

COUNCIL POLICY

Objective:

The Procurement Policy (Policy) is developed in accordance with the statutory obligations of the *Local Government Act 1995* (Act) and Part 4 of the *Local Government (Functions and General) Regulations 1996* (Regulations) in relation to procurement activities undertaken by the City of Mandurah (the City).

The Policy is directed at meeting the following objectives:

- Achieving 'value for money' with respect to all procurement activities;
- Ensuring that the City complies with all obligations under the Act and Regulations;
- Strengthening integrity and confidence in procurement systems and processes;
- Ensuring that sustainable benefits, such as environmental, social and local economic factors are considered in the overall 'value for money' assessment;
- Mitigating probity risk by establishing consistent and demonstrated processes and training that promote transparency and fairness; and
- Ensuring that procurement activities are conducted in a consistent and efficient manner in accordance with applicable policies and procedures.

Policy Statement:

1. APPLICABILITY

The policy applies to all procurement activities undertaken by City officers, appointed representatives and where applicable, contractors. For the purposes of the Policy, such persons will be referred to as employees.

2. PRINCIPLES OF PROCUREMENT

All employees of the City shall observe the highest standards of ethics and integrity in undertaking procurement activity and act in an honest and professional manner. The following principles underpin the City's procurement activities:

- a. All processes, evaluations and decisions shall be transparent, free from bias, merit based and fully documented in accordance with the Act and Regulations, applicable Policies and Procedures, and audit requirements.
- b. Accountability shall be taken for all procurement decisions, to ensure the efficient, effective and proper expenditure of public monies based on achieving value for money, in accordance with the City's adopted budget.
- c. Procurement is to be carried out on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
- d. Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

3. VALUE FOR MONEY

- a. 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.

- b. 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.

3.1 Assessing Value for Money

- a. The assessment of value for money is the result of open, competitive sourcing practices and critical assessment of factors such as:
 - i. 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;
 - ii. 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;
 - iii. Financial viability and capacity to supply without risk of default;
 - iv. Ensuring a sufficient number of offers have been obtained to enable robust price comparison wherever practicable;
 - v. 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; and
 - vi. A supplier's ability to demonstrate the sustainable benefits and positive local impact of the goods and services offered.
- b. The level of assessment undertaken is commensurate with the value, complexity, risk and sensitivity of the goods or services being procured.

4. 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.

The City is committed, where possible, to procuring goods and services:

- a. that are economical to own and operate;
- b. reduce waste and are energy efficient;
- c. cause the least damage to the environment;
- d. have been created or obtained using legally compliant practices (Corporate Social Responsibility);
- e. provide local businesses with commercial opportunity;
- f. improve employment opportunities for local people; and
- g. that encourage social advancement and benefits relating to special needs.

4.1 Local Content

- a. The City will:
 - i. wherever practical, invite local suppliers to quote, in accordance with this Policy;
 - ii. ensure procurement planning explores local business capability and opportunities for local content; and

- iii. consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses.
- b. Local suppliers are defined as those businesses that operate permanently within the district of the City of Mandurah local government municipal area.

4.2 Engaging with Australian Disability Enterprises or Aboriginal Businesses

- a. The City encourages the use of Australian Disability Enterprises and Aboriginal owned businesses for the supply of goods and/or services where value for money assessments demonstrate benefits for the City achieving its objectives.
- b. Where the required number of quotes from \$5,000 up to \$250,000 cannot be obtained from similar disability enterprises or Aboriginal owned businesses, alternate means of verifying that the offer truly represents value for money should form part of the evaluation documentation and applicable Procedure.
- c. When utilising tender exempt provisions for Aboriginal owned businesses the maximum procurement value permissible is \$250,000.

5. PROCUREMENT REQUIREMENTS

- a. The requirements that must be complied with by the City, including procurement thresholds and processes, are prescribed within the Regulations, this Policy and associated Procurement Procedures.
- b. In determining the purchase value, the following considerations are to be taken into account:
 - i. All values are exclusive of GST; and
 - ii. The amount is the actual or expected value of a contract over the full contract period, including all options.
- c. The following procurement value thresholds apply:

Monetary Threshold of the contract value, including extensions and options (exclusive of GST)	Process Required	Source
Up to \$4,999	Direct purchase from a supplier after obtaining at least one (1) oral or written quotation in accordance with the Procurement Procedure – Goods and Services .	Local supplier where practical. If no local supplier, seek one (1) quote through: <ul style="list-style-type: none"> • Western Australian Local Government Association (WALGA) Preferred Supplier Program (PSP); or • State Common User Arrangement (CUA); or • Australian Disability Enterprise; or • Aboriginal owned business; or • Open market.
\$5,000 to \$49,999	Seek three (3) or more verbal or written quotations (method dependent on risk and complexity) in accordance with the Procurement Procedure – Goods and Services . Obtain a minimum of two (2) written responses	Where practical a minimum of two (2) local suppliers to be invited along with open market suppliers. If no local suppliers, seek three (3) or more quotes through:

		<ul style="list-style-type: none"> • WALGA PSP; or • State CUA; or • Australian Disability Enterprise; or • Aboriginal owned business; or • Open market.
\$50,000 to \$149,999	Formal Request for Quote in accordance with Procurement Procedure Goods and Services . Seek three (3) or more written formal quotations and obtain a minimum of two (2) responses.	<p>Where practical a minimum of two (2) local suppliers to be invited along with open market suppliers.</p> <p>If no local suppliers, seek three (3) or more quotes through:</p> <ul style="list-style-type: none"> • WALGA PSP; or • State CUA; or • Australian Disability Enterprise; or • Aboriginal owned business; or • Open market.
\$150,000 to \$249,999	Formal Request for Quote in accordance with Procurement Procedure Goods and Services . Seek three (3) or more written formal quotations and obtain a minimum of two (2) responses.	<p>Where practical a minimum of two (2) local suppliers to be invited along with open market suppliers.</p> <p>If no local suppliers, seek three (3) or more quotes through:</p> <ul style="list-style-type: none"> • WALGA PSP; or • State CUA; or • Australian Disability Enterprises; or • Aboriginal owned business; or • Open market
\$250,000 and above	<p>Public Tender, to be issued by Governance Services in accordance with the Act and Regulations</p> <p>Refer to Procurement Procedure – Goods and Services.</p> <p>Where circumstances warrant, Governance Services may conduct a tender process for projects which are below the \$250,000 threshold (refer to section 5.3).</p>	Public Open Tender
\$250,000 and above (Tender exempt)	Seek three (3) or more written formal Request for Quote, to be issued by Governance Services, in accordance with reg 11(2). Obtain a minimum of two (2) written responses, unless sole supply or supplier availability is limited i.e. only one supplier is represented under a panel arrangement.	<ul style="list-style-type: none"> • WALGA PSP • State CUA • Australian Disability Enterprise

5.1 Conditions

- a. Existing contracts held with the City must be considered first before sourcing from other suppliers. Goods and/or services must be within scope of the existing contract and must not exceed the tender threshold unless specifically permissible or procured through a City held Panel of Pre-qualified Suppliers (section 6).

- b. Supply of goods or 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. Goods or services purchased through a purchasing card;
 - v. Fees and payments that are statutory, this includes bank fees;
 - vi. Other statutory damages, infringements and penalties;
 - vii. Loan repayments;
 - viii. Freight, postal charges and fuel cards;
 - ix. Goods purchased from petty cash;
 - x. Purchasing card payment requests.
- c. All procurement activity must be carried out in accordance with the relevant Procurement Procedure as defined in section 5.
- d. Restrictions exist on procuring IT hardware, software and licenses, office furniture and fittings – refer to the City’s IT and Procurement Procedures.
- e. Where the stated number of minimum quotations to be obtained cannot be achieved due to:
 - i. limited responses (all thresholds); or
 - 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.

5.2 Record Keeping

Communications, responses and documentation relating to procurement activity and approvals, regardless of value, must be recorded and retained in accordance with the *State Records Act 2000*, the Regulations (reg. 11A(3)(b) and 24AC(2)(e)), the City’s Record Keeping Plan and applicable Procurement Procedures.

5.3 Requesting Tenders where value is less than 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 procurement activities must not be entered into with the intent (inadvertent or otherwise) of "splitting" the purchase value to avoid a public tender being called (regulation 12 of the Regulations) or to avoid threshold quoting requirements under \$250,000.

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 tenderer formalising the contract. A minor variation is required to meet the following conditions:
 - i. Does not alter the nature of the goods and/or services procured;
 - ii. Does not materially alter the scope provided in the initial tender;
 - iii. Amount to less than 10% of the original contract price or up to a maximum of \$100,000.00 whichever is the lesser; and
 - iv. Does not alter the decision to award the tender to the preferred tenderer.
- b. If the variation does not meet the conditions, 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 Procurement Procedure Contract Variations and Extensions.
- 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 be 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 extensions) 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 cost, time and scope implications.
- d. Contract variations are to be approved in accordance with the authorisation limits as per section 8 of this policy.
- e. These conditions also apply to contracts valued under \$250,000 and are required to be undertaken in accordance with the Procurement Procedure Contract Variations and Extensions.

5.7 Contract Extensions

- a. Contracts are extended only if the original contract includes an extension option as per 5.6 above (unless State of Emergency provisions apply).
- b. For continuity of service provision, the 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 authorisation limits as per section 8 of this policy.

- c. There must be documented evidence that the contractor performance has been assessed before the contract extension is approved.

5.8 Contract Expiry

Prior to the expiry of the original contract, and after any options for renewal or 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.

5.9 Procurement Planning

A Procurement Plan is required for all procurement activities above \$50,000. Governance Services will facilitate this process in most instances.

5.10 Conflict of Interest

Actual or perceived interests are to be declared using the City's prescribed form. 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.

For purchases over \$5,000 employees must sign the applicable procurement threshold documentation relating to conflict of interests.

5.11 Terms and Conditions

City of Mandurah Standard Terms and Conditions will apply unless a formal contract has been used. Any terms and conditions that are required to be varied must be approved by Manager Governance Services.

5.12 Probity Advisors and Audit

The Chief Executive Officer (CEO) may appoint an organisation to undertake a probity audit of the tender process conducted, or parts thereof, if required. The CEO may appoint a probity advisor to observe or participate in the procurement process that will be conducted.

5.13 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 Tender Exempt Supply Arrangements

- a. Procurements activities above tender threshold, sourced through tender exempt supply arrangements, must be in accordance with the Regulations and the City's Policies and Procedures. These are set out in regulation 11(2) of the Regulations and include:
 - i. pre-qualified suppliers under the WALGA PSP;
 - ii. suppliers under State Government CUA;
 - iii. suppliers on a Panel of Pre-qualified Suppliers established by the City;
 - iv. a Regional Local Government or another Local Government;

- v. an Australian Disability Enterprise and where the procurement represents value for money;
- vi. where the contract is for petrol, oil, or other liquid or gas used for internal combustion engines; or
- vii. where the supply of goods or services is to be obtained from expenditure authorised in a local emergency under 6.8 (1)(c) of the Act: or
- viii. the supply of the goods or services associated with a State of Emergency in accordance with 11 (2)(aa), (ja) and (3) of the Regulations; or
- ix. procurements covered by any other exclusion under regulation 11 of the Regulations.

6.2 Use of Tender Exempt Suppliers under \$250,000

- a. Procurements valued under \$250,000 may be sourced from suppliers through the above tender exempt arrangements. Quotes should only be sourced from a single panel arrangement on each occasion i.e. PSP or a CUA. Written records of the justification and the approval obtained must be recorded in accordance with Procurement Procedures.

6.3 Goods and/or Services required in an Emergency (Local or State)

- a. An “emergency” is defined in the *Emergency Management Act 2005* is “the occurrence or imminent occurrence of a hazard which is of such a nature or magnitude that it requires a significant and coordinated response”. Section 6.8(1)(c) of the Act makes provisions for unbudgeted expenditure in a local emergency to be incurred if approved in advance by the Mayor. Regulations 11 (2)(aa),(j) makes provisions where a State of Emergency is declared.
- b. The City’s Procurement Procedures provides further information when expenditure is within budget or where a State of Emergency has been declared.
- c. A State of Emergency applies when it is declared under the *Emergency Management Act 2005*.
- d. The City’s own contracts or WALGA’s Hazardous and Emergency Event Services PSP should be used wherever possible. The City’s Procedures make provision for services that are required urgently or out of hours.

6.4 Sole Source of Supply

- a. Goods and/or services of a unique nature that can only be supplied from one supplier may be procured using a formal quotation process. Sufficient market testing and investigation of alternative sources of supply must be demonstrated and evidence documented.
- b. The City’s Procurement Procedures detail the requirements for procurements under \$250,000.
- c. The application of the provision of sole source of supply must only occur in limited circumstances with procurement experience indicating that generally more than one supplier is able to be found to provide the requirements of the specification.

6.5 Waiver of Quotation Requirements under \$250,000

A waiver to seek the required number of quotes (for budgeted expenditure), may be granted at the sole discretion of the CEO and/or Directors. Written records of the justification and the approval obtained must be recorded.

7 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 (PQS's). The creation and operation of a PQS must be undertaken in accordance with Part 4, Division 3 of the Regulations.

7.1 Establishing a Panel

- a. State-wide public notice of the invitation to apply to join a PQS is required;
- b. PQS may be established for one supply requirement, or a number of similar supply requirements under defined categories;
- c. Each Request for Application (RFA) issued will describe further the supply type, how the PQS will operate and the minimum number of suppliers to be maintained;
- d. Evaluation criteria will be pre-determined;
- e. Suppliers appointed to a panel as members will be subject to the City's panel terms;
- f. The Regional Price Preference Council Policy may be applied when assessing applications to join a PQS.

7.2 Procuring from the Panel

Procuring from PQS will be outlined in detail in the RFA 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)). 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. 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 RFA.
- d. Award of work shall be evidenced by an official Purchase Order, which will represent the "contract", governed by the panel terms.
- e. 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.

7.3 Distributing work amongst panel members

Unless otherwise specified in the RFA, when considering the distribution of work amongst panel members the City will generally take into account such factors as:

- a. accepted pricing schedule or price;
- b. value for money considerations;
- c. ranking (if applicable);
- d. performance during the term of the Panel;
- e. equipment, plant, or capability relative to the particular item of work;
- f. response time and/or availability;

- g. vicinity to the work location;
- h. ability to provide speciality products or services; or
- i. ability to respond to the quote request within the specified timeframe.

7.4 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.

7.5 Record Keeping Requirements for Panels

Each quotation process, 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. Purchase orders raised must reference the PQS reference number for the purposes of monitoring expenditure.

8 AUTHORISATION

- a. The following positions are authorised to approve and issue purchase orders or otherwise procure in accordance with this policy, subject to:
 - i) the general authorisation limits set out in the table below; and
 - ii) the individual position financial limits set out in the Authorisation Limit Listing:

POSITION	AUTHORISATION LIMIT (exclusive of GST)
CEO	<u>Unlimited (Excluding the acceptance of Tenders)</u>
Director	As determined by the CEO
Executive Manager / Manager	Up to \$50,000
Coordinator / Supervisor	\$15,000 to \$40,000
Other Staff	Up to \$5,000

- b. The conditions of approving purchase requisitions and orders is in accordance with the City’s Policies and Procedures 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).
- c. An employee cannot exceed their financial authorisation as set out in the Authorisation Limit Listing unless specifically authorised in writing by the CEO i.e. under periods of higher duties. The City’s Authorisation Limit Listing, and relevant Policy apply.
- d. The Authorisations Limit Listing is subject to review and approval by the CEO, such review to occur annually or as otherwise required.

8.1 Purchasing Cards

- a. The CEO will develop Procedures for the authorisation and payment of accounts to ensure there is effective security and appropriate authorisations in place for the use of purchasing cards.
- b. Council approves that the CEO has a purchasing card of a monthly limit of \$20,000 and a maximum transaction limit of \$10,000.
- c. The Mayor will approve the CEO purchasing card on a monthly basis.
- d. The CEO will authorise the issue of purchase cards to other City officers following applicable procedures.

8.2 Petty Cash

- a. Petty cash transactions under \$50 are to be authorised by Managers in accordance with City's Procedure.

9 POLICY NON-COMPLIANCE

- a. 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 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.
- b. Where a breach is substantiated it may be treated as:
 - i. an opportunity for additional training to be provided;
 - ii. a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*;
 - iii. misconduct in accordance with the *Corruption, Crime and Misconduct Act 2003*.

Responsible Directorate:	Business Services
Reviewer:	Manager Governance, Procurement and Land
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Related Documentation and or/legislation:	<i>Local Government Act 1995 (Act)</i> and Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i>