

# Council Policy

## Procurement



Legislation/local law requirements	Local Government Act 1995 (WA) Local Government (Functions and General) Regulations 1996 State Records Act 2000 (WA) Local Government Act 1995 - Section 9.49A(4) – Execution of documents
Relevant Delegation	1.1.17 Expressions of interest, panels of pre-qualified suppliers and tenders for supply of goods and services
Related policy procedures and documents	Code of Conduct Contract Management Framework Contract Management Guidelines Procurement Procedures Finance Procedures Sustainability Framework Register of Delegated Authority Policy - Execution of Documents Strategic Community Plan 2021 - 2031 Corporate Business Plan 2021 - 2025

## Introduction

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

## Purpose

To ensure all purchasing and procurement on behalf of the City is done through a consistent approach to market that is fair, transparent and equitable while mitigating risk to the City and achieving the best value for money.

## Objective

This Policy aims to achieve the following objectives:

- Achieving 'value for money' with respect to all procurement activities.
- Ensuring compliance with the Local Government Act 1995 (WA) **(Act)** and the Local Government (Functions and General) Regulations 1996 (WA) **(Regulations)**.
- 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.
- Ensuring that goods and services to be procured are necessary and fit for purpose.
- Strengthening integrity and confidence in procurement systems and processes.
- Encouraging effective competition with the supply of goods and services.
- Ensuring that sustainable benefits, such as environmental, social and local economic factors are considered in the overall 'value for money' assessment.
- Evaluating and considering work safety and health characteristics of any goods/services prior to being introduced into City workplaces.

## Scope

This Policy applies to all purchasing and procurement activities undertaken by and on behalf of the City.

# Policy Provisions

## Definitions

**CUA** – State Government formed Contracts, otherwise known as Common Use Arrangements.

**Formal Request for Quotation** - the process of developing, in conjunction with Procurement and Contracts, a detailed written description of purchase requirements along with assessment criteria, formal quote documentation (including a contract) and an appropriate assessment process.

**Officer** – any employee of the City of Kwinana or an external party engaged to perform works for the City (eg: consultants, temp personnel etc)

**Pre-Qualified Tender Exempt Supplier** – a supplier that has met the pre-qualification and due diligence requirements to be contracted to either a WALGA Preferred Supplier Arrangement or a State Government Common Use Arrangement (CUA) and is contracted under a valid WALGA Contract or CUA for the particular scope or category of work at the time of purchase.

**Procurement Procedures** – relating document which governs the requirements for all City Procurement activities.

**Scope** – a general description of the goods/services required to achieve a desired outcome.

**Tender** – a publicly advertised invitation to submit a proposal to provide described goods or services for a fixed price.

**Tender Exempt** - pursuant to Local Government (Functions and General) Regulations 1996 Regulation 11(2)(a)-(k) inclusive.

**WALGA** - The WA Local Government Association (WALGA)

**WALGA PSA** – WALGA preferred supplier arrangement. A specified grouping of suppliers that have been pre-qualified and appointed by WALGA to supply a category of goods or services to Local Governments under the preferred supplier program.

## Policy

### 1 Ethics & Integrity

#### 1.1 Code of Conduct

All officers of the City undertaking procurement activities are expected to have regard for the Code of Conduct requirements and observe the highest standards of ethics and integrity. All officers of the City are expected to act in an honest and professional manner consistent with the City's values.

#### 1.2 Procurement Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the procurement process to ensure the fair and equitable treatment of all parties:

- a. Accountability shall be taken for all procurement decisions, to ensure the efficient, effective and proper expenditure of public monies (achieving value for money), in accordance with the City's adopted budget.
- b. Procurement shall be undertaken on a competitive basis to ensure that all potential suppliers are treated impartially, honestly and consistently.
- c. All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant

legislation.

- d. 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.

## **2 Value for Money**

Value for money is achieved through the critical assessment of price, risk, timeliness, environmental, 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.

### **2.1 Assessing Value for Money**

The assessment of value for money is the result of open, competitive sourcing practices and critical assessment of factors such as:

- a. All relevant whole-of-life costs and benefits. This should include transaction costs associated with acquisition, delivery, distribution, as well as other costs such as holding costs, consumables, maintenance and disposal.
- b. The technical merits of the goods and/or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality.
- c. Financial viability and capacity to supply without risk of default.
- d. Ensuring a sufficient number of offers have been obtained to enable robust price comparison wherever practicable.
- e. The safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and/or services from suppliers.
- f. A supplier's ability to demonstrate the sustainable benefits and positive local impact of the goods and services offered.

The level of assessment undertaken is commensurate with the value, complexity, risk and sensitivity of the goods or services being procured.

## **3 Sustainable Procurement**

Sustainable procurement is defined as the purchasing of goods and services that have less environmental and/or negative social impacts than competing products or services over the entire life cycle of a product, not just the initial purchase cost.

The City is committed, where possible, to procuring goods and services that align with the City's Sustainability Framework and that:

- a. are economical to own and operate
- b. reduce waste, are energy efficient and cause the least damage to the environment
- c. have been created or obtained using legally compliant practices (Corporate Social Responsibility)
- d. provide local businesses with commercial opportunity
- e. improve employment opportunities for local people
- f. are socially inclusive

### 3.1 Local Economic Benefit

Under the State Government's Buy Local Policy, Government Agencies and Local Governments, including the City, are encouraged to maximise participation of local and small businesses in the supply of goods, services and works purchased or contracted by the City in accordance with the City's local economic objectives and Strategic Community Plan.

The City will, as much as practicable, ensure procurement is undertaken with consideration given to local economic benefit. For the purposes of this, when defining local, the City will embrace a good – better – best methodology during procurement activities:

1. **Good** – Statewide supplier operating within the Perth Metropolitan area or broader Western Australia.
2. **Better** – Regional supplier operating within the Perth South West Metropolitan Alliance region.
3. **Best** – Local supplier operating within the City of Kwinana's boundary.

As much as practicable, the City will:

- a. where appropriate, consider practices, procedures and specifications that support the local economy and do not unfairly disadvantage local businesses.
- b. consider direct or indirect flow on benefits for a local business or area.
- c. explore the capability of local businesses to meet requirements and ensure that procurements are designed to accommodate the capabilities of local businesses.
- d. provide adequate and consistent information to potential suppliers.

It is recognised that not all categories can be procured from a local or regional supplier. A qualitative weighting may be afforded in the evaluation of formal quotes and Tenders.

### 3.2 Engaging with Aboriginal and Torres Strait Islander Businesses

Pursuant to Part 4 of the Regulations, 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 WA published by the Chamber of Commerce and Industry of Western Australia Limited or Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) and where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Wherever possible, Aboriginal and Torres Strait Islander businesses are to be invited to quote for supplying goods and services under the public tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide incentives to Aboriginal and Torres Strait Islander owned businesses or businesses that demonstrate a high level of Aboriginal and Torres Strait Islander businesses employment.

### 3.3 Engaging with Australian Disability Enterprises

Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be supplied by an Australian Disability Enterprise ('ADE'), as registered on [www.ade.org.au](http://www.ade.org.au).

Wherever possible and contingent of demonstrating capability and value for money consideration, ADEs are to be invited to directly supply goods and services to the City without the requirement to participate in a competitive procurement process. ADE's may also be invited to competitively quote and / or publicly tender for goods and services and a qualitative weighting may therefore be afforded in the evaluation of quotes and tenders to provide an incentive to ADEs.



## 4 Procurement requirements

### 4.1 Anti Avoidance

In accordance with regulation 12(1), procurement activities for the same goods or services should be aggregated into a single procurement activity to achieve the best value for money and efficiencies for the City. Multiple procurement activities, for the same goods or services, must not be conducted, with the intent (unintentional or otherwise) of separating the procurement over two or more purchase orders or contracts, so that the effect is to avoid a procurement threshold outlined in this policy.

### 4.2 Procurement from Existing Contracts

Where the City has an existing contract in place, it must ensure that goods and/or services required are sought and purchased under these contracts to the extent that the contract (including the Scope) allows and to the extent that the contractor has capacity.

### 4.3 Superannuation

When engaging contractors who are defined as employees under the Superannuation Guarantee (Administration) Act 1992, all officers need to be aware of and account for the payment of superannuation when engaging sole traders that are providing a performance or spectacle in clear sight of the community, as to avoid the City incurring a superannuation guarantee charge.

### 4.4 Procurement Value

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

- a. All values are exclusive of Goods and Services Tax (GST);
- b. The amount is the actual or expected value of the contract over the full contract period, including all extension options; 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; and
- c. the value of procurement will be based on the estimated total expenditure for a category of goods or services over the life of the contract or over a minimum 3-year period; and
- d. a category of supply is defined as being a grouping of similar goods or services with common supply and demand drivers, market characteristics or suppliers.

### 4.5 Procurement Thresholds

The table below outlines the practice requirements that apply to the City's purchasing and procurement activities based on the procurement value. All procurement must be conducted in accordance with the City's Procurement Procedures and must be approved by an officer with the appropriate financial authorisation/ limits and/or delegation.

Monetary Threshold of the contract value (ex GST)	Procurement requirement	Minimum assessment panel requirement	Approval of procurement	Record of decision
Up to \$1,999 Ad-hoc purchases	Seek at least 1 verbal or written quote (ie: email, catalogue or website)	One officer	Authorised employee (not the evaluator) with a financial authorisation limit more than the consideration value	Required information when raising requisition including comment to justify the purchase decision

Monetary Threshold of the contract value (ex GST)	Procurement requirement	Minimum assessment panel requirement	Approval of procurement	Record of decision
\$2,000 to less than \$10,000 Written quotation	Seek at least 1 written quote (email/catalogue/website etc.)	One officer	Authorised employee (that is not the evaluator) with a financial authorisation limit more than the consideration value	Required information when raising requisition including comment to justify the purchase decision
\$10,000 to less than \$20,000 Written Quotations	Seek at least 2 written quotes (email/catalogue/website etc.) <b>OR</b> Seek at least 1 written quote from a <b>Pre-Qualified Tender Exempt Supplier</b>			
\$20,000 to less than \$100,000 Written Quotations	Seek at least 3 written quotes <b>OR</b> Seek at least 2 written quotes from <b>Pre-Qualified Tender Exempt Suppliers</b>	One officer up to 50k <b>OR</b> Two officers 50k-100k	Evaluation Report 20k – 100k	
\$100,000 to less than \$250,000 Formal Request for Quote	<ul style="list-style-type: none"> <li>Formal Request for Quote process conducted by Procurement and Contracts (including detailed specifications and pre-determined selection criteria)</li> <li>Seek three or more written formal quotations.</li> <li>Procurement planning is undertaken</li> </ul>	The responsible coordinator or equivalent (or above) and two officers		
\$250,000 and above Public Tender	<ul style="list-style-type: none"> <li>Public Request for Tender process conducted by Procurement and Contracts, in accordance with the Act and Regulations</li> <li>Procurement Planning is undertaken</li> </ul>	The responsible manager** (or above) and two officers	CEO approval up to delegated financial authorisation limits <b>OR</b> Council approval if above CEO authorisation limits	Using the appropriate recommendation report to Director or CEO (as applicable)
\$250,000 and above Tender Exempt	<ul style="list-style-type: none"> <li>Formal Request for Quote process conducted by Procurement and Contracts, in accordance with reg 11(2).</li> <li>Seek three or more written formal quotations (unless sole supply or supplier availability is limited i.e. only one supplier is represented under a panel arrangement).</li> <li>Procurement planning is undertaken.</li> </ul>			

\*\*the responsible manager (or above) may be excused from evaluation panels only if justified and authorised in writing by the Chief Financial Officer.

#### **4.6 Emergency Purchases**

Emergency purchases are defined as the supply of goods or services associated with:

- 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;
- 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 s6.8 of the Local Government Act 1995 and Functions and General Regulation 11(2)(a);
- 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.

Time constraints, administrative omissions and errors do not qualify for definition as an emergency purchase. Instead, every effort must be made to research and anticipate purchasing requirements in advance and to allow sufficient time for planning and scoping proposed purchases and to then obtain quotes or tenders, as applicable.

#### **4.7 Sole Supplier**

Where the procurement of goods, services or works for values above \$10,000 are considered only available from one private sector source of supply, the procurement will be exempt from a competitive process if the City is satisfied that there is genuinely only one source of supply, and the source demonstrates a strategic advantage for the City. Written confirmation to evidence the sole source of supply status must be recorded for audit purposes. The CEO or relevant Director must approve any determination of sole / single source of supply prior to a contract being entered into or purchase order being raised. All approved sole / single supplier arrangements must be captured in the City's Sole Supplier Register.

An arrangement of this nature will only be approved for a period not exceeding one year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists.

#### **4.8 Waiver of Quotation under \$250,000 (Exceptional Circumstances)**

Where quotes are not practical and the total expenditure is expected to fall under the tender threshold, a Director or the Chief Executive Officer, at their discretion, may waive the requirements to obtain quotations under this policy, providing that written and justifiable reasons for such waiver are provided by the responsible Officer and documented in line with the City's Procurement Procedures.

All endorsed waiver of quotations will be captured in the City's Waiver of Quotation Register.

Time constraints, poor planning, administrative omissions and errors should not justify a purchase under a Waiver. Every effort must be made to research and anticipate purchasing requirements in advance to allow sufficient time for planning and scoping proposed purchases and undertaking the relevant procurement process, as applicable.

#### **4.9 Tendering Exemptions**

The City is exempt from publicly inviting Tenders when procurement meets any of the requirements outlined under Regulation 11(2) of the Functions and General Regulations 1996.

#### **4.10 Procurement Exemptions**

Furthermore, if a good or service falls within one of the below categories and the purchase



value is under the Tender threshold (over the life of the Contract) and every effort to ensure value for money is achieved, the procurement is not subject to the above procurement requirements and officers may approach a single supplier:

- advertising of employment opportunities at the City
- recruitment of temporary personnel (as defined in the Procurement Procedures)
- insurance premiums with LGISWA
- advertising services, including mandated state-wide public notices (conditional to the WALGA PSA's and State CUA's) and digital advertising (for example, Facebook, Instagram or Google)
- purchasing of training services or training courses arranged by the City's Human Resources department
- conferences and seminars
- legal services (conditional to WALGA PSA's and State CUA's only)
- association and professional memberships. For example, WALGA and LGIS
- non-contestable utility services
- purchases from the original manufacturer or supplier whereby any other purchase may void the warranty
- light fleet (conditional to WALGA PSA's and State CUA's)
- Emergency Purchases (as defined under 4.6)
- purchases obtained from the government of the State or the Commonwealth or any of its agencies, or government body/statutory authority or from a local government, a regional local government.

#### **4.11 Inviting Tenders under the Tender threshold**

Where considered appropriate and beneficial, or to manage procurement risk, the City may consider undertaking a public tender process in lieu of undertaking a Formal Request for Quotation for purchases under the Tender threshold (\$250,000). This decision should be made after considering the benefits of this approach in comparison with the costs, sustainability, timeliness and compliance requirements.

If a decision is made to undertake a public tender for contracts expected to be \$250,000 or less in value, the City's public tendering process must be followed.

## **5 Panels of Pre-Qualified Suppliers**

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 of Pre-Qualified Suppliers (Panel). The creation and operation of a Panel must be undertaken in accordance with Part 4, Division 3 of the Regulations.

### **5.1 Establishing and Maintaining a Panel**

- a. a Panel may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel. This will be undertaken through a public statewide invitation process (similar to that of a Tender) in line with the City's Procurement Procedures.
- b. each Panel request issued will describe further the supply type, how the Panel will operate and the minimum number of suppliers to be maintained.
- c. evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.
- d. there shall be a minimum of two (2) suppliers appointed to a Panel.

- e. should a Panel member leave or be terminated from the Panel within 6 months of contract commencement, they may be replaced by the next ranked Panel member determined in the value for money assessment (should they accept). Should the next ranked supplier decline, the City may decide to invite the next ranked supplier and so forth until a supplier accepts a contract. Should the City deem that all suitable suppliers be exhausted, the City may continue to operate the Panel.

## **5.2 Procuring from the Panel**

Procuring from a Panel 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)) or method in which all factors listed under 5.3 are considered. 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. Requirements listed under a) and/or b) above may apply to each category formed under the Panel.
- d. The City may award any quantity of work to any member on the basis of their quote or any other pre-determined criteria stated in the contract.
- e. Award of work shall be evidenced by an official Purchase Order, which will represent the "contract", governed by the panel terms.
- f. 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.

## **5.3 Distributing Work Amongst Panel Members**

Factors which will be considered when distributing work include but are not limited to:

- a. mandatory compliance requirements
- b. cost
- c. availability
- d. capacity
- e. project specific requirements.

## **5.4 Panel Communication**

To ensure clear, consistent, and regular communication between all parties to a panel, the City will allocate to each panel a dedicated contact person for the term of the panel. A communication plan will be developed by the contact person which will include a requirement for scheduled performance review meetings with the City.

## **5.5 Record Keeping Requirement for Panels**

Each quotation process under a Panel, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and award notifications must be captured in the City's electronic records system in a separate file, attached to a nominated electronic quotation system (if available) or to the applicable purchase order in the City's financial software system.

## 6 Contract Management

Contracts are to be proactively managed during their lifecycle by the City Officer responsible for the delivery of the contracted goods, services or works, to ensure the city receives value for money and to enforce performance against the contract.

The Procurement and Contracts team are responsible for the administration and maintenance of the City's contract management system, framework and register. All contracts valued at \$50,000 (ex GST) and above will be maintained in the contract management system.

Where a contract variation is required, the contract can only be varied if it is necessary in order for the goods/services to be supplied and does not change the scope of the contract. When considering contract variations, any variation must also be identified as not to have affected the outcome of the initial procurement process in the view of both a reasonably skilled and experienced person having relevant expertise in the specific industry or type of work and the Procurement and Contracts team.

Further requirements relating to Contract Management, including variations and extensions are outlined in the City's Contract Management Framework and Contract Management Guidelines.

## 7 Record Keeping

All records associated with a procurement process or a direct purchase process must be recorded and retained as official City records. The Procurement Procedures provide further information.

Record retention shall be in accordance with the minimum requirements of the State Records Act 2000 (WA), and the City's management practice Records Management.

## 8 Non-Compliance

Procurement activities are subject to financial and performance audits to review compliance with legislative requirements and the City's Policies and Procedures.

Failure to comply with the requirements of this Policy, Code of Conduct or prescribed processes will be subject to investigation, with findings to be considered in context of the employees training, experience, seniority and reasonable expectations of the performance of their role.

Where a breach is substantiated, it may be treated as:

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

### OFFICER USE ONLY

Officers may amend this section without council approval.

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