

<b>Policy Type:</b>	Finance
<b>Date Adopted:</b>	15 September 2021

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<b>Legal (Parent):</b>
<ol style="list-style-type: none"> <li>Local Government Act 1995 – Section 3.57.</li> <li>Local Government (Functions and General) Regulations – Regulation 11A</li> </ol>

<b>Legal (Subsidiary):</b>
<ol style="list-style-type: none"> <li>State Records Act 2000</li> <li>Shire of Nungarin Code of Conduct</li> </ol>

<b>Delegation of Authority Applicable</b>	Yes
<b>Delegation Numbers</b>	4.8, 4.9

<b>Work Procedure Applicable</b>	No
<b>Work Procedure Number</b>	n/a

ADOPTED POLICY	
<b>Title:</b>	<b>PURCHASING POLICY</b>
<b>Objective:</b>	<p><b>To ensure that all purchasing activities:</b></p> <ol style="list-style-type: none"> <li><b>Demonstrate that best value for money is attained for the Shire;</b></li> <li><b>Are compliant with relevant legislation, including regulations;</b></li> <li><b>Are recorded in compliance with the <i>State Records Act 2000</i> and associated records management practices and procedures of the Shire;</b></li> <li><b>Mitigate probity risk, by establishing consistent and demonstrated processes that promote openness, transparency, fairness and equity to all potential suppliers;</b></li> <li><b>Ensure that sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;</b></li> <li><b>Are conducted in a consistent and efficient manner across the organisation and that ethical decision making is demonstrated.</b></li> </ol>

### 1. PURPOSE:

To ensure a best practice approach to procurement which promotes transparent, equitable and competitive purchasing practices for the Shire of Nungarin (Shire) and is compliant with the Local Government Act 1995 (Act) and the Local Government (Functions and General) Regulations 1996 (Regulations).

### 2. ETHICS AND INTEGRITY:

The highest standards of ethics and integrity are to be observed in undertaking all purchasing activities. Employees will act in an honest and professional manner that supports the standing of the Shire and promotes a proud and collaborative community.

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:

1. 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.
2. All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with Council policies, values and Code of Conduct.
3. Purchasing is to be undertaken in a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
4. All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, record keeping practices and audit requirements.
5. Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.
6. Any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or under relevant legislation.

### **3. VALUE FOR MONEY:**

Value for money is an overarching principle governing purchasing, that allows the best possible outcome to be achieved for the Shire.

Value for money is determined when the consideration of price, risk and quality factors that are assessed to determine the most advantageous outcome to be achieved for the Shire.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate quality and risk factors into the decision.

An assessment of the best value for money outcome for any purchasing process should consider:

- a) all relevant whole-of-life costs and benefits, whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as, but not limited to, holding costs, consumables, deployment, maintenance and disposal;
- b) the technical merits of the goods or services being offered in terms of compliance with specifications, user requirements, quality standards, sustainability, service benchmarks, contractual terms and conditions, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, and any relevant methods of assuring quality;
- c) 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);
- d) 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; and
- e) local business capabilities.

#### **4. BUY LOCAL/REGIONAL PRICE PREFERENCE POLICY: (Refer to Policy Manual Item 1.19)**

As much as practicable, the Shire must:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans address local business capability and local content;
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and
- provide adequate and consistent information to potential suppliers.

To this extent, a qualitative weighting may be afforded in the evaluation of quotes and tenders where suppliers are located within the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy.

A regional price preference may be afforded to locally based businesses for the purposes of assessment. Provisions are detailed within the Shire's Regional Price Preference Policy.

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

##### **5.1 Legislative /Regulatory Requirements**

The requirements that must be complied with by the Shire, including purchasing thresholds and processes, are prescribed within the Local Government (Functions and General) Regulations 1996 and this Policy.

##### **5.2 Policy**

Purchasing that is \$250,000 or below in total value [excluding GST] must be in accordance with the purchasing requirements under the relevant threshold as defined under Section 6.4 of this Procurement Policy.

Purchasing that exceeds \$250,000 in total value [excluding GST] must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under Section 6.5 of this Procurement Policy is not deemed to be suitable.

##### **5.3 Purchasing Value Definition**

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

###### **Exclusive of GST**

The actual or expected value of a contract over the full contract period, including all options to extend; or to the extent to which it could be reasonably expected that the Shire 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.

Must incorporate any variation to the Scope of purchase and be limited to a 10% tolerance of the original purchasing value.

## 5.4 Procurement Thresholds and Requirements

The following procedures will be adhered to when purchasing items and other services and goods as per the adopted budget. All purchase orders are to be completed as set out below:

Range (excluding GST)	Requirements
\$0 - \$7,500	<p>Purchase directly from a supplier and at least one (1) oral or written quotation must be obtained from a suitable supplier, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered and maintained by the Shire; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or</li> <li>• from the open market.</li> </ul>
\$7,501 - \$50,000	<p>A purchase order will be utilised following two written quotes being obtained, or proof of requesting a quote can be provided.</p> <p>Staff must retain electronic evidence of the suppliers invited to supply a written quote. Each supplier must receive the same detailed description/specification of what goods/services are being requested.</p> <p>A completed Declaration of Quotes Form must be completed and attached to all purchase orders.</p> <p><i>[Three quotes must be sourced, including if using WALGA Preferred Supplier Panel]</i></p>
\$50,001 - \$100,000	<p>Obtain at least three written quotes from suppliers by formal invitation, by way of a <b>Formal Request for Quotation Process</b> which includes a detailed Scope of Works/Specification of Goods and Services required.</p> <p>The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from the WALGA Preferred Supply Programme or from the open market.</p> <p>The Declaration of Quotes Form - Endorsement by CEO to Award the RFQ to the recommended respondent must be attached to the Purchase Order.</p> <p>Under direction from the authorised Officer, and in consultation with the Chief Executive Officer a purchase order will be utilised following the RFQ process.</p> <p><i>[Three quotes must be sourced, including if using WALGA Preferred Supplier Panel]</i></p>
\$100,001 - \$249,999	<p>Obtain at least three written quotes from suppliers by formal invitation, by way of a <b>Formal Request for Quotation Process</b> which includes a detailed Scope of Works/Specification of Goods and Services required.</p> <p>The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from the WALGA Preferred Supply Programme or from the open market.</p> <p>At the close of the RFQ process, a detailed report shall be prepared and submitted to the next available meeting of Council where Council will determine the successful submission accordingly.</p>

	<p>A copy of the Council Resolution must be attached to the Purchase Order.</p> <p><i>[Three quotes must be sourced, including if using WALGA Preferred Supplier Panel]</i></p>
<b>\$250,000 &amp; Greater</b>	<p>Under direction from the authorised Officer, Tenders will be invited as follows.</p> <p>If work is allowed for in the budget, a Request to Invite Tenders form is to be submitted to the Chief Executive Officer for approval.</p> <p>If the work is not allowed for in the budget, permission to go to Tender must be obtained from Council.</p> <p>A copy of the Council Resolution to award the Tender to the successful Tenderer must be attached to the Purchase Order.</p>

## 5.5 Tender Exemptions

An exemption to publicly invite tenders may apply in the following instances:

- a) An emergency situation as defined by the Act;
- b) The purchase is under a Contract of WALGA (Preferred Supplier Arrangements\*), Department of Treasury and Finance (permitted Common Use Arrangements); Regional Council; or another Local Government;
- c) The purchase is under auction which has been authorised by Council;
- d) The Contract is for petrol, oil or other liquid or gas used for internal combustion engines;
- e) The purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money\*;
- f) The purchase is acquired from an Australian Disability Enterprise and represents value for money\*;
- g) The purchase is from a pre-qualified supplier under a Panel established by the Shire\*;
- h) Any other exclusion under Regulation 11 of the Local Government (Functions and General) Regulations 1996.

*\*Whilst exempt from the Tender process – three quotes are still required if purchase is to be made under this instance.*

## 5.6 Purchase Order Authorisation

Purchase orders must be generated and signed by authorised persons for all goods and services ordered for the Shire at the time that the order is placed.

Amounts shown are GST exclusive.

**Orders should never be raised retrospectively.**

Authorising Officer	Requirements
<b>Chief Executive Officer</b>	The Chief Executive Officer may raise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 5.4 of this Procurement Policy to the maximum of \$100,000 (Excl GST)
<b>Manager Works and Services</b>	The Manager Works and Services may raise a purchase order in accordance with the Procurement Threshold and requirements set out in 5.4 of this Procurement Policy to the maximum value of \$10,000 (Excl GST)

<b>Senior Finance Officer</b>	The Supervisor Works & Services may raise a purchase order to a maximum value of \$500.
<b>Supervisor Works and Services</b>	The Senior Finance Officer may raise a purchase order to a maximum value of \$500

Splitting of purchases to keep below threshold is a breach of the Code of Conduct and will be treated as such.

## 5.7 Capital Expenditure

Definition of a Capital Item for the purpose of the Shire of Nungarin:

- Any item budgeted as a capital item in the adopted budget;
- Any item to be purchased, which involves the replacement of an existing asset through the sale, trade-in, write-off or disposal of an item on the fixed asset register.

Refer to the Accounting Policy in the Council's Policy Manual for the further treatment of noncurrent assets.

No item of a capital nature may be purchased unless included in the adopted budget, or if unbudgeted, has been approved by "absolute majority" of Council prior to the purchase of the item. (Council has no retrospective right of approval of purchase of non-budgeted items of capital).

In order to preserve the cash flow of the Shire, major items of budgeted capital expenditure should be deferred, where possible, until the second or third quarter of the financial year. However all capital orders must be raised by the 30 April to allow adequate time for payment by June 30 of each year. In all cases, the timing of the expenditure on major items of capital should be discussed and agreed with the Chief Executive Officer.

## 6. TENDER ANTI-AVOIDANCE:

The Shire shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of 'splitting' the value of the purchase or contract to take the value of the consideration of the purchase below a particular purchasing threshold, particularly in relation to Tenders and to avoid the need to call a Public Tender.

## 7. EMERGENCY PURCHASES:

An emergency purchase is defined as an unanticipated and unbudgeted purchase which is required in response to an emergency situation as provided for in the Local Government Act 1995.

### *Local Government Act 1995, Part 6, Division 4, s.6.8 (1)(c)*

#### 6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- is incurred in a financial year before the adoption of the annual budget by the local government; or
  - is authorised in advance by resolution\*; or
  - is authorised in advance by the mayor or president in an emergency.

\* Absolute majority required.

In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken, but has to be in accordance with 6.8(1)(c) of the Local Government Act 1995.

An emergency purchase does not relate to purchases not planned for due to time constraints.

Every effort must be made to anticipate purchases required by the Shire in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

## **8. RECORDS MANAGEMENT:**

Records of all purchasing activity must be retained in compliance with the State Records Act 2000 (WA); the Shire's Records Management Policy and associated procurement procedures.

For each procurement activity, such documents may include:

- The Procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;
- Request for Quotation/Tender documentation;
- Copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- Copies of quotes/tenders received;
- Evaluation documentation, including individual evaluators notes and clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to respondents notifying of the outcome to award a contract;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of contract(s) with supplier(s) formed from the procurement process.

## **9. PURCHASING FROM DISABILITY ENTERPRISES:**

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the Shire is not required to publicly invite tenders if the goods or services are to be supplied from an Australian Disability Enterprise, as registered on [www.ade.org.au](http://www.ade.org.au).

This is contingent on the demonstration of value for money.

Where possible, Australian Disability Enterprises are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

## **10. PURCHASING FROM ABORIGINAL BUSINESSES:**

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the Shire 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 published by the Small Business Development Corporation on [www.abdwa.com.au](http://www.abdwa.com.au), where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Where possible, Aboriginal businesses are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and

tenders to provide advantages to Aboriginal owned businesses or businesses that demonstrate a high level of aboriginal employment.

## **11. PANELS OF PREQUALIFIED SUPPLIERS:**

In accordance with Regulation 24AC of the Local Government (Functions and General) Regulations 1996, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

- The Shire determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- the Shire has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The Shire will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

### **11.1 Establishing a Panel**

Should the Shire determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the Local Government (Functions and General) Regulations 1996.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a minimum of two (2) year and for a maximum length of time deemed appropriate by the Shire. However, Contracts may not be entered into for more than one (1) year, and no option to renew a Contract is to be offered.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the Shire will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the Shire must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

### **11.2 Distributing Work amongst Panel Members**



To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Shire intends to:

- a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 11.3; or
- b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- c) Develop a ranking system for selection to the Panel, with work awarded in accordance with Subclause (c)(ii).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- i. each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or
- ii. work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the Panel. The Shire is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 5.4 of this Policy. When a ranking system is established, the Panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

### **11.3 Purchasing from the Panel**

The invitation to apply to be considered 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.

Communications with panel members, evaluation of quotes and notification of award communications must all be retained using the unique reference number as per Clause 11.4.

### **11.4 Recordkeeping**

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a Panel, this includes:

The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;

- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- Request for Applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

The Shire is also to retain records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the Shire.

References	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Local Government (Functions and General) Regulations 1996 (as amended)</i></li> </ul>		
Related Procedures			
Date Adopted by Council	16 May 2018	Item No.	8.4.1
Review/Amendment Date	15 September 2021	Item No.	8.4.1
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