

## PURCHASING COUNCIL POLICY

### POLICY STATEMENT

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The City of Bunbury 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.

This Policy is developed in accordance with the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*

### POLICY OBJECTIVES

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This policy is directed to meet the following objectives:

- Achieving value for money with respect to all procurement activities;
- Consistent, efficient and accountable processes and decision-making;
- Fair and equitable competitive processes that engage potential suppliers impartially, honestly and consistently;
- Mitigating probity risk by establishing consistent and demonstrated processes that promote transparency, probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- Compliance with the Act and the Regulations and the City's policies and procedures;
- Compliance with the *State Records Act 2000* and City of Bunbury Record Keeping Plan and procedures;
- Ensure that the sustainable benefits, such as social and local economic factors are considered in the overall value for money assessment;
- Encourage effective competition with the supply of goods and services from local businesses;
- 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.

### POLICY DETAILS

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#### 1. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995 (WA)</i> .
GST	The goods and services tax under the <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> .
Panel	A Panel of Pre-Qualified Suppliers established by the City under the

Term	Meaning
	Regulations.
Policy	This City of Bunbury Council Policy titled "Purchasing Council Policy".
RFQ	A Request for Quotation that contains pre-determined evaluation criteria to assess all value for money considerations, evaluated by a panel consisting of at least 2 City officers.
WALGA	Western Australian Local Government Association.

## 2. ETHICS AND INTEGRITY

### a. 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, procurement processes and Employee 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, corrupt or illegal activities, including breaches of the City's Employee Code of Conduct, to your Manager, Director or CEO.

## 3. PRINCIPLES OF PROCUREMENT

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; and
- 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.

#### **4. VALUE FOR MONEY**

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.

##### **a. 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.

#### **5. PURCHASING REQUIREMENTS**

- a. The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy, the Local Supplier Preference Council Policy, and associated purchasing procedures in effect at the City.
- b. Determining purchasing value is to be based on the following considerations:
  - i. Exclusive of GST;
  - ii. 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.

- iii. 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.
- iv. The calculated estimated Purchasing Value will be used to determine the applicable threshold and purchasing practice to be undertaken.
- c. Officers must use Vendor Panel when seeking quotations above \$5,000.
- d. Delegated authority functions and conditions for calling tenders, accepting and rejecting tenders, varying contracts, exercising contract extension options, exempt tender procurement and panels of pre-qualified suppliers may be obtained from the Delegation Register.
- e. The table below prescribes the purchasing processes that the City must follow, based on the purchase value;

Monetary threshold of the contract value, including extension and options (exclusive of GST)	Process Required	Source
Up to <b>\$4,999</b>	Purchase directly from a supplier after obtaining at least one (1) oral or written quotation from that supplier.	Local supplier where practical. If no local supplier, one (1) quote through: <ul style="list-style-type: none"> <li>• WALGA Preferred Supplier Program (PSP); or</li> <li>• State Common User Agreement (CUA); or</li> <li>• Australian Disability Enterprise; or</li> <li>• Aboriginal owned business; or</li> <li>• Open market</li> </ul>
<b>\$5,000 to \$74,999</b>	Obtain a minimum of three (3) written quotations from suppliers after providing a brief outlining the specified requirement.*	Where practical a minimum of two (2) local suppliers to be invited along with open market suppliers. <p>If no local suppliers, seek three (3) or more quotes through either:</p> <ul style="list-style-type: none"> <li>• WALGA PSP; or</li> <li>• State CUA; or</li> <li>• Australian Disability Enterprise; or</li> <li>• Aboriginal owned business; or</li> <li>• Open market</li> </ul>
<b>\$75,000 to \$250,000</b>	Obtain a minimum of three (3) written quotations from suppliers by formal RFQ*. <p><b><u>Note: Officers must engage the Procurement Team to coordinate the procurement</u></b></p>	Where practical a minimum of two (2) local suppliers to be invited along with open market suppliers. <p>If no local suppliers, seek three (3) or more quotes through either:</p> <ul style="list-style-type: none"> <li>• WALGA PSP; or</li> <li>• State CUA; or</li> <li>• Australian Disability Enterprise; or</li> <li>• Aboriginal owned business; or</li> </ul>

Monetary threshold of the contract value, including extension and options (exclusive of GST)	Process Required	Source
		Open market
<b>\$250,000 and above</b>	Conduct a public tender process in accordance with the Act and the Regulations (unless the Regulations provide an exception refer Regulation 11(2)).	Public Open Market
<b>\$250,000 and above (Tender Exempt)</b>	Seek three (3) or more written quotations * <b>Note: Formal Request for Quote to be issued by the Procurement Team.</b>	<ul style="list-style-type: none"> <li>• WALGA PSP; or</li> <li>• State CUA; or</li> <li>• Australian Disability Enterprise;</li> </ul>

\*If unable to secure the minimum number of quotations required, refer to section 5.1(d).

### 5.1 Purchasing Conditions

- a. Where the City has an existing contract in place, the City 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 in Authority
- b. Supply of goods and services must not commence until a purchase order has been issued unless exempt from this requirement. A purchase order is unnecessary in the case of the following:
  - i. Insurances;
  - ii. Payments made through payroll;
  - iii. Utilities (service and/or consumption charges/fees only);
  - iv. Fees and payments that are statutory, this includes bank fees;
  - v. Other statutory damages, infringements and penalties;
  - vi. Loan repayments;
  - vii. Freight, postal charges and fuel cards;
  - viii. Goods purchased through petty cash;
  - ix. Credit card payment requests;
- c. All procurement activity must be carried out in accordance with the relevant purchasing procedures in effect at the City.
- d. Where the stated number of minimum quotations to be obtained cannot be achieved due to;
  - i. Limited responses (all thresholds);
  - ii. Lack of availability (tender exempt panel supply arrangements only i.e. WALGA or State CUA);

the decision to continue with the evaluation and selection must be documented and clearly demonstrate the achievement of value for money.

- e. Officer must refer to the Delegation Register for the CEO approval limits in relation to Tenders, including WALGA and multi-year contracts.

## **5.2 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

## **5.3 Requests for Tender where value is less than the Tender Threshold**

The City may elect to invite tenders in lieu of undertaking quotations for procurements under the tender threshold where it is considered appropriate and beneficial. This decision should be made after considering the commercial and probity benefits of this approach in comparison to cost and efficiency. Where a tender is called, the Regulations relating to tender requirements must be followed.

## **5.4 Anti-Avoidance**

Multiple purchasing activities must not be entered into with the intent (inadvertent or otherwise) of "splitting" the purchase value to avoid a public tender being called or to avoid threshold quoting requirements under \$250,000. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

## **5.5 Minor Variations**

- a. In accordance with regulation 20 of the Regulations, a minor variation may be made to a contract following a tender process, by the City, prior to the City and the preferred tendered formalising the contract.
- b. A minor variation has been determined by the City to mean a variation which does not materially alter the specification or structure provided for by the initial tender.
- b. Where the initial procurement required Council approval, and the variation does not meet the above condition, then the variation must be presented to Council for consideration.
- c. The above conditions also apply to procurements under \$250,000 and are required to be undertaken in accordance with the internal procurement practice document –procurement management policy.
- d. All decisions regarding minor variations must be documented and recorded.

## **5.6 Variation after Contract Commencement**

- a. If the City has entered into a contract for the supply of goods and/or services with a successful tenderer, in accordance with Regulation 21A of the Regulations, the contract must not be varied unless;
  - i. The variation is necessary in order for the goods and/or services to be supplied; and does not change the scope of the contract; or
  - ii. The variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j); and
  - iii. The variation is within the budget allocated for the project;
- b. Consideration must also be given to the original procurement process conducted and whether the combined value of the original price, any subsequent variations and proposed variation

(which includes term extension) would have resulted in a different procurement process being undertaken due to the increased expenditure.

- c. All contract variations are to be recorded and supported by adequate documentation describing the nature and reasons for the variations, including the associated costs, time and scope implications.
- d. Contract variations are to be approved in accordance with the CEO approved authorised limits.
- e. These conditions also apply to contracts valued under \$250,000 and are required to be undertaken in accordance with the internal procurement practice document –procurement management policy.

### **5.7 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.

### **5.8 Contract Extensions**

- a. Contracts may only be extended if the original contract includes an extension option (unless State of Emergency provisions apply).
- b. Contract extension must be approved before the expiration date of the original contract or previously extended term. Contract extensions are approved in accordance with the City's authorisation limits.

### **5.9 Contract Expiry**

Prior to the expiry of the original contract, and after any options for renewal of extension included in the original contract have been exercised, the City is required to review the purchasing requirements and commence a new competitive purchasing process in accordance with this Policy.

### **5.10 Conflict of Interest**

Actual or perceived interests are to be declared using the City's prescribed Form (Conflicts of Interest Management Policy). Where there is a perceived or actual conflict of interest in accordance with the Act, the officer may be removed from any further procurement activity.

### **5.11 Education and Training**

- a. The CEO is required to implement a procurement education and training program. This will include both induction and refresher training to be delivered on an annual basis.
- b. Employees who undertake procurement activities will be required to attend training.

## **6. EXCEPTIONS TO PROCUREMENT REQUIREMENTS**

### **6.1 Tendering Exemptions**

Procurements above the tender threshold and sourced through tender exempt supply arrangements, must be in accordance with the Regulations and the City's Policies and procedures. The exemptions are set out in the Regulations and include:

- Pre-qualified suppliers under the WALGA Preferred Supply Program (r.11(2)(b));
- Suppliers under the State Government CUA or the Commonwealth or by a regional local government or another local government [r.11(2)(e)];
- The goods or services are to be supplied by a person registered on the Aboriginal Business Directory WA or by Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) (subject to a maximum of \$250,000 and the City being satisfied as to 'value for money') [clause 11(2)(h) of the Regulations];
- Where the goods or services are to be supplied by an Australian Disability Enterprise and where the procurement represents value for money [r.11(2)(i)];
- Where the contract is for petrol, oil or other liquid or gas used for internal combustion engines [r.11(2)(g)];
- Where the supply of goods or services is to be obtained from expenditure authorised in a local emergency under section 6.8(1)(c) of the Act [r.11(2)(a)]
- The supply of goods or services associated with a State of Emergency in accordance with section 11(2)(aa), (ia) and (3) of the Regulations; or
- Suppliers under a Panel established by the City [r.11(2)(k)]; and
- Procurements covered by any other exclusions under Regulation 11 of the Regulations.

## 6.2 Emergency Purchases

- a. A local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; OR
- b. A local emergency and the expenditure is required (with no relevant available budget allocation) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets in accordance with s.6.8 of the Local Government Act 1995 and Functions and General Regulation 11(2)(a); OR
- c. A State of Emergency declared under the Emergency Management Act 2005 and therefore, Functions and General Regulations 11(2)(aa), (ja) and (3) apply to vary the application of this policy.

## 6.3 Sole Source of Supply

A sole source of supply is goods or services of a unique nature that can only be supplied from one supplier.

In order to determine that a source of supply is a sole source of supply the following information must be obtained and recorded:

- 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, regardless of the value of the procurement the above information and justifications must be detailed in a City sole supplier Memorandum approved by Delegate or relevant Subdelegate (pursuant to Delegation 1.1.12), 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.

#### **6.4 Discretionary Purchases (CEO, Directors and Managers)**

- a. 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).
  - Chef Executive Officer up to \$150,000
  - Directors up to \$100,000
  - Managers up to \$50,000
- b. 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.

### **7. PANELS OF PRE-QUALIFIED SUPPLIERS ESTABLISHED BY THE CITY**

#### **7.1 Policy Objectives**

Where there is a continuing need for a particular type of goods and/or services to be supplied, the City may determine it is beneficial to do so by means of a Panel. The creation and operation of a Panel must be undertaken in accordance with the Regulations.

#### **7.2 Establishing a Panel**

- a. 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.
- b. Panels may be established for a maximum of three (3) years. The length of time of a Panel is decided with the approval of the CEO/ Executive Director.
- c. Evaluation criteria will be determined and communicated in the application process by which applications will be assessed and accepted.
- d. 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.
- e. A Panel is required to be managed by the City Project officer 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; and
- f. The City's Regional Price Preference may be applied when assessing applications to join a Panel.

### **7.3 Distributing Work Amongst Panel Members**

Procuring from a Panel will be outlined in detail in the invitation to establish the Panel but in general will be undertaken as follows:

- a. Each Panel member will be requested to quote for each item of work under the Panel unless the Panel is operating using a ranking system (see (b) below). The City will obtain written quotations through electronic means, principally through the use of its online procurement portal. Quotes received will be assessed using pre-determined evaluation criteria to evaluate each quote;
- b. Where Panel members are ranked, prices may be fixed by means of a pricing schedule or through a quotation on each occasion. The City will invite the highest ranked panel member, who will accept or decline the request. If declined, the next ranked Panel member will be invited and so forth until a Panel member accepts a Contract;
- c. Award of work shall be evidenced by an official Purchase Order, which will represent the "contract", governed by the Panel terms; and
- d. Contracts issued must not be formed for the supply of goods and/or services for a term exceeding 12 months nor contain an option to renew or extend its term.

### **7.4 Purchasing from the Panel**

The invitation to apply 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.

### **7.5 Recordkeeping - Panels**

Records of all communications with Panel members, with respect to the procurement processes 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 City's Electronic Records Management System.

Purchase orders raised must reference the Panel reference number for the purposes of monitoring expenditure.

## **8. Authorisation to approve and issue purchase orders**

Employees are authorised to approve and issue purchase orders in accordance with the Purchasing Structure Permissions (Authority).

- a. An employee cannot exceed their financial authorisation as set out in the Purchasing Structure Permissions (Authority) unless specifically authorised in writing by the CEO i.e. under periods of higher duties;
- b. The conditions of approving purchase requisitions and orders is in accordance with the internal procurement practice document –procurement management policy, and purchases must be within the approved budget adopted by Council. The authorisation limit is the value of the contract, inclusive of extensions, variations and options (exclusive of GST); and
- c. The Purchasing Structure Permissions (Authority) is subject to review and approval by the CEO, such review to occur annually or as otherwise required.

## 9. Purchasing Policy Non-Compliance

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

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 Employee Code of Conduct (DOC/896853)
- City of Bunbury Delegation Register
- Local Supplier Council Policy (DOC/938230)
- Conflicts of Interest Management Policy (DOC/456378[v3])
- Purchasing Structure Permissions (Authority) (DOC/896707)
- Internal procurement practice documents
- Corporate Credit Card Facility Management Policy (DOC/456380[v2])

Document Control					
Document Responsibilities:					
Owner:	Director Strategy and Organisational Performance	Owner Business Unit:	Finance		
Reviewer:	Manager Finance	Decision Maker:	Council		
Document Management:					
Adoption Details	Res 440/16 13 December 2016	Review Frequency:	biennial	Next Due:	2024
Review Version	Decision Reference: Synopsis:				
DOC/455742[v3.1]	Senior Governance & Risk Officer	Amended section 6.3 Sole Supplier to refer to delegate or relevant subdelegate pursuant to Delegation 1.1.12 (as adopted by Council 28/06/22)			
DOC/455742[v3]	Council Decision 139/22 28 June 2022	Extensive review of Purchasing Council Policy adopted, including the creation of a new Local Supplier Preference Council Policy.			
DOC/455742[v2]	Council Decision 122/20 23 June 2020	Amendments to Tender Threshold, Emergency Purchases and Purchasing from Aboriginal Businesses sections			
DOC/455742[v1]	Converted from Mydocs to CM9				
<a href="#">CP-037588</a>	063/19 19 March 2019	Reviewed and amended			
Date Printed	25-Jul-22				