

1.4 PROCUREMENT

Responsible Directorate	Corporate Services
Responsible Service Area	Finance
Resolution	May 2024 C5.05.24
Delegation Ref	CE-151
Procedure Ref	Procurement Procedure Contract Management Procedure

1. PURPOSE

The Shire of Mundaring (the Shire) is committed to delivering best practice in the procurement of goods, services and works that align with the principles of transparency, probity, good governance and comply with the *Local Government Act 1995* (the Act) and Part 4 of the *Local Government (Functions and General) Regulations 1996* (as amended).

The purpose of this policy is to provide guidance to all officers conducting procurement on behalf of the Shire and that procurement processes defined within the policy and corporate guidelines are understood and complied with.

2. SCOPE

This policy applies to all procurement and purchasing activities undertaken by or on behalf of the Shire.

This policy is the Shire's purchasing policy for the purposes of regulation 11 of the Regulations.

3. DEFINITIONS

local supplier/contractor	has had a permanent office and permanent staff in the Shire of Mundaring district for a period of six months prior to quotations being sought.
Regulations	the <i>Local Government (Functions and General) Regulations 1996</i> (as amended).
Request for Quote (RFQ)	a request to provide a quote for specific goods or services and refers to the document prepared by the Shire seeking formal submissions from invited parties.
Request for Tender (RFT)	a request for tender and refers to the document prepared by the Shire seeking formal submissions from interested parties for the provision of goods or services as required by the Regulations.

WALGA	Western Australian Local Government Association
WALGA Preferred Supplier Panels (WALGA PSP)	Preferred Supply Panels are specified groupings of suppliers that have been pre-qualified and appointed by WALGA to supply a category of goods or services to Local Governments.

4. POLICY

4.1. Guiding Principles

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 - all purchasing decisions are undertaken in an efficient and effective manner for the proper expenditure of public monies to achieve the best outcome for the Shire.

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

Managing Safety and Risk - effective management of risk and consideration for work health and safety 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" (2.16) and "Work Health and Safety Policy" (2.1).

Open Competition - procurement is to be undertaken on a competitive basis to ensure that all potential suppliers are treated impartially, honestly and consistently.

Professionalism - subject to legislative requirements and only to the extent required, any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and not be released unless authorised by the supplier or relevant legislation.

Regulatory Compliance - all procurement processes will comply with the Act, Regulations and requirements consistent with the Shire's policies.

Social and Sustainable Procurement - when undertaking procurement, Shire Officers will ensure suppliers who can deliver outcomes that contribute to improved social, environmental and local economic benefits are provided with an opportunity to submit a quotation or tender. This includes:

- Local Economic Benefit

In accordance with the Shire's Economic Development and Tourism Strategy, the Shire will maximise the opportunity for local goods and services to be procured wherever there is a demonstrated benefit towards achieving local economic benefit and value for money.

- **Socially Sustainable Procurement**
In accordance with the Shire's Access and Inclusion Strategy and Reconciliation Action Plan, the Shire will maximise the opportunity for socially sustainable suppliers goods and services to be procured wherever there is demonstrated benefit toward achieving social sustainability and value for money. This includes Australian Disability Enterprises and registered Aboriginal businesses
- **Environmentally Sustainable Procurement**
In accordance with the Shire's Local Biodiversity Strategy and Environmental Sustainability Policy, the Shire will maximise the opportunity for recycled and environmentally sustainable goods and services to be procured wherever there is a demonstrated benefit toward achieving environmental sustainability and value for money.

Transparency - all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation.

Value for Money - The Shire seeks the best possible procurement outcome for the Shire. Value for money is based not only on the purchase price but also on qualitative measures including the efficiency and effectiveness of the purchase and determining an acceptable level of risk to the Shire; the lowest price may not always be the most advantageous.

4.2. Assessment Criteria

Procurement processes will be assessed on a range of criteria to determine the preferred supplier, such as but not limited to:

- Relevant experience
- Methodology
- Capability
- Timing
- Key personnel skills
- Organisation capabilities
- Contractor performance
- Reference checks
- Resources
- Pricing
- Work Health and Safety
- Other compliance criteria contained in the request (compliance with specifications, insurance, Shire policies/industry standards, financial requirements etc.)

The assessment criteria considered to be the most appropriate based on the goods, services or works being procured will be included in the RFQ or RFT document.

4.3. Anti-Avoidance

The Shire will not conduct multiple procurement activities for the same goods or services with the intent (inadvertent or otherwise) of 'splitting' the

purchase value or the contract value, so that the effect is to avoid a particular purchasing threshold or the need to call a public tender. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

4.4. Purchasing Thresholds

The following table prescribes the procurement methodology minimum requirements based on the purchasing value.

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

- all values are to be calculated exclusive of Goods and Services Tax (GST)
- 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.
- if it is unclear what the total purchase value is, the higher threshold is to take precedence.
- 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.

All procurement evaluations, review and approvals and decisions must be documented using the Shire pro-forma templates and evidenced in accordance with the Shire's Record Keeping Plan.

Notwithstanding these thresholds, officers may use professional discretion and undertake a RFQ process where it is considered that a lower price may be obtained, or to ensure fair and reasonable competition amongst suppliers, although the expected value of the purchase does not require it.

Purchase value threshold (ex GST)	Method to be used
Up to \$ 5,000	Obtain at least <u>one</u> (1) verbal quotation from a suitable supplier.
\$5,001 to \$10,000	Obtain at least <u>one</u> (1) written quotation containing price and specification or technical description of proposed purchase from a suitable supplier.
\$10,001 to \$50,000	Seek at least <u>two</u> (2) written quotations containing price and specification or technical description of proposed purchase from suitable suppliers.
\$50,001 to \$250,000	Conduct a RFQ process seeking formal submissions from at least <u>three</u> (3) suitable suppliers.

<p>\$250,000 and above</p>	<p>Conduct a public, open market RFT process in accordance with the provisions of the Act and the Regulations.</p> <p>OR</p> <p>If purchase meets provisions of a Public Tendering Exemption (see part 4.5.1) there is still a requirement to conduct a RFQ process seeking formal submissions from at least three (3) suitable suppliers.</p>
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4.5. Competitive Procurement Exemptions

4.5.1. Public Tendering Exemptions

Regulation 11(2) of the Regulations detail exemptions from publicly inviting tenders as detailed in part 4.4.

4.5.2. Other Procurement Exemptions

Where quotes are not practical, e.g. due to limited suppliers, the Chief Executive Officer or Director may, at their discretion, waive the requirement to obtain quotes providing that written justifiable reasons for such waiver are provided by the responsible officer and documented through records.

4.5.3. Sole Source of Supply

The procurement of goods, services or works available from only one private sector source of supply (manufacturer, supplier, or agency) is only permitted without undertaking a competitive process (public RFT or RFQ processes) in circumstances where the Shire is satisfied that there is genuinely only one source of supply for those goods, services or works. Written confirmation to evidence sole source of supply status must be kept on file for audit purposes.

The CEO must approve any determination of sole source of supply.

Each quotation process, including the invitation to quote, communications with suppliers, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire electronic records system. A separate file is to be maintained for each quotation process that captures all communications between the Shire and suppliers.

4.5.4. LGIS Insurance Services

LGIS insurance services are not defined as a purchasing activity subject to this policy.

Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this policy is required.

4.5.5. Purchasing from WALGA Preferred Suppliers or State Government Common Use Arrangement (CUA)

A tender exemption may apply if a purchase is obtained through the WALGA Preferred Supplier Program or the State Government CUA. Both programs can also be accessed for purchases requiring quotations.

The intent of the exemption is not to bypass the purchasing or tender requirements, but to save time, money and effort in advertising purchasing intentions and evaluating quotations when this task has already been completed by WALGA or CUA.

In order to ensure accountability, regulatory compliance, open competition, integrity, transparency and value for money these requirements must be strictly observed for all purchases from WALGA Panels or CUA:

All quotations from WALGA preferred suppliers must be obtained through the WALGA e-quotes facility.

4.6. Panels of Pre-Qualified Suppliers

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.

Part of the consideration of establishing a panel includes:

- a. there are numerous potential suppliers in the local and regional procurement related market sector(s) that satisfy the test of ‘value for money’;
- b. the Panel will streamline and will improve procurement processes; and
- c. the Shire has the capability to establish a Panel, and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.

4.6.1. 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. This will be undertaken through an invitation procurement process advertised via a state-wide notice.

Panels may be established for a maximum of three years. The length of time of a Local Panel is decided with the approval of the CEO/ Executive Director.

Evaluation criteria will be determined and communicated in the application process by which applications will be assessed and accepted.

In each invitation to apply to become a pre-qualified supplier, the Shire will state the expected number of suppliers it intends to put on the Panel.

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. The Shire will disclose this approach in the detailed information when establishing the Panel.

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

4.6.2. Distributing Work Amongst Panel Members

To satisfy regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel will prescribe one of the following as to whether the Shire intends to:

- a. obtain quotations from each pre-qualified supplier on the Panel with respect to all discreet purchases; or
- b. purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- c. develop a ranking system for selection to the Panel, with work awarded in accordance with the Regulations.

In considering the distribution of work among panel members, the detailed information will also prescribe whether:

- a. 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 pre-qualified Panel will be awarded on the basis of value for money in every instance; or
- b. work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under the Regulations (24AD(5)(f)) when establishing the Panel.
 - i. The Shire will invite the highest ranked panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken.
 - ii. 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.
 - iii. 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 Thresholds stated in part 4.4 of this Policy.

- iv. When a ranking system is established, the Panel will not operate for a period exceeding 12 months.

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

4.6.3. Purchasing from the Panel

All purchases made under the Panel must be made in accordance with the method prescribed in the Invitation to Join a panel of pre-qualified suppliers, and applied in a consistent fashion.

4.6.4. Communications with Panel Members

The Shire will ensure clear, consistent and regular communication with panel members. 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 electronic records system. A separate file is to be maintained for each quotation process made under each panel that captures all communications between the Shire and panel members.

4.7. Variations

Under regulation 20 of the Regulations, a minor variation to the scope of a tender may be made prior to the Shire and the preferred tenderer formalising the contract.

For the avoidance of any doubt, a minor variation has been determined by the Shire to mean a variation which does not materially alter the specification or structure provided for by the initial tender.

Any other contract variations must be entered and executed in accordance with part 4.8.1 below.

4.8. Contract Management

Contracts are to be proactively managed during their lifecycle by the officer responsible for the delivery of the contracted goods, services or works, to ensure the Shire receives value for money and to enforce performance against the contract as per the Shire's "Contract Management Procedure". The approach to managing risk for individual contracts will be consistent with the Shire's "Risk Management Policy" (2.16) and the associated risk assessment and acceptance criteria.

Upon expiry of the original contract, and after any options for renewal or extension included in the original contract have been exercised, the Shire is

required to review the purchasing requirements and commence a new competitive purchasing process in accordance with this policy.

4.8.1. Contract variations

In accordance with regulation 21A of the Regulations, a 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.
- b. the variation is a renewal or extension of the term of the contract where the extension or renewal options were included within the original contract.

For all contract variations, a formal variation agreement must be completed by the responsible officer. This agreement must be signed by a person with appropriate delegation and authorisation.

All goods and service contracts valued \$50,000 (ex GST) and above will be maintained in a comprehensive Contract Register including summarised information on approved contract variations and total value of approved variations to effectively track the cumulative value of variations, evaluate the impact on the scope of the original contract and initiate a separate process where appropriate.

4.9. Records Management

Records relating to all procurement activities must be evidenced and retained in compliance with the *State Records Act 2000* (WA) and the Shire's Record Keeping Plan and associated procurement procedures.

In addition, the Shire must consider and will include in each contract for the provision of works or services, the contractor's obligations for creating, maintaining and where necessary the transferral of records to the Shire relevant to the performance of the contract.

4.10. Authority to Execute Contracts

Execution (or signing) of contracts must be in accordance with "Execution of Documents and Use of the Common Seal Policy" (2.11).

5. RELATED LEGISLATION

Local Government Act 1995, Division 3, s3.57

Local Government (Functions and General) Regulations 1996, Part 4

State Records Act 2000

Work, Health and Safety Act 2020

6. RELATED DOCUMENTS

Access and Inclusion Informing Strategy

Economic Development and Tourism Strategy

Local Biodiversity Strategy

Reconciliation Action Plan

Recordkeeping Plan

Execution of Documents and Use of the Common Seal Policy (2.11)

Fraud and Corruption Control (OR 25)

Risk Management Policy (2.16)

Work Health and Safety Policy (2.1)

Advertising - Statutory Requirements for Local and Statewide Public Notice Procedure

Ordering and Payment of Goods and Services Procedure (Admin-30)

Public Interest Disclosure Procedure (Admin-44)

Quotations for Purchase of Goods and Services Procedure (Admin-31)

Risk Management Procedure (Admin-36)

Delegations Register