

PURCHASING COUNCIL POLICY

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 SCOPE

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 (Functions and General) Regulations 1996, Part 4.*

POLICY DETAILS

OBJECTIVES

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

- demonstrate that best value for money is attained for the City;
- consistent, efficient and accountable processes and decision-making;
- fair and equitable competitive processes that engage potential suppliers impartially, honesty and consistency;
- probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- compliance with the *Local Government Act 1995*, *Local Government (Functions and General) Regulations 1996*, as well as any relevant legislation, Codes of Practice, Standards and the City’s Policies and procedures;
- are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- ensure that the sustainable benefits, such as social and local economic factors are considered in the overall value for money assessment;
- risks identified and managed within the City’s Risk Management framework; and
- confidentiality protocols that protect commercial-in-confidence information and only release information where appropriately approved

ETHICS AND INTEGRITY

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; and
- 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.

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.

VALUE FOR MONEY

Policy

Value for money is achieved through the critical assessment of price, risk, timeliness, social, economic and qualitative factors to determine the most advantageous supply outcome that contributes to the City achieving its strategic and operational objectives.

The City will apply value for money principles when assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

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, residual value, 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;
- the environmental, 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 and any other relevant City Policy; 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 through the Vendor Panel system

PURCHASING REQUIREMENTS

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.

Policy

Purchasing that is **\$150,000 or below in total value for the life of the contract** (excluding GST) must be in accordance with 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.

Purchasing Value Definition

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

1. exclusive of Goods and Services Tax (GST);
2. where a contract is in place, the actual or expected value of expenditure over the full contract period, including all options to extend specific to a particular category of goods, services or works. OR
3. where there is no existing contract arrangement, the Purchasing Value will be the estimated total expenditure for a category of goods, services or works over a minimum three year period.
4. the calculated estimated Purchasing Value will be used to determine the applicable threshold and purchasing practice to be undertaken.

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 Officer must consult the Contract Register on Vendor Panel

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 Purchase 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 on Vendor Panel; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or • through the Local Market Place in Vendor Panel or; • from the open market (if Vendor Panel does not have any suppliers in the category)
Over \$2,000 and up to \$50,000	<p>Obtain or demonstrate the attempt to obtain at least three (3) written quotations from all suppliers available 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 on Vendor Panel; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • through the Local Market Place in Vendor Panel. <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 or demonstrate the attempt to obtain at least three (3) written quotations from all suppliers available 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. <u>The Contracts and Procurement Team shall facilitate the quotation process.</u></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 on Vendor Panel; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market utilising the Vendor Panel 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</p>

Purchase Value Threshold	Purchasing Requirement
	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.
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.

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.

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 an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a Panel established by the City on Vendor Panel; or
- any of the other exclusions under Regulation 11 of the Regulations apply.

Inviting Tenders Under the Tender Threshold

The City may determine to invite Public Tenders, despite the estimated Purchase Value being less than the \$150,000 threshold.

This decision will be made after considering:

- Whether the purchasing requirement can be met through the WALGA Preferred Supplier Program or any other tender exemption arrangement; and
- Any value for money benefits, timeliness, risks; and
- Compliance requirements.

A decision to invite Tenders, though not required to do so, may occur where an assessment has been undertaken and it is considered that there is benefit from conducting a publicly accountable and more rigorous process. In such cases, the City's tendering procedures must be followed in full.

Sole Source of Supply

Once determined, the justification must be endorsed by the Chief Executive Officer or Director, prior to a contract being entered into.

A sole source of supply arrangement may only be approved where the:

- Purchasing value is estimated to be over \$2,000; and
- purchasing requirement has been documented in a detailed specification; and
- specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and
- market testing process and outcomes of supplier assessments have been documented, inclusive of a rationale for why the supply is determined as unique and cannot be sourced through more than one supplier.

Once determined, the justification must be endorsed by the Chief Executive Officer or Director, prior to a contract being entered into.

A sole source of supply arrangement will only be approved for a period not exceeding two (2) years. For any continuing purchasing requirement, the approval must be re-assessed before expiry to evidence that a Sole Source of Supply still genuinely exists.

Discretionary Purchases (CEO, Directors and Managers)

Where it is not practical to obtain multiple written and/or verbal quotations for a once off purchase, the following discretionary purchasing is permitted (prices excluding GST).

- Chief Executive Officer up to \$150,000
- Directors up to \$100,000
- Managers up to \$5,000

The request must be in writing from the relevant Officer and outline the justification for purchase without multiple quotations. The written request shall be saved in the records

management system and notated in the requisition system at the time of undertaking the purchase order. Information shall be readily available upon request for internal / external auditing requirements.

Anti-Avoidance

The City will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, avoiding 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.

Utilising rolling contract extensions at the end of a contract term without properly testing the market or using a Tender exempt arrangement, will not be adopted as this would place this Local Government in breach of the Regulations (Regulation 12).

The City will conduct regular periodic analysis of purchasing activities within supply categories and aggregating expenditure values in order to identify purchasing activities which can be more appropriately undertaken within the Purchasing Threshold practices detailed in the Purchasing Thresholds above.

Emergency Purchases

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

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 to obtain quotes and tenders, whichever may apply

Elected Members and Designated Senior Employees

Where the result of any procurement process undertaken in accordance with this policy is that the preferred supplier is a business that has been disclosed (by an Elected Member or Designated Senior Employee) in either a Primary or Annual Return in accordance with sections 5.75 and 5.76 of the *Local Government Act 1995*, or a Related Party Disclosure in accordance with AASB 124, the Chief Executive Officer will notify Elected Members as soon as practicable following the engagement of that business.

RECORDS MANAGEMENT

All purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the State Records Act 2000 and the City's Record Keeping Plan. This includes those with organisations involved in a tender or quotation process, including suppliers

BUY LOCAL POLICY

The City encourages the development of competitive local businesses within the Bunbury/Wellington Group of Councils initially, and second within its broader region. 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;
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid;
- provide adequate and consistent information to local suppliers; and
- The City shall utilise the Vendor Panel Local Marketplace when obtaining quotations.

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; and
- where a supplier places a submission that is not directly eligible for the preference but lists local sub contractors who are eligible for the preference then the amounts of the sub contractors may be considered in applying the price preference.

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.

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.

Purchasing from an Australian Disability Enterprise shall be contingent on the demonstration of value for money.

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 an Aboriginal Business that is administered by the WALGA Preferred Supplier Program.

Purchasing from an Aboriginal Business shall be contingent on the demonstration of value for money.

PANELS OF PRE-QUALIFIED SUPPLIERS

Policy Objectives

The City 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:

- 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 a Panel, and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.

Establishing a Panel

If the City 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 (3) 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 City will state the expected number of suppliers it intends to put on the panel.

If a Panel member leaves the Panel, the City 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 City 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.

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:

- a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases through the Vendor Panel system,; and/or
- b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; and/or
- c) 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.

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.

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 Vendor Panel procurement 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.

Recordkeeping - Panels

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 downloaded Vendor Panel request information that shall be stored in the electronics records management system.
- All other external correspondence and contract management information.

Purchasing Policy Non-Compliance

Purchasing Activities are subject to financial and performance audits, which review compliance with legislative requirements and also compliance with the City's policies and 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.

Where a breach is substantiated it may be treated as:

- an opportunity for additional training to be provided;
- a disciplinary matter, which may or may not be subject to reporting requirements under the Public Sector Management Act 1994;
- misconduct in accordance with the Corruption, Crime and Misconduct Act 2003.

COMPLIANCE REQUIREMENTS

LEGISLATION

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

ORGANISATIONAL

- *City of Bunbury Code of Conduct*

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