



POLICY NO	CP/FIN-3204	
POLICY	Purchasing	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Senior Procurement and Contracts Officer	
COUNCIL ADOPTION	Date: 18/06/2013	Resolution No: 10096
REVIEWED/MODIFIED	Date: 24/08/2021	Resolution No: 118514
	Date: 25/10/2022	Resolution No: TBA
REVIEW DUE	Date: October 2024	
LEGISLATION	<ol style="list-style-type: none"> 1. Local Government Act 1995 – Sections 2.7, 3.57 2. Local Government (Functions and General) Regulations 1996: <ul style="list-style-type: none"> – Part 4 – Provision of Goods and Services – Part 4A – Regional Price Preference 3. State Records Act 2000 	
RELATED POLICIES	<ol style="list-style-type: none"> 1. CP/FIN-3218 Pre-Qualified Supplier Panel 2. CP/FIN-3217 Regional Price Preference 3. CP/FIN-3213 – Corporate Credit Cards 	
RELATED PROCEDURES	<ol style="list-style-type: none"> 1. OD/FIN-4202 Issue and Use of Corporate Credit Cards 	

PURPOSE:

The purpose of this Policy is to demonstrate the Council's commitment to delivering best practice in the Shire of Wyndham East Kimberley's ("the Shire") purchasing of goods, services and works that align with the principles of transparency, probity and good governance in accordance with the *Local Government Act 1995* ("the Act) and the *Local Government (Functions and General) Regulations 1996* ("the Regulations").

DEFINITIONS:

Authorising Officer is a Shire of Wyndham East Kimberley employee who is registered in the delegation register as authorised by the Chief Executive Officer to incur expenditure and claims for payment, within a specific monetary limit.

CUA or **Common Use Arrangement** is a Department of Finance whole of government buying arrangement that is available to approved local governments.

Preferred Supplier is a supplier appointed to a WALGA Preferred Supplier Panel.

Pre-Qualified Supplier Panel is a panel of suppliers who have been appointed for the supply of goods and / or services following a public tender process by the Shire of Wyndham East Kimberley.

Purchase is the acquisition of a good or service to achieve council business and is inclusive of purchasing, hire, lease, rental, exchange or any other commercial transaction involving the

outlay of funds in return for the provision of goods, services equipment and related services, construction and service contracts. A purchase is not a Reimbursement, a transfer to another organisation of a Deduction, a Refund, a Grant or Sponsorship.

Requisitioning Officer is a Shire of Wyndham East Kimberley employee who has Shire system access to raise a purchase requisition. This employee will not necessarily have purchasing authority, in which case, the requisition, and associated documentation is forwarded to an Authorising Officer for consideration.

VendorPanel is the Shire's web-based procurement platform for seeking Request for Quotations, Public Tenders and WALGA Preferred Supplier Panels.

WALGA Preferred Supplier Panel is a panel of suppliers for the supply of goods and / or services which has been established for local government use.

Local Supplier is a supplier located within the Shire of Wyndham East Kimberley

POLICY STATEMENTS:

1. PURCHASING

1.1. OBJECTIVES

The Shire's purchasing activities will:

- a) Achieve best value for money that considers sustainable benefits, such as; environmental, social and local economic factors;
- b) Foster economic development by maximising participation of local businesses in the delivery of goods and services;
- c) Use consistent, efficient and accountable purchasing processes and decision-making, including; competitive quotation processes, assessment of best value for money and sustainable procurement outcomes for all purchasing activity, including tender exempt arrangements;
- d) Apply fair and equitable competitive purchasing processes that engage potential suppliers impartially, honestly and consistently;
- e) Commit to probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- f) Comply with the *Local Government Act 1995*, *Local Government (Functions and General Regulations 1996)*, other relevant legislation, Codes of Practice, Standards and the Shire's Policies and procedures;
- g) Ensure purchasing outcomes contribute to efficiencies (time and resources) for the Shire;
- h) Identify and manage risks arising from purchasing processes and purchasing outcomes in accordance with the Shire's Risk Management framework;
- i) Ensure records evidence purchasing activities in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan;
- j) Ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.

1.2. ETHICS & INTEGRITY

1.2.1. Code of Conduct

All officers and employees of the Shire undertaking purchasing activities must have regard for the requirements contained in the Code of Conduct for Council Members, Committee Members and Employees (“the Code of Conduct”) and shall observe the highest standards of ethics and integrity. All officers and employees of the Shire must act in a manner which is honest and professional and supports the standing of the Shire at all times.

1.2.2. 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:

- a) 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;
- b) all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire’s policies and Code of Conduct;
- c) purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently;
- d) all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- e) 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.

1.3. VALUE FOR MONEY

The Shire will apply value for money principles in critically assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

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

- a) All relevant Total Costs of Ownership (TCO) and benefits including; transaction costs associated with acquisition, delivery, distribution, and other costs such as, but not limited to; holding costs, consumables, deployment, training, maintenance and disposal;
- b) 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. This includes but is not limited to an assessment of compliances, the supplier’s resource availability, capacity and capability, value-adds offered, warranties, guarantees, repair and replacement policies and response times, ease of inspection and maintenance, ease of after sales service, ease of communications, etc.
- c) The supplier’s financial viability and capacity to supply without the risk of default, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history;
- d) A strong element of competition by obtaining a sufficient number of competitive quotations consistent with this Policy, where practicable;
- e) The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from the supply,

- operation and maintenance;
- f) The environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policy including Local Economic Benefit; and
 - g) Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier/s and the goods or services required.

1.4. PURCHASING THRESHOLDS AND PRACTICES

1.4.1. Defining the Purchasing Value

The Shire will apply reasonable and consistent methodologies to assess and determine Purchasing Values, which ensure:

- a) The appropriate purchasing threshold and practice is applied in all purchasing activities; and
- b) Wherever possible, purchasing activity for the same category of supply is aggregated into single contract arrangements to achieve best value and efficiency in future purchasing activities where the requirements are able to be provided by a single supplier.

A **category of supply** can be defined as groupings of similar goods or services with common: supply and demand drivers; market characteristics; or suppliers.

1.4.2. Strategic Purchasing Value Assessments

The Shire will periodically review recent past purchasing activity across its operations to identify categories of supply for which the Shire will have continuing need and which can be aggregated into single contract arrangements in order to achieve best value for money and efficiency in future purchasing activity.

The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the Purchasing Value threshold applicable to future purchasing activity.

1.4.3. Individual Purchasing Value Assessments

In any case, where there is no relevant current contract, each purchasing activity is to assess the Purchasing Value based upon the following considerations:

- a) Exclusive of Goods and Services Tax (GST); and
- b) The estimated total expenditure for the proposed supply including the value of all contract extension options and where applicable, the total cost of ownership considerations.
- c) The appropriate length of a contract is to be determined based on market volatility, ongoing nature of supply, historical purchasing evidence and estimated future purchasing requirements.
- d) Requirements must not be split to avoid purchasing or tendering thresholds [F&G Reg. 12].

The calculated estimated Purchasing Value will determine the applicable threshold and purchasing practice to be undertaken.

1.4.4. Table of Purchasing Thresholds and Practices

(1) Supplier Order of Priority

The Shire will consider and apply, where applicable, the following Supplier Order of Priority:

Priority 1:	<p>Existing Prequalified Supplier Panel or other Contract Current contracts, including a Panel of Prequalified Suppliers or contracted supplier, must be used where the Shire supply requirements can be met through the existing contract.</p> <p>If the Shire/Town/City does not have a current contract relevant to the required supply, then a relevant WALGA PSA is to be used.</p>
Priority 2:	<p>Local Suppliers Where the Purchasing Value does not exceed the tender threshold and a relevant local supplier is capable of providing the required supply, the Shire will ensure that wherever possible quotations are obtained from local suppliers permanently located within the District as a first priority, and those permanently located within surrounding Districts as the second priority.</p> <p>If no relevant local supplier is available, then a relevant WALGA PSA may be used.</p>
Priority 3:	<p>Tender Exempt - WALGA Preferred Supplier Arrangement (PSA) [F&G Reg. 11(2)] Use a relevant WALGA PSA regardless of whether or not the Purchasing Value will exceed the tender threshold.</p> <p>However, if a relevant PSA exists but an alternative supplier is considered to provide best value, then the CEO, or an officer authorised by the CEO, must approve the alternative supplier. Reasons for not using a PSA may include:</p> <ul style="list-style-type: none"> i. Local supplier availability (that are not within the PSA); or, ii. Social procurement – preference to use Aboriginal business or Disability Enterprise. <p>If no relevant WALGA PSA is available, then a relevant State Government CUA may be used.</p>
Priority 4:	<p>Tender Exempt - WA State Government Common Use Arrangement (CUA) [F&G Reg. 11(2)] Use a relevant CUA regardless of whether or not the Purchasing Value will exceed the tender threshold.</p> <p>However, if a relevant CUA exists, but an alternative supplier is considered to provide best value for money, then the proposed alternative supplier must be approved by the CEO, or an officer authorised by the CEO.</p> <p>If no relevant CUA is available, then a Tender Exempt [F&G Reg.11(2)] arrangement may be used.</p>
Priority 5:	<p>Other Tender Exempt arrangement [F&G Reg. 11(2)] Regardless of whether or not the Purchasing Value will exceed the tender threshold, the Shire will investigate and seek quotations from tender exempt suppliers, and will specifically ensure that wherever possible quotations are obtained from a WA Disability Enterprise and / or an Aboriginal Owned Business that is capable of providing the required supply.</p>
Priority 6:	<p>Other Suppliers</p>

	Where there is no relevant existing contract or tender exempt arrangement available, purchasing activity from any other supplier is to be in accordance with relevant Purchasing Value Threshold and Purchasing Practice specified in the table below.
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(2) Purchasing Practice Purchasing Value Thresholds

The Purchasing Value, assessed in accordance with clause 1.4.1, determines the Purchasing Practice to be applied to the Shire’s purchasing activities.

Purchase Value Threshold (ex GST)	Purchasing Practice
Up to \$5,000 (ex GST)	<p>Obtain at least one (1) verbal or written quotation from a suitable supplier in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).</p> <p>Officers must ensure that they use their professional knowledge and expertise in the purchasing process.</p> <p>The purchasing decision is to be evidenced in accordance with the Shire’s Record Keeping Plan.</p>
From \$5,001 and up to \$20,000 (ex GST)	<p>Attempt to seek at least two (2) written quotations from suitable suppliers using VendorPanel or in writing in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).</p> <p>The purchasing decision is to be based upon assessment of the supplier’s response to:</p> <ul style="list-style-type: none"> • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. <p>The purchasing decision is to be evidenced in accordance with the Shire’s Record Keeping Plan.</p>
From \$20,001 and up to \$50,000 (ex GST)	<p>Attempt to seek at least three (3) written quotations from suitable suppliers using VendorPanel* in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).</p> <p>The purchasing decision is to be based upon assessment of the supplier’s response to:</p> <ul style="list-style-type: none"> • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. <p>The purchasing decision is to be evidenced using the VendorPanel Evaluation Tool.</p>
From \$50,001 and up to \$250,000 (ex GST)	<p>Attempt to seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation in VendorPanel* in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).</p> <p>The Request for Quotation is to be compiled using an appropriate Shire Request for Quotation template. The Request for Quotation is to be</p>

Purchase Value Threshold (ex GST)	Purchasing Practice
	<p>reviewed by the Shire's Procurement Team prior to its release to invited suppliers.</p> <p>The purchasing decision is to be based upon assessment of the supplier's response to:</p> <ul style="list-style-type: none"> • a detailed written specification for the goods, services or works required; and • pre-determined selection criteria that assesses all best and sustainable value considerations. <p>The purchasing decision is to be evidenced using the VendorPanel Evaluation Tool.</p>
<p>Over \$250,000 (ex GST)</p>	<p>Tender Exempt arrangements (i.e. WALGA PSA, CUA or other tender exemption under <i>F&G Reg. 11(2)</i>) require at least three (3) written responses from suppliers by invitation under a formal Request for Quotation in VendorPanel* in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).</p> <p><u>OR</u></p> <p>Public Tender undertaken in accordance with the <i>Local Government Act 1995</i> and relevant Shire Policy and procedures. Public Tenders are to be undertaken in VendorPanel*.</p> <p>The Tender Exempt or Public Tender purchasing decision is to be based on the supplier's response to:</p> <ul style="list-style-type: none"> • A detailed specification; and • Pre-determined selection criteria that assesses all best and sustainable value considerations. <p>Procurement exceeding \$250,000 is to be managed by the Shire's Procurement Team and a minimum of two Shire officers and a Director are to participate in the evaluation process.</p> <p>The purchasing decision is to be evidenced using the VendorPanel Evaluation Tool and the Evaluation Report template.</p>
<p>Emergency Purchases <i>(Within Budget)</i> Refer to Clause 1.4.3</p>	<p>Where goods or services are required for an emergency response and are within scope of an established Panel of Pre-Qualified Supplier or existing contract, the emergency supply must be obtained from the Panel or existing contract using relevant unallocated budgeted funds.</p> <p>If there is no existing Panel or contract, then clause 1.4.2(1) Supplier Order of Priority will apply wherever practicable.</p> <p>However, where due to the urgency of the situation; a contracted or tender exempt supplier is unable to provide the emergency supply <u>OR</u> compliance with this Purchasing Policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply. However, an emergency supply is only to be obtained to the extent necessary to facilitate the urgent emergency response and must be subject to due consideration of best value and sustainable practice.</p> <p>The rationale for policy non-compliance and the purchasing decision must</p>

Purchase Value Threshold (ex GST)	Purchasing Practice
	be evidenced using the Emergency Purchases template signed by the CEO.
Emergency Purchases (No budget allocation available) Refer for Clause 1.4.3	Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the <i>Local Government Act 1995</i> , the President must authorise, in writing, the necessary budget adjustment prior to the expense being incurred. The CEO is responsible for ensuring that an authorised emergency expenditure under s.6.8 is reported to the next Ordinary Council Meeting. The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply.
LGIS Services Section 9.58(6)(b) Local Government Act	The suite of LGIS insurances are established in accordance with s.9.58(6)(b) of the <i>Local Government Act 1995</i> and are provided as part of a mutual, where WALGA Member Local Governments are the owners of LGIS. Therefore, obtaining LGIS insurance services is available as a member-base service and is not defined as a purchasing activity subject to this Policy. Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this Policy is required.

*The CEO or CEO's Authorised Officer's approval is required in instances where procurement is to be sourced outside of VendorPanel.

1.4.5. Emergency Purchases

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

- a) A local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; OR
- b) A local emergency and the expenditure is required (with no relevant available budget allocation) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets in accordance with s.6.8 of the *Local Government Act 1995* and Functions and General Regulation 11(2)(a); OR
- c) A State of Emergency declared under the *Emergency Management Act 2005* and therefore, Functions and General Regulations 11(2)(aa), (ja) and (3) apply to vary the application of this policy.

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

1.4.6. Inviting Tenders Though Not Required to Do So

The Shire may determine to invite Public Tenders, despite the estimated Purchase Value being less than the \$250,000 prescribed tender threshold, but only where an assessment determines that the purchasing requirement cannot be met through a tender exempt arrangement and the use of a public tender process will enhance; value for money, efficiency, risk mitigation and

sustainable procurement benefits.

In such cases, the tender process must comply with the legislative requirements and the Shire's tendering procedures [F&G Reg.13].

1.4.7. Expressions of Interest

Expressions of Interest (EOI) will be considered as a prerequisite to a tender process [F&G Reg.21] where the required supply evidences one or more of the following criteria:

- a) Unable to sufficiently scope or specify the requirement;
- b) There is significant variability for how the requirement may be met;
- c) There is potential for suppliers to offer unique solutions and / or multiple options for how the purchasing requirement may be obtained, specified, created or delivered;
- d) Subject to a creative element; or
- e) Provides a procurement methodology that allows for the assessment of a significant number of potential tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes will be based upon qualitative and other non-price information only.

1.4.8. Unique Nature of Supply (Sole Supplier)

An arrangement with a supplier based on the unique nature of the goods or services required or for any other reason, where it is unlikely that there is more than one potential supplier may only be approved where the:

- a) purchasing value is estimated to be over \$5,000; and
- b) purchasing requirement has been documented in a detailed specification; and
- c) specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and
- d) market testing process and outcomes of supplier assessments have been evidenced in records, inclusive of a rationale for why the supply is determined as unique and why quotations / tenders cannot be sourced through more than one potential supplier.

An arrangement of this nature will only be approved by the CEO and for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists.

1.4.9. Exemptions Relating to Policy Requirements for Quotations

The following are exemptions where the Shire is not required to undertake a competitive purchasing process, only in instances where the total value of the purchase assessed in accordance with section 1.4.1 does not exceed the Public Tender threshold;

- 1) Procurement of the following goods or services:
 - a) Utilities; including telephone, internet, electricity, water and gas (including Chlorine gas);
 - b) Ongoing software license fees;
 - c) Freight;
 - d) Department of Land Information on-line transactions;
 - e) Motor Vehicle Licensing and Registration;
 - f) Postage;
 - g) Insurance excess;

- h) Australian Standards Licencing with SAI Global;
 - i) Annual memberships/subscriptions;
 - j) Flights;
 - k) Staff training;
 - l) Conference registration fees;
 - m) Employment of temporary staff members through temporary personnel service agencies;
 - n) Salary Sacrifice arrangements;
 - o) Advertising – Newspaper;
 - p) Advertising – Shire Recruitment;
 - q) Statewide public notice advertisements that are required by legislation;
 - r) Pre-employment medicals and staff medical programs (example; annual flu vaccination program);
 - s) Legal services;
 - t) Talent and expenses associated with Shire events (for example; Kimberley Writers Festival, Australia Day);
 - u) The goods or services are being purchased, supplied by or obtained through the State or Commonwealth government (or any of its agencies) or a local government;
 - v) Goods and Services provided by a WALGA Business Service;
 - w) Goods and Services provided by LGIS;
 - x) Servicing, repairs and required consumables associated with Original Equipment Manufacturers;
 - y) Motor vehicle or plant repairs that are identified as part of a service or pre-arranged repair works;
 - z) Purchases which are necessary to not void warranty provisions;
 - aa) Purchases from plant and / or equipment authorized dealers; and
 - bb) Expenses associated with veterinarian services.
- 2) Corporate Credit Card or Corporate Fuel Card purchases up to the value of \$1,000 (GST exclusive).

It is encouraged for 1(a)-(bb) that where appropriate, Requisitioning Officers obtain a single quote from the nominated goods/services provider for the purposes of assessing budget provisions and raising a Purchase Requisition.

1.4.10. Exemptions Relating to Policy Requirements for Purchase Requisitions and Purchase Orders

The obligation to issue a Purchase Order is not required in the following instances:

- 1) The following goods or services:
 - a) Annual memberships/subscriptions;
 - b) Software license fees;
 - c) Department of Land Information on-line transactions;
 - d) Motor Vehicle and Jetty Licensing and Registration;
 - e) Insurance excess; and
 - f) Utilities; including telephone, internet, electricity, water and gas (including Chlorine gas);
- 2) Corporate Credit Card or Corporate Fuel Card purchases.
- 3) Petty Cash purchases up to the value of \$200 (GST exclusive); and
- 4) Commissions.

1.4.11. Anti-Avoidance

The Shire will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, so that the effect is to avoid a particular

purchasing threshold or the need to call a Public Tender. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

For the purpose of this Purchasing Policy, a signed purchase order is considered to be a contract.

1.4.12. 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, quotations 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 quotations and tenders, whichever may apply.

2. ADDITIONAL PROCEDURAL THRESHOLDS

To ensure a best practice approach to purchasing activity for the Shire, the following additional procedural thresholds should apply:

Table B

PURCHASE VALUE	PRE PURCHASING ACTIONS	POST PURCHASING CLOSING ACTIONS	ASSESSMENT TIMEFRAME	EVALUATION PANEL
Over \$250,000 and less than 5,000,000	1. Optional site briefing	In accordance with statutory requirements	Up to 2 weeks	Two (2) Shire Officers and Director
Over \$5,000,000 and less than \$10,000,000	1. Optional site briefing (depending on complexity of goods/services to be procured) 2. Business / Operational Plan required 3. Peer review of design/specification including sign off* 4. Project Manager engaged (optional) 5. Tender Evaluation Plan 6. Asset Management Plan (where relevant)	In accordance with statutory requirements	Up to 4 weeks	Two (2) Shire Officers and Director

Over \$10,000,000 and less than \$20,000,000	<ol style="list-style-type: none"> 1. As above, and 2. Legal advice on tender documents prior to distribution (dependent upon complexity of goods/services to be procured) 3. Engagement of probity advisor (optional) 4. External Project Manager engaged (optional) 5. Quantity Surveyor engaged (optional) 	<ol style="list-style-type: none"> 1. In accordance with statutory requirements 2. Interviews with tenderers 3. Quarterly QS approval of works undertaken prior to payment approval (optional) 4. Legal advice on tender contract prior to execution (dependent upon complexity of goods/services to be procured) 	Up to 6 weeks	Two (2) Shire Officers and two (2) Directors
Over \$20,000,000	<ol style="list-style-type: none"> 1. As above, and 2. Legal advice on tender documents prior to distribution is mandatory 3. 4. Quantity Surveyor engagement is mandatory 	<ol style="list-style-type: none"> 1. As above, and 2. Legal advice on tender contract prior to execution is mandatory 3. Monthly QA approval of works prior to payment approval is required 	Up to 8 weeks	Two (2) Directors and CEO

**Does not apply to Design and Construct or Schedule of Rates tenders.*

2.1.1. Contract Renewals, Extensions and Variations

Where a contract has been entered into as the result of a publicly invited tender process, then *Functions and General Regulation 21A* applies.

For any other contract, the contract must not be varied unless

- a) The variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- b) The variation is a renewal or extension of the term of the contract where the extension or renewal options were included in the original contract.

Upon expiry of the original contract, and after any options for renewal or extension included in the original contract have been exercised, the Shire is required to review the purchasing requirements and commence a new competitive purchasing process in accordance with this Policy.

3. SUSTAINABLE PROCUREMENT

The Shire is committed to implementing sustainable procurement by providing a preference to suppliers that demonstrate sustainable business practices (social advancement, environmental

protection and local economic benefits).

The Shire will apply Sustainable Procurement criteria as part of the value for money assessment to ensure that wherever possible our suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes.

Sustainable Procurement can be demonstrated as being internally focussed (i.e. operational environmental efficiencies or employment opportunities and benefits relating to special needs), or externally focussed (i.e. initiatives such as corporate philanthropy).

Requests for Quotation and Tenders will include a request for Suppliers to provide information regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

3.1. LOCAL ECONOMIC BENEFIT

The Shire promotes economic development through the encouragement of competitive participation in the delivery of goods and services by local suppliers permanently located within its District first, and secondly, those permanently located within its broader region. As much as practicable, the Shire will:

- a) consider buying practices, procedures and specifications that encourage the inclusion of local businesses and the employment of local residents;
- b) consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- c) ensure that procurement plans, and analysis is undertaken prior to develop Requests to understand local business capability and local content availability where components of goods or services may be sourced from within the District for inclusion in selection criteria;
- d) 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;
- e) avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid;
- f) consider the adoption of Key Performance Indicators (KPIs) within contractual documentation that require successful Contractors to increase the number of employees from the District first; and
- g) provide adequate and consistent information to local suppliers.

To this extent, a weighted qualitative criterion should be included in the selection criteria for Requests for Quotation and Tenders where suppliers are located within the boundaries of the Shire/Town/City, or substantially demonstrate a benefit or contribution to the local economy.

The Shire has adopted a Regional Price Preference Policy, which will be applied when undertaking all purchasing activities over \$10,000.

3.2. SOCIALLY SUSTAINABLE PROCUREMENT

The Shire will support the purchasing of requirements from socially sustainable suppliers such as Australian Disability Enterprises and Aboriginal businesses wherever a value for money assessment demonstrates benefit towards achieving the Shire strategic and operational objectives.

A qualitative weighting should be used in the evaluation of Requests for Quotes and Tenders to provide advantages to socially sustainable suppliers in instances where the below tender exemptions are not exercised.

(1) ABORIGINAL BUSINESSES

Functions and General Regulation 11(2)(h) provides a tender exemption if the goods or services are supplied by a person on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia, or Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation), where the consideration under contract is \$250,000 or less, or worth \$250,000 or less.

The Shire will first consider undertaking a quotation process with other suppliers (which may include other registered Aboriginal Businesses as noted in *F&G Reg.11(2)(h)*) to determine overall value for money for the Shire.

Where the Shire makes a determination to contract directly with an Aboriginal Business for any amount up to and including \$250,000 (ex GST), it must be satisfied through alternative means that the offer truly represents value for money and must be approved by the CEO. An arrangement of this nature will only be approved by the CEO for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry.

If the contract value exceeds \$50,000 (ex GST), a formal Request for Quotation will be issued to the relevant Aboriginal business. The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Keeping Plan.

(2) AUSTRALIAN DISABILITY ENTERPRISES

Functions and General Regulation 11(2)(i) provides a tender exemption if the goods or services are supplied by an Australian Disability Enterprise.

The Shire will first consider undertaking a quotation process with other suppliers (which may include other Australian Disability Enterprises) to determine overall value for money for the Shire.

Where the Shire makes a determination to contract directly with an Australian Disability Enterprise for any amount, including an amount over the Tender threshold of \$250,000 (ex GST), it must be satisfied through alternative means that the offer truly represents value for money and must be approved by the CEO. An arrangement of this nature will only be approved by the CEO for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry.

If the contract value exceeds \$50,000 (ex GST), a formal Request for Quotation will be issued to the relevant Australian Disability Enterprise. The rationale for making the purchasing decision must be recorded in accordance with the Shire/Town/City's Record Keeping Plan.

3.3. ENVIRONMENTALLY SUSTAINABLE PROCUREMENT

The Shire will support the purchasing of recycled and environmentally sustainable products whenever a value for money assessment demonstrates benefit toward achieving the Shire's strategic and operational objectives.

Qualitative weighted selection criteria should be used in the evaluation of Requests for Quote and Tenders to provide advantages to suppliers which:

- a) demonstrate policies and practices that have been implemented by the business as part of its operations;
- b) generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used, and disposed; and
- c) encourage waste prevention, recycling, market development and use of recycled/recyclable materials.

4. RECORD KEEPING

All Local Government purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan.

In addition, the Shire must consider and will include in each contract for the provision of works or services, the contractor's obligations for creating, maintaining and where necessary the transferral of records to the Shire relevant to the performance of the contract.

5. PURCHASING POLICY NON-COMPLIANCE

The Purchasing Policy is mandated under the *Local Government Act 1995* and Regulation 11A of the *Local Government (Functions and General) Regulations 1996* and therefore the policy forms part of the legislative framework in which the Local Government is required to conduct business.

Where legislative or policy compliance is not reasonably able to be achieved, records must evidence the rationale and decision-making processes that substantiate the non-compliance.

Purchasing activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the Shire's policies and procedures.

If non-compliance with legislation, this Purchasing Policy or the Code of Conduct, is identified it must be reported to the Chief Executive officer or the or CEO's Authorised Officer.

A failure to comply with legislation or policy requirements, including compliance with the Code of Conduct when undertaking purchasing activities, may be subject to investigation, with findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

Where a breach is substantiated it may be treated as:

- a) an opportunity for additional training to be provided;
- b) a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
- c) where the breach is also identified as potentially serious misconduct, the matter will be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

EXPLANATORY NOTES:

11. LEGISLATIVE CONSIDERATION

The following Acts and Regulations apply to this policy:

Local Government Act 1995

Local Government (Functions and General) Regulations 1996
Part 4 – Provision of goods and services
Part 4A – Regional price preference

RISK:

Risk: Failure to manage the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management, internal control and legislative compliance

Control: Implementation of recommendations from Regulation 17 Review

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

Control: Review policies and procedures in accordance with review schedule.

Risk: Failure to manage the disbursement of funds to meet the needs of the Shires forward planning requirements, including the Strategic Community Plan, Corporate Business Plan, Long Term Financial Plans and Annual Budget.

Control: Monthly and quarterly progress and financial reporting against Corporate Business Plan and Annual Budget.