

PURCHASING COUNCIL POLICY

POLICY STATEMENT

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 (WA)* and Part 4 of the *Local Government (Functions and General) Regulations 1996*.

POLICY SCOPE

This policy applies to all purchasing activity undertaken by the City.

POLICY OBJECTIVES

1. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995 (WA)</i> .
CUA	Department of Finance Common Use Arrangement.
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 Regulations.
Policy	This City of Bunbury Council Policy titled "Purchasing Council Policy".
Purchase Value	1. the actual or estimated value of the purchase/contract; or 2. the actual or estimated value over the full term and/or quantity of supply, including all options to extend either quantity or term
Purchasing Structure Permissions (Authority)	The purchasing authority limits as set up in Authority
Regulations	<i>Local Government (Functions and General) Regulations 1996</i>
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.
VendorPanel	Online quotation tool used by City officers to seek quotations and tenders from potential suppliers.
WALGA	Western Australian Local Government Association.

2. 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:

Principle	Standards and Behaviours
Compliance	All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the City's Policies and Code of Conduct.
Integrity	Purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently. Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.
Accountability	Full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies.
Financial	All purchases of goods and services must have the required Council budget appropriation prior to purchase.
Value for Money	Value for money is achieved through the critical assessment of factors including: <ul style="list-style-type: none"> • total cost of ownership; • risk ; • timeliness; • positive local, economic, environmental, and social impacts; • qualitative factors; and • safety requirements to determine the most advantageous outcome that contributes to the City achieving its strategic and operational objectives.
Risk Mitigation	Risks are identified and managed within the City's Risk Management Framework.
Confidentiality	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.

3. COMPLIANCE REQUIREMENTS

- a. The City must comply with the requirement prescribed in the Regulations, this Policy, the Local Supplier Preference Council Policy, the Procurement Toolkit and associated purchasing procedures in effect at the City.
- b. Delegated authority functions and conditions for calling tenders, accepting and rejecting tenders, varying contracts, exercising contract extension options, tender exempt procurement and panels of pre-qualified suppliers may be obtained from the Delegation Register.

PURCHASING REQUIREMENTS

4. PURCHASING VALUE DEFINITION

- a. Determining purchasing value is to be based on the following considerations:
 - i. The actual or estimated value of the purchase/contract; or
 - ii. the actual or estimated value over the full term and/or quantity of supply, including all options to extend either quantity or term.

5. PURCHASING VALUE THRESHOLDS

- a. Table 1 prescribes the purchasing processes that the City must follow, based on the Purchase Value Threshold.

Table 1. Purchasing Thresholds

Purchase Value Threshold	Process Required	Sourcing Options
Up to \$5,000	Purchase directly from a supplier after obtaining at least one (1) oral or written quotation from that supplier.	a. Local and open market suppliers registered with VendorPanel; or
\$5,000 to \$75,000	Seek a minimum of three (3) written quotations from suppliers after providing a brief outlining the specified requirement.	b. WALGA Preferred Supplier Program (PSP); or
\$75,000 to \$250,000	Seek a minimum of three (3) written quotations from suppliers by formal RFQ. <u>Note: City officers must engage the Procurement Team to coordinate the procurement.</u>	c. State Common User Agreement (CUA); or
\$250,000 and above	Conduct a public tender process in accordance with the Act and the Regulations. <u>Note: City officers must engage the Procurement Team to coordinate the procurement.</u>	d. Australian Disability Enterprise; or
	Seek three (3) or more written quotations through tender exempt supply arrangements in accordance with Regulation 11(2). <u>Note: City officers must engage the Procurement Team to coordinate the procurement.</u>	e. Registered on the Aboriginal Business Directory WA; or
		f. A person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation).
		Public tender via VendorPanel.
		Process is <u>only</u> required for the listed tender exempt sources:
		<ul style="list-style-type: none"> • WALGA PSP; or • State CUA; or • Australian Disability Enterprise.

Where the minimum number of quotations sought cannot be achieved, the decision to continue with the evaluation and selection must be documented and clearly demonstrate the achievement of value for money.

6. PURCHASING AUTHORITY

- a. Purchasing Authority has been granted to City officers to support the review and approval of purchases. Purchasing Authority applies (but is not limited) to:
- i. Approving purchases;
 - ii. Approving and/or signing agreements or contracts (unless otherwise authorised by the Execution of Documents Council Policy);
 - iii. Approving variations/extensions; and
 - iv. Various other financial transactions.

- b. The Purchasing Authority Limits for Council and Chief Executive Officer (CEO) is reflective of the Purchasing Authority authorised by Council in accordance with the Act.
- c. Purchasing Authority limits for the remaining roles are set by the CEO and may be varied from those listed in Table 2.
- d. City officers cannot exceed their Purchasing Authority limit unless specifically authorised in writing by the CEO i.e. under periods of higher duties.
- e. The Purchasing Authority Limit is the value of the contract, inclusive of any extensions, and options (exclusive of GST)

Table 2. Purchasing Authority Limits

Role	Purchasing Authority Limit	Discretionary Limit
Council	Greater than \$400,000 for a once off Greater than \$1,200,000 for a multi-year	Greater than \$400,000 for a once off Greater than \$1,200,000 for a multi-year
CEO	\$400,000 for a once off purchase \$1,200,000 for a multi-year contract	\$400,000 for a once off purchase \$1,200,000 for a multi-year contract
Director	\$250,000 for both once off and multi-year	\$250,000 for both once off and multi-year
Manager	\$75,000 for both once off and multi-year	\$75,000 for both once off and multi-year
Other City officers	Please refer to Purchasing Structure Permissions (Authority)	\$0

7. PURCHASING CONDITIONS

- a. The supply of goods and services must not commence until a purchase order has been issued.
 - i. A purchase order is unnecessary in the case of insurances, payroll, utilities, statutory fees, loan repayments, freight & postal charges, fuel charges, petty cash, and other statutory damages, infringements and penalties.
- b. All procurement activity must be carried out in accordance with the Procurement Toolkit.

8. 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 quoting threshold requirements. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

CONTRACT MANAGEMENT REQUIREMENTS

9. MINOR VARIATION BEFORE ENTRY INTO CONTRACT

- a. The City may make Minor Variations to the goods/services required, prior to entering into a contract with the successful supplier.
 - i. A Minor Variation has been determined by the City to mean a variation that doesn't significantly alter the nature of the goods or services included in the initial procurement.
- b. Minor Variations are approved in accordance with the Delegation Register and the City's Purchasing Authority limits.
- c. Minor Variations before entry into contract as a result of a public tender must comply with Regulation 20.

10. VARIATION AFTER CONTRACT COMMENCEMENT

- a. A variation can be made to a contract where the variation is:
 - i. Necessary in order for the goods and/or services to be supplied; and does not materially change the scope of the contract; and
 - ii. The variation is within the budget allocated for the project.
- b. Consideration must also be given to the original procurement process conducted and whether a different procurement process would have been required due to the increased expenditure.
- c. Variations are approved in accordance with the Delegation Register and the City's Purchasing Authority limits.
- d. Variations to contracts entered as a result of a public tender must comply with Regulation 21A.

11. CONTRACT EXTENSION (RENEWAL)

- a. Contracts may only be extended if the original contract includes an extension option.
- b. Contract extensions are approved in accordance with the Delegation Register and the City's Purchasing Authority limits.
- c. Extensions to contracts entered as a result of a public tender must comply with Regulation 11(2).and 21A

12. CONTRACT NOVATION

- a. The City has the ability to novate contracts in accordance with the Delegation Register and the City's Purchasing Authority limits.
- b. The City is not obligated to agree to a novation or assignment and must consider the details, risks and contractual obligations of such requests.

EXEMPTIONS TO PURCHASING REQUIREMENTS

From time to time there will be circumstances where it is not appropriate or not reasonably practicable to adhere to the purchasing requirements set out in this Policy. Table 3 outlines exemptions and their source of exemption.

Table 3: Exemptions List

Exemption	Source of Exemption	Details
Existing Contract	Regulation 11(2)	<ol style="list-style-type: none"> a. Where the City has an existing contract in place, and the works are within scope, the procurement is exempt from requiring quotes (unless required by the contract). b. Refer to the Contract Register and the City's Policies and procedures.
Tender Exempt Procurement	Regulation 11(2) Delegation 1.1.12	<ol style="list-style-type: none"> a. Procurements above the tender threshold and sourced through tender exempt supply arrangements, must be in accordance with the Regulation 11(2) and the City's policies and procedures. b. City officers must engage the Procurement Team to coordinate the procurement

Exemption	Source of Exemption	Details
Sole Supplier	Regulation 11(2) This Policy Delegation 1.1.12	<p>a. Regulation 11(2)(f) states that If the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; and</p> <p>b. Once determined, regardless of the value of the procurement the information and justifications must be detailed in a City Sole Supplier Memo prior to a contract being entered into.</p>
Emergency Purchases	Regulation 11(2)	<p>a. A local emergency and the expenditure is required:</p> <ol style="list-style-type: none"> i. Within existing budget allocations to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; or ii. 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 Act and Regulation 11(2)(a); <p>b. A State of Emergency declared under the <i>Emergency Management Act 2005</i> and therefore, Regulations 11(2)(aa), (ja) and (3) apply to vary the application of this policy.</p> <p>c. Where possible, existing City Contracts should be utilised for emergency purchases.</p>
Discretionary	This Policy	<p>a. CEO, Directors and Managers may, at their discretion, and subject to their Purchasing Authority, waive the requirements to obtain the required number of quotations.</p> <p>b. Operational reasons for a discretionary exemption may include:</p> <ol style="list-style-type: none"> i. Delays resulting in increased costs to the City; ii. Acquisition of an existing artwork; iii. Supplier has intrinsic, established knowledge of City information, and engaging another supplier would substantially increase cost through additional effort. <p>Time constraints, poor planning, administrative omissions and errors do not justify a discretionary purchase.</p> <p>c. Once determined, regardless of the value of the procurement the information and justifications must be detailed in a City Discretionary Memo approved by the relevant Purchasing Authority, prior to a contract being entered into.</p>
Art and Museum Acquisition	Public Art Council Policy Bunbury Museum and Heritage Centre and Local Studies Collections Council Policy This Policy	<p>a. Procurement for public art projects and programs will be in alignment with the Public Art Council Policy.</p> <p>b. Acquisitions for the Museum will be in accordance with the Bunbury Museum and Heritage Centre and Local Studies Collections Council Policy.CEO, Directors and Managers may, at their discretion, and subject to their Purchasing Authority, waive the requirements to obtain the required number of quotations.</p>

Exemption	Source of Exemption	Details
Indigenous or Aboriginal Business	Regulation 11(2) This Policy	<ol style="list-style-type: none"> 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 where the procurement represents value for money. *OPTIONAL A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Indigenous or Aboriginal Business. CEO, Directors and Managers may, at their discretion, and subject to their Purchasing Authority, waive the requirements to obtain the required number of quotations up to a maximum of \$250,000.
Australian Disability Enterprise	Regulation 11(2) This Policy	<ol style="list-style-type: none"> Where the goods or services are to be supplied by an Australian Disability Enterprise and where the procurement represents value for money. *OPTIONAL A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises. CEO, Directors and Managers may, at their discretion, and subject to their Purchasing Authority, waive the requirements to obtain the required number of quotations.

All exempt procurement activity must be carried out in accordance with the Procurement Toolkit.

PANELS OF PRE-QUALIFIED SUPPLIERS ESTABLISHED BY THE CITY

The City may establish a Panel of pre-qualified suppliers in accordance with Part 4, Division 3 of the Regulations.

In establishing and using a Panel, the City must:

- Clearly articulate the goods or services to be provided by the Panel;
- Provide instructions to Panel members regarding how the Panel will work, including advice on how quotes will be requested, work awarded, and supplier changes managed;
- Regularly performance manage and proactively engage Panel members;
- Register all Panel agreements in the City's contract register; and
- Not enter into Contract with a Panel member (i.e. Purchase Order) for a scope of work which covers a period of more than 12 months or which contains options to extend past 12 months (Division 3, reg 24AJ(2) of the Regulations). For clarity, the Panel itself can exist for a term longer than 12 months.
- Individual Panel purchasing rules take precedence over the general quotation process requirements noted in Table 1. Purchasing Thresholds.

OTHER REQUIREMENTS

13. CONFLICT OF INTEREST

- a. Actual or perceived interests are to be declared using the City's prescribed form (Conflicts of Interest Management Policy).
- b. 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.

14. RECORDS MANAGEMENT

All purchasing activity (including variations), 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.

15. EDUCATION AND TRAINING

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

16. 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 Act, or a Related Party Disclosure in accordance with AASB 124, the CEO will notify Elected Members as soon as practicable following the engagement of that business.

17. 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 one or more of the following:

- An opportunity for additional training to be provided.
- A requirement to suspend or terminate procurement activities.
- 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 (Financial Management) Regulations 1996*
- *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
- City of Bunbury Delegation Register
- Local Supplier Preference Council Policy
- Statement of Business Ethics
- Conflicts of Interest Management Policy
- Procurement Toolkit
- Corporate Credit Card Facility Management Policy
- Motor Vehicle Management Policy

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DOC/455742[v5]	Council Decision 235/24 26 November 2024	Extensive review of Purchasing Council Policy, including amendments to Purchasing Authority limits.			
DOC/455742[v4]	Council Decision 111/23 27 June 2023	Associated with the Annual Review of Delegations 2023, amend Policy to add section 5.9 Contract Novation, 6.3 Software Licensing, maintenance and support, and 6.4 Supply of passenger and light commercial vehicles, plus grammatical updates.			
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			
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