

COUNCIL POLICY: Model Purchasing Policy

POLICY OWNER: Manager Governance

POLICY STATEMENT: The City of Bunbury (the “City”) is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the “Act”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “Regulations”) Procurement processes and practices to be complied with are defined within this Policy and the City’s prescribed procurement procedures.

POLICY OVERVIEW:

This policy is based on:

- i) s5.42, s5.44, s5.46, s6.2(4a), s6.8 of the *Local Government Act (1995)* as amended; and
- ii) *Local Government Act (Financial Management) Regulations 1996, Part 4.*

POLICY DETAILS:

1 OBJECTIVES

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

- demonstrate that best value for money is attained for the City;
- are compliant with relevant legislations, including the Act and Regulations;
- are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, 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; and
- are conducted in a consistent and efficient manner across the City and that ethical decision making is demonstrated.

2 ETHICS & INTEGRITY

2.1 Misconduct

All officers and employees of the City undertaking purchasing activities must:

- Apply accountable and ethical decision making principles within the work environment.
- Behave in accordance with legislation, City of Bunbury Council Policies, Corporate Guidelines and Code of Conduct.
- Understand and observe the definitions of Misconduct and Serious Misconduct as defined in the Corruption Crime and Misconduct Act 2003.
- Report any information about actual or potentially fraudulent, corruption or illegal activities, including breaches of the City’s Code of Conduct, to your manager, Director or CEO.

2.2 Purchasing 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:

- all purchases of goods and services must have the required Council budget appropriation prior to purchase.
- 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 City's Policies and Code of Conduct;
- purchasing is to be undertaken on a competitive basis where 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, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;
- any information provided to the City by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation; and
- a purchase order must be approved and issued prior to engaging a supplier to obtain goods or services.

3 VALUE FOR MONEY

3.1 Policy

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the City.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

3.2 Application

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

- all relevant Total Costs of Ownership (TCO) 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, supplier changeover costs 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 levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.
- financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);

- 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;
- 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; and
- providing opportunities for businesses within the Bunbury/Wellington Group of Councils to be given the opportunity to quote for providing goods and services wherever possible.

4 PURCHASING REQUIREMENTS

4.1 Legislative / Regulatory Requirements

The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the City.

4.2 Policy

Purchasing that is **\$150,000 or below in total value for the life of the contract** (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under section 4.5 of this Purchasing Policy.

Purchasing that **exceeds \$150,000 in total value for the life of the contract** (excluding GST) must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under section 4.7 of this Policy is not deemed to be suitable.

4.3 Purchasing Value Definition

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

1. Exclusive of Goods and Services Tax (GST);
2. The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the City will continue to purchase a particular category of goods, services or works and what total value is or could be reasonably expected to be purchased. A best practice suggestion is that if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply.

4.4 Purchasing from Existing Contracts

Where the City 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. When planning the purchase, the City must consult its Contracts Register through the Contracts and Procurement Team in the first instance before seeking to obtain quotes and tenders on its own accord.

4.5 Purchasing Thresholds

The table below prescribes the purchasing process that the City must follow, based on the purchase value:

Purchase Value Threshold	Purchasing Requirement
Up to \$2,000	<p>Purchase directly from a supplier using a Purchas Order or Corporate Credit Card issued by the City, or obtain at least one (1) oral or written quotation from a suitable supplier, either from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or • from the open market.
Over \$2,000 and up to \$50,000	<p>Obtain at least three (3) written quotations from suppliers after providing a brief outlining the specified requirement, either from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market. <p><i>**Where the value is expected to be over \$20,000 or the procurement is considered high risk, the Officer shall seek advice from the Contracts and Procurement Team to establish if a formal contract process is required.</i></p>
Over \$50,000 and up to \$150,000	<p>Obtain at least three (3) written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy. The Contracts and Procurement Team shall facilitate the quotation process.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market utilising the electronic tendering portal and placing an advertisement in the local paper. <p>Requests for quotation from a pre-qualified panel of suppliers (whether administered by the City through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.</p>

Purchase Value Threshold	Purchasing Requirement
Over \$150,000	Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 4.7 of this Policy, conduct a public Request for Tender process in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i> , this policy and the City's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.

4.6 Approval Limits

- The Chief Executive Officer has delegated authority from Council to undertake purchases of goods and services which are, or expected to be up to the value of \$250,000 and up to \$500,000 where the supply of products or services is procured through the Western Australian Local Government Association (WALGA), State or Commonwealth Governments or any of its agencies that provide preferred supplier contracts or arrangements.
- Where the good and services so procured contain options to extend the contract for a further period(s), the delegated amounts listed above shall be applied per annum to a maximum value not exceeding \$750,000 excluding GST.
- The Chief Executive Officer may on delegate authority from Council to any Director to maintain efficient and effective operations.

4.7 Tendering Exemptions

An exemption to publicly invite tenders may apply in the following instances:

- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement.
- the purchase is from a Regional Local Government or another Local Government;
- the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a Panel established by the City; or
- any of the other exclusions under Regulation 11 of the Regulations apply.

4.8 Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the City may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA.

If a decision is made to undertake a public Tender for contracts expected to be \$150,000 or less in value, the City's tendering procedures must be followed in full.

4.9 Sole Source of Supply

Where the purchasing requirement is over the value of \$2,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the justification must be endorsed by the Chief Executive Officer or Director, prior to a contract being entered into.

From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

4.10 CEO Discretion

Where it is not practical to obtain multiple written and/or verbal quotations for amounts between \$2,000 and less than \$150,000 the CEO may approve the purchase of goods and services where deemed appropriate after approving a written request from the Officer justifying the reasons for the purchase.

4.11 Anti-Avoidance

The City shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of "splitting" the value of the purchase or contract to take the value of the consideration of the purchase below a particular purchasing threshold, particularly in relation to Tenders and to avoid the need to call a public Tender.

4.12 Emergency Purchases

An emergency purchase is defined as an unanticipated and unbudgeted purchase which is required in response to an emergency situation as provided for in the *Local Government Act 1995*. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

An emergency purchase does not relate to purchases not planned for due to time constraints. Every effort must be made to anticipate purchases required by the City in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

5 RECORDS MANAGEMENT

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*.

For each procurement activity, such documents may include:

- The Procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;
- Request for Quotation/Tender documentation;
- Copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- Copies of quotes/tenders received;

- Evaluation documentation, including individual evaluators note and clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to respondents notifying of the outcome to award a contract;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of contract(s) with supplier(s) formed from the procurement process.

6 BUY LOCAL POLICY

As much as practicable, the City will:

- where appropriate, 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; and
- provide adequate and consistent information to potential suppliers.

6.1 Eligibility

- a preference is applicable to locally based contractors and suppliers within the Bunbury Wellington Group of Councils. This includes the City of Bunbury along with the Shires of Capel, Dardanup, Collie, Harvey and Donnybrook-Balingup; and
- to qualify as a local contractor a supplier must have had a permanent office and staff in the Bunbury/Wellington Group of Councils for a period of at least six (6) months prior to the closing date of the quotation/tender submission.

6.2 Price Preference

- a 5% price preference to a maximum of \$50, 000 in value applies to all goods and services for those supplier(s) that meet the eligibility requirements; and
- where the procurement is for goods or services for a period exceeding twelve (12) months, the 5% price preference to a maximum of \$50, 000 shall be applied per annum.

7 PURCHASING FROM DISABILITY ENTERPRISES

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the City is not required to publicly invite tenders if the goods or services are to be supplied from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

8 PURCHASING FROM ABORIGINAL BUSINESSES

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the City is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation on www.abdwa.com.au, where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

9 PANELS OF PRE-QUALIFIED SUPPLIERS

9.1 Policy Objectives

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

- the City determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The City will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

9.2 Establishing a Panel

Should the City determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*.

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

Panels may be established for a minimum of two (2) years and for a maximum length of time deemed appropriate by the City.

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

Where a Panel is to be established, the City will endeavour to appoint at least two (2) suppliers to each category, on the basis that best value for money is demonstrated.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the City must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

9.3 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 must either prescribe whether the City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 9.4; and/or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; and/or

- iii. Purchase goods and services on a rotational basis from each pre-qualified supplier and endeavour to provide an even amount of work amongst pre-qualified suppliers.

In considering the distribution of work among Panel members, the detailed information must 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; and/or
- b) service requests that are not possible to obtain a fixed price may be rotated between pre-qualified supplier(s) to obtain the most advantageous result for the City which may take into account the existing familiarity with a suppliers previous work on a specific Council asset; and/or
- c) should the list of panel members be exhausted with no panel member accepting the offer to provide goods/services under the Panel, the City may then invite suppliers that are not on the panel to provide the goods/services in line with the purchasing thresholds as listed in section 4.5.

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 of pre-qualified suppliers must state whether quotations are either to be invited to every member (within each category, if applicable) of the Panel for each purchasing requirement, 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 City's electronic records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the City and Panel members.

9.5 Recordkeeping

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a Panel, this includes:

- The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- Request for Applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;

- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

The City is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the City.

LEGISLATION AND OTHER REFERENCES:

- *Local Government Act 1995*
- *Local Government Act (Financial Management) Amended Regulations 2015*
- *Local Government (Functions and General) Regulations 1996*
- *City of Bunbury Code of Conduct*
- *Corruption Crime and Misconduct Act 2003*
- *State Records Act 2000*

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