

POLICY:	PURCHASE OF GOODS AND SERVICES
POLICY NO:	2.6
SECTION:	CORPORATE
LEGISLATIVE REFERENCE:	Part 4, Local Government (Functions and General) Regulations 1996
COUNCIL MEETING HELD & AMENDED:	22 April 2020 (Resolution no. 049/50)
DATE OF NEXT REVIEW:	February 2021

1. POLICY

The Shire of Wiluna (the “**Shire**”) is committed to achieving good practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the “**Act**”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “**Regulations**”) Procurement processes and practices to be complied with are defined within this Policy and the Shire’s prescribed procurement procedures.

2. OBJECTIVES

The objectives of this Policy are to ensure that all purchasing activities:

- demonstrate that best value for money is attained for the Shire;
- are compliant with relevant legislation, including the Act and Regulations;
- are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire;
- ensure performance with regard to quality, and timeliness of supply and delivery;
- mitigate risks to the Shire related to late performance and other breaches of contract;
- mitigate probity risk, by establishing consistent and demonstrated processes that promote openness, transparency, fairness and equity to all potential suppliers;
- ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- are conducted in a consistent and efficient manner across the Shire and that ethical decision making is demonstrated.

3. ETHICS & INTEGRITY

3.1 Code of Conduct

All elected members, officers and employees of the Shire must have regard for the Code of Conduct requirements and shall observe the highest standards of ethics and integrity. All officers and employees of the Shire must act in an honest and professional manner at all times which supports the standing of the Shire.

3.2 Purchasing Principles

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:

- 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;
- time and delivery are of the essence of every contract for the supply of goods and services – consequently all quotations, purchase orders, invitations to quote, requests for tenders, requests for proposals, expressions of interests, supply contracts etc must include delivery dates and/or completion dates (as the case requires);
- The ability of tenderers and other potential suppliers to deliver or to complete the contract (as the case requires) within the required time must form part of the assessment of every quotation, tender, expression of interest, etc.
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire’s policies and Code of Conduct;
- purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently (but this does not preclude making adjustments for risk in relation to potential suppliers who have performed poorly in the past);
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- 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 relevant legislation.

4. VALUE FOR MONEY

4.1 Policy

Value for money is determined when the consideration of price, risk and qualitative 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 the lowest price, but also to incorporate qualitative and risk factors into the decision.

4.2 Application

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

- all relevant Total Costs of Ownership (TCO) and benefits 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;
- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ability to inspect within reasonable timeframe, terms of after-sales service, commitment to respond to issues within reasonable timeframe.
- the costs and consequences of potential delays in delivery.
- 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);
- 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;
- the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- providing opportunities for businesses within the Shire's boundaries to quote for the provision of goods and services wherever possible.

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 by the Regulations, this Policy and associated purchasing procedures in effect at the Shire.

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 0 of this Purchasing Policy unless an exemption under section 5.6 of this policy applies.

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 5.7 of this Policy is not deemed to be suitable.

5.3 *Purchasing Value Definition*

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

1. Exclusive of Goods and Services Tax (GST);
2. The actual or expected value of a contract over the full contract period, including all options to extend; or 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. Where it is not practical to estimate in anticipation the total value of the Shire's future requirements for a category of goods or services (because purchases are made in a series of one-off transactions as needs arise, or because the Shire's requirements for a particular good or service may be driven by circumstances beyond the Shire's control), then if a purchasing threshold is reached within one year for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply.
3. Must incorporate any variation to the scope of the purchase and be limited to a 10% tolerance of the original purchasing value.

5.4 *Purchasing from Existing Contracts*

Where the Shire has an existing contract in place, it must ensure that goods and services required are purchased under these contracts to the extent that the scope of the contract requires.

5.5 Purchasing Thresholds

The table below prescribes the purchasing process that the Shire must follow (subject to the exemptions set out in section 5.6 of this policy), based on the purchase value. These requirements are the minima, and officers should endeavour to exceed these minima where risk will be reduced or better outcomes will be achieved by doing so:

Purchase Value Threshold	Purchasing Requirement
Up to \$5,000	<p>Purchase directly from a supplier using a Purchase Order or Corporate Credit Card issued by the Shire, or obtain at least one oral or written quotation from a suitable supplier. In the case of verbal quotations, detailed note of the full details of the verbal quotations received must be created and, in the minimum, must include: name of person providing quotation, name of firm, contact details, pricing including GST, brief scope of works/details of item for which quotation is sought.</p> <p>All written quotations and notes of verbal quotations must be registered into the Shire's EDRMS as described in section 6 of this policy.</p> <p>Purchasing Officers must still satisfy themselves that they have obtained a competitive price for the goods, service and/or infrastructure works (e.g. by telephone quotes, internet pricing etc)</p>
Over \$5,000 and up to \$20,000	<p>At least two written quotations from suitable suppliers. Quotations received must be registered into the Shire's EDRMS as described in section 6 of this policy and in the minimum must include: the name of the person providing a quotation, the name of the firm, contact details, pricing including GST, brief scope of works/details of item for which quotations have been sought</p>
Over \$20,000 and up to \$50,000	<p>Obtain at least three written quotations from suppliers following a brief outlining the specified requirement.</p> <p>Quotations received must be registered into the Shire's EDRMS as described in section 6 of this policy.</p>

Purchase Value Threshold	Purchasing Requirement
Over \$50,000 and up to \$250,000	<p>Obtain at least three written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required (including required delivery or completion date). The procurement decision is to be based on pre-determined evaluation criteria that assess all compliance (including delivery/completion date) and value for money considerations in accordance with the definition stated in this Policy.</p> <p>Requests for quotations from a pre-qualified panel of suppliers (whether administered by the Shire through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form; however, at least three written quotes are still required to be obtained.</p>
Over \$250,000	<p>Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 5.7 of this Policy, conduct a public Request for Tender process in accordance with Part 4 of the Local Government (Functions and General) Regulations 1996, this policy and the Shire's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assess all compliance, risk, and value for money considerations in accordance with the definition stated in this Policy.</p>

In each case where quotations are required (taking into account 3.2 Purchasing Principles and 4.0 Value for Money), quotations can be sought from:

- an existing panel of pre-qualified suppliers administered by the Shire; or
- a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or
- on the open market; or
- any combination of the above.

5.6 Exemptions from the requirement to obtain quotations

Notwithstanding the requirements of section 5.5 of this policy, only one quotation will be required in the following cases:

- (a) Where invitations to quote have been issued to the required number (or more) of suppliers, but less than the required number of suppliers have responded by providing a quotation before the deadline for receiving quotations. In this case, documentary evidence of the invitations must be kept and registered into the Shire's Electronic Document Management and Retrieval System (EDRMS).

- (b) For the supply of perishable goods and/or catering services which for practical purposes need to be sourced locally.
- (c) For subscription services and membership fees.
- (d) For the provision of temporary staff.
- (e) For legal services where the law firm being utilised is a *WALGA Preferred Supplier*.
- (f) For civil engineering services where the firm being utilised is a *WALGA Preferred Supplier*.
- (g) For artists, musicians, and celebrities where the uniqueness of the supplier's talent is of the essence of the contract.
- (h) Where the supplier is a department of the state or federal government or is another local government.
- (i) For the provision of utility services such as electricity, water, and telecommunications (including internet services).
- (j) Website maintenance and content management services where the supplier is the builder and/or host of the website.
- (k) For IT Support and Security System Support services where the supplier is the Shire's principal IT Support or Security System supplier.
- (l) For software support where the supplier is the owner or franchised agent for the particular software concerned.
- (m) For advertising.

5.7 Tender Exemptions

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

- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement.
- the purchase is from a Regional Local Government or another Local Government;
- the goods or services are to be supplied by or obtained from the governments of the State or the Commonwealth or any of their agencies;
- the goods to be supplied are petrol or oil or any other gas or liquid automotive fuel;
- 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;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a Panel established by the Shire; or
- any of the other exclusions under Regulation 11 of the Local Government (Functions and General) Regulations 1996 that apply.

When making a decision about whether to conduct a public tender or to utilise a tender-exempt arrangement, the cost and benefits of both processes should be compared.

The compliance requirements, time constraints, costs and risks associated with a public tender should be evaluated against the value delivered by such a process. This should then be compared with the costs and benefits of using a tender-exempt arrangement. Where market testing is warranted to ensure 4.0 Value for Money, a public tender is advisable even when using pre-qualified suppliers.

5.8 *Inviting tenders when not required to do so*

Where considered appropriate and beneficial, the Shire may consider publicly advertising tenders in lieu of undertaking a *Request for Quotation* process for purchases for which a tender is not required by this policy or by the legislation. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through the *WALGA Preferred Supply Program* or State Government CUA.

If a decision is made to undertake a public tender for contracts for which a tender is not required by this policy or by the legislation, the Shire's tendering procedures must be followed in full.

5.9 *Sole Source of Supply*

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the Shire has written justification to support that there is only one source of supply for those goods, services or works. The Shire must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the written justification must be endorsed by the Chief Executive Officer or by the Council prior to a contract being entered into.

From time to time, the Shire may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

5.10 *Anti-Avoidance*

The Shire shall not enter 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 conduct a public tender.

This section of the policy shall not be interpreted as meaning that separate purchase order transactions are prohibited where the supply of goods and/or services are genuinely separate procurements for separate jobs or separate "as required" instances of supply as might occur (by way of example but not by way of limitation) in relation periodic orders for trades for maintenance purposes or for the supply of stationery, provided that the required number of quotes are sought on each occasion in accordance with section 5.5 of this policy.

5.11 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. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

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/or tenders wherever this policy so requires.

6. RECORDS MANAGEMENT

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*, the Shire's Records Management Procedures 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 evaluator's 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 purchase orders and/or contract(s) with supplier(s) formed from the procurement process.

Where the documentation is not too extensive, the documents can be scanned for registration as a single document in the Shire's EDRMS. Alternatively, the documents can be separately registered into the Shire's EDRMS and linked within the system by "association" with the purchase orders to which they relate.

In the case of tenders, a separate folder is to be created in the Shire's EDRMS for each tender (or request for applications for appointment to a panel of pre-qualified suppliers) and all documents related to the tender (or request for applications for appointment to a panel of pre-qualified suppliers, as the case may be) shall be registered into the Shire's EDRMS within that folder (and associated sub-folders).

7. BUY LOCAL POLICY

As much as practicable, the Shire must adopt 'buy local first' philosophy:

- 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 (where practicable) 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 (Policy 2.7).

8. 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. 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.

9. PURCHASING FROM ABORIGINAL 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 by a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation on 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.

10. PANELS OF PRE-QUALIFIED SUPPLIERS

10.1 Policy Objectives

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;
- 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.

10.2 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) years and for a maximum length of time deemed appropriate by the Shire.

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

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.

10.3 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:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 5.5; or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or

- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with the rankings.

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

- a) 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
- b) 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 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 5.5 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.

10.4 *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.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire's records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the Shire and Panel members.

10.5 *Recordkeeping*

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be registered into the Shire's EDRMS.

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 itemised 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.

11. Amendments to this Policy

Amendments to this policy require a simple majority decision of the council.

History:

Policy adopted:	14 December 2015 (Resolution no. 184/12)
Policy amended	26 April 2017 (Resolution no. 066/17)
	26 February 2020 (Resolution no. 017/20)
	22 April 2020 (Resolution no. 049/500)
Policy reviewed	22 April 2020.

Previous Policy:

Unknown/Not Applicable

Related Policies:

Policy no. 2.7 – Regional Price Preference Policy

Policy no. 2.16 – Payments

Policy no. 2.28 – Project Planning and Delivery