



**POLICY**  
**TENDER MANAGEMENT**



## TENDER MANAGEMENT

**To provide direction for the consistent management of all tenders received by the City of Kwinana and for executing contract variation applications and extension options in accordance with the awarded contract terms and conditions.**

**To clarify the Council's interpretation of the Local Government (Functions and General) Regulations 1996 and any additional management steps required to ensure 'value for money' objectives and 'procedural fairness' is maintained at all times.**

Adopted:	27/10/2004 #662
Last reviewed:	27/09/2006 #519 28/04/2010 #105 11/07/2012 #163 13/05/2015 #452 <b>14/10/2015 #592</b>
Legal Authority	Local Government Act 1995 (s3.57) Local Government (Functions and General) Regulations 1996 Part 4 Division 1 – Purchasing Policies for Local Governments

### Policy:

The Local Government Act 1995 requires the City of Kwinana to invite tenders for any goods or services which are expected to exceed \$150,000 over the proposed contract term except in those circumstances allowed for in Part 4 of the Local Government (Functions and General) Regulations 1996.

#### **Tender Management**

The City of Kwinana purchases must be made through a competitive process or by purchasing from a tender exempt organisation such as WALGA or the State Government via a Preferred Supply Contract or Common Use Arrangement (CUA) (which have been established using a compliant and competitive public process). Suppliers and Tenderers must be treated fairly and equitably at all times.

#### **Sole Source of Supply (Monopoly Suppliers)**

The procurement of goods and/or services from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call a competitive procurement process provided that the sole source is genuinely the only source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be retained on file for later audit.

Note: The application of provision "sole source of supply" must only occur in limited circumstances and procurement experience indicates that generally more than one supplier is able to provide the requirements.

#### **Anti-Avoidance**

The City of Kwinana must not enter two (2) or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to publicly tender.

#### **Tender Criteria**

Before Tenders are publicly invited the City will determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel must be established prior to the advertising of a tender or inviting formal quotations and include a mix of skills and experience relevant to the nature of the

purchase. For requests with a total estimated (Ex GST) price of:

- between \$70,000 and \$149,999, the panel must comprise a minimum of 2 members; and
- \$150,000 and above, the panel must comprise a minimum of 3 members.

### **Advertising Tenders**

Tenders must be advertised in a State-wide publication e.g. “The West Australian” newspaper within the Local Government Tenders section on a Wednesday or Saturday.

### **Issuing Tender Documentation**

Tender documentation must not be made available by any means (counter, mail, internet, referral, or by other means) without a robust process in place which records the details of all parties requesting or acquiring the tender documentation.

### **Addendum to Tender**

If, after the tender has been publicly advertised, any changes, variations or adjustments to the tender document and/or the conditions of tender are required, the City of Kwinana may vary the initial information and provide each prospective tenderer who has obtained the tender documents, notice of the variation, change or adjustment.

### **Tender Deadline**

A tender that is not received in full in the required format by the advertised Tender Deadline must be rejected. The Tender Deadline must be nominated in the Statewide publication and be no less than 14 days after the publication issue date.

### **Opening of Tenders**

No tenders are to be removed from the tender box, or opened (read or evaluated) prior to the Tender Deadline.

Tenders are to be opened in the presence of the Chief Executive Officer’s delegated nominee and at least one other City officer. The details of all tenders received and opened will be recorded in the Tenders Register. Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence. Members of the public are entitled to be present.

### **No Compliant Tenders Received**

If, within the last 6 months the City of Kwinana has invited tenders, however no submission was received that met the tender requirements, then the City may approach the market direct on the following basis:

- a sufficient number of quotations are obtained;
- the process follows the guidelines for seeking quotations between \$70,000 and \$149,999;
- the requirements and the specification for goods and/or services remains unchanged;
- purchasing is arranged within 6 months of the closing date of the lapsed tender.; and
- satisfied with the value for money assessment. Where the City has publicly invited tenders and no tender was submitted that met the tender specifications, the City can approach a supplier if they can deliver the scope included in the tender within budget.

### **Tender Evaluation**

Tenders that have not been rejected must be assessed by the City of Kwinana by means of a written evaluation against the pre-determined criteria and determine which tender is most advantageous.

**Tender Evaluation Panel Members**

Tender evaluation panel members acknowledge and accept that:

- Any actual or perceived conflicts of interest are to be disclosed and the panel member is removed from the tender panel.
- A declaration be signed by panel members stating that to their knowledge that no staff or myself have an interest and / or are related in any way to the parties submitting tenders. This must be attached to the tender documentation that is kept at the City.

**Minor Variation**

If after the tender has been publicly advertised and a successful tenderer has been chosen but before the City of Kwinana and tenderer have entered into a Contract, a minor variation may be approved by the Chief Executive Officer.

A minor variation is defined as follows:

1. Does not alter the nature of the goods and/or services procured;
2. Does not materially alter the specification or structure provided for by the initial tender; and
3. Is less than 10% of the original contract price.

A contract cannot be varied outside the above definition.

If the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement then the City may, instead of inviting tenders again, enter into a contract with the next most suitable tenderer providing the tender report recommendation allows for the tender to be awarded to the next most advantageous tenderer or an additional report is presented to Council or the Chief Executive Officer (under Chief Executive Officer delegation) to award the tender to the next most advantageous tenderer.

**Notification of Outcome**

Each Tenderer must be notified of the outcome of the tender following Council Resolution or exercised appropriate delegated authority. Notification will include:

- The name of the successful Tenderer;
- The value of consideration of the winning offer; or
- A summary of the schedule of rates of the winning offer.

The details and value of consideration or summary of the schedule of rates for the winning offer must also be entered into the Tenders Register at the conclusion of the tender process.

**Tenderers Debriefing**

Tenderers may request a debriefing of their tender submission and must be provided with general information in relation to their submission's strengths and weaknesses. Copies of internal tender assessment documentation will not be provided.

**Canvassing of Councillors**

Tenderers will not have the opportunity to lobby individual Elected Members or the Council as a whole either prior to or during a Council meeting to influence their decision in accordance with the Conditions of Tender. Any attempt by a tenderer to do so will disqualify them from the tender process.

**Delegation of Authority**

A contract with a value up to \$1,000,000, or multiple year contracts (including extensions thereof) up to a total contract value of \$1,875,000 where there is a budget provision approved, may be declined, accepted or negotiated and executed under delegated authority by the Chief Executive Officer.

### **Contract Variation, Applications & Extension Options**

Variation applications for multiple year contracts and extension options (if applicable) may be executed in accordance with the awarded contract terms and conditions and in accordance with the requirements of this Policy.

Note: Extension options will only be included in tender/contract documents under exceptional circumstance. The tender issue document will detail the price mechanism that will apply to determine the total cost for the entire contract period, including extension options.

### **Variation after Contract Commencement**

A request for a variation outside the original terms and conditions and price variation mechanism during the contract term must be approved by the Chief Executive Officer or Council under the appropriate delegation and must not exceed the following requirements:

1. Does not alter the nature of the goods and/or services procured;
2. Does not materially alter the specification or structure provided for by the initial tender; and
3. Is less than 10% of the contract price.

For additional works not outlined in the contract that could result in a variation to the existing contract due to unforeseen circumstances can be tendered for those particular works.