered as a corporate record.

When approving an invoice for payment, if the amount of the invoice exceeds the amount of the corresponding purchase order for the goods or services by more than 10% to a maximum of \$50,000, payment of the invoice is to be authorised by the Chief Executive Officer.

11.0 RECORDS MANAGEMENT

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*, the Shire's Recordkeeping Policy and associated procurement procedures.

REVIEW

Reviews of this policy are to be undertaken every 3 years or earlier if required.

RESPONSIBILITY FOR IMPLEMENTATION

The Chief Executive Officer is responsible for implementing this policy.