



POLICY NO	CP/FIN-3204	
POLICY	Purchasing	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 18/06/2013	Resolution No: 10096
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REVIEW DUE	Date: August 2018	
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 4. CP/ICT-3260 Information Management and ICT Acceptable Use 	
RELATED PROCEDURES	<ol style="list-style-type: none"> 1. Code of Conduct for Council Members, Committee Members and Employees 2. Audit (Finance and Risk) Committee Terms of Reference 3. AP/FIN-4202 Purchasing Process 4. AP/FIN-4203 Purchasing Process: Medium/High Risk Purchasing 5. AP/FIN-4204 Purchasing Process: Public Tender/Expression of Interest 6. OD/PC-4281 Pre-Qualified Supplier Panels 7. OD/FIN-4202 Issue and Use of Corporate Credit Cards 8. OD/ICT-4260 Information Management and ICT Acceptable Use 	

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 sub-delegation register as authorised by the Chief Executive Officer to incur expenditure and claims for payment, within a specific monetary limit.

A **Contract** is defined as a legally binding agreement between the Shire and another Party for the supply of goods and/or services. A Purchase Order is a contract.

A **Deduction** includes a fixed amount or percentage that has been authorised to be subtracted from an employee's income.

A **Grant** is a sum of money given by the Shire of Wyndham East Kimberley to an eligible recipient (grantee) for a particular purpose following an application and assessment process.

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.

Probity Officer means the Senior Procurement and Contracts Officer, or in their absence, the Director, Corporate Services unless otherwise directed by the Chief Executive Officer.

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.

A **Refund** is a repayment of a sum of money.

A **Reimbursement** is a repayment of funds that have been expended by an employee undertaking business on behalf of the Shire of Wyndham East Kimberley.

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.

Term Contract is a Contract with a supplier for the supply of goods and / or services for a predetermined period of time which has been established by the Shire of Wyndham East Kimberley following a public tender process.

VendorPanel eQuotes is a secure, web-based procurement tool that streamlines and simplifies the request for quotation process at the same time as facilitating purchasing compliance, probity and control over all aspects of purchasing. Requisitioning Officers can access suppliers, Pre-Qualified Supplier Panels and WALGA Preferred Supplier Panels through VendorPanel eQuotes. Use of VendorPanel eQuotes is optional for purchases below \$10,000 and mandatory for purchases above this threshold. VendorPanel is mandatory when utilising a Pre-Qualified Supplier Panels or a 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. Purchases obtained through a WALGA Preferred Supplier Panel are tender exempt. The procedures for the purchasing thresholds as defined in Table A must be followed.

POLICY STATEMENTS:

The Council believes that overall policy must be underpinned by sound principles, which are well understood, communicated to the community and compliant with current legislation.

The Council's objectives in establishing this Policy is to:

1. Ensure best practice policies and procedures are followed in relation to the internal purchasing for the Shire of Wyndham East Kimberley.
2. Ensure compliance with the *Local Government Act 1995* and the *Local Government Act (Functions and General) Regulations 1996*.
3. Ensure compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire.
4. To undertake purchasing processes that ensures value for money for the Shire by delivering the most advantageous outcome possible.
5. To ensure openness, transparency, fairness and equity through the purchasing process to all potential suppliers therefore strengthening integrity and confidence in the purchasing process.
6. To ensure efficient and consistent purchasing processes are implemented and maintained across the Shire.

1. ETHICS & INTEGRITY

1.1. 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. 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;
- 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;
- 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.

2. VALUE FOR MONEY

Value for money is an overarching principle governing purchasing which allows the best possible outcome to be achieved for the Shire. It is important to note that compliance with the purchasing specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

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, ease of inspection, ease of after sales service, ease of communications etc.
- 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;
- providing opportunities for businesses within the Shire of Wyndham East Kimberley to be given the opportunity to quote for providing goods and services wherever possible.

3. PURCHASING THRESHOLDS AND POLICY REQUIREMENTS

The requirements that must be complied with by the Shire officers, including purchasing thresholds and processes, are prescribed within the *Regulations* and this Purchasing Policy.

Determining 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.

Any purchasing activity must be undertaken in accordance with the Shire officer's sub-delegated purchasing authority limit as approved by the Chief Executive Officer and outlined in the sub-delegation register.

In some cases, suppliers may not respond to a request for quotation. In this instance, Shire officers must provide documentation to demonstrate their attempt to source the required number of quotations as outlined in Table A, however non-responses should not delay any purchasing activity unless it would be considered inappropriate to proceed.

Table A

Purchasing Thresholds (ex GST)	Policy Requirements
Up to \$1,000	<p>Consult as to whether an existing Term Contract or Pre-Qualified Supplier Panel exists and use as prescribed.</p> <p>If no contract exists, purchase directly from a supplier. No quotations are required prior to purchase.</p> <p>Officers must ensure that they use their professional knowledge and expertise in the purchasing process.</p>
Over \$1,000 and Up to \$10,000	<p>Consult as to whether an existing Term Contract or Pre-Qualified Supplier Panel exists and use as prescribed.</p> <p>If no contract exists obtain at least two (2) written quotations from suppliers using a simple quotation process, either in writing or using VendorPanel eQuotes.</p> <p>If you are utilising a WALGA Preferred Supplier Panel and there are more than two (2) preferred suppliers on the supplier panel, quotations must be sought from each preferred supplier, as considered appropriate by the officer.</p>
Over \$10,000 and Up To \$50,000	<p>Consult as to whether an existing Term Contract or Pre-Qualified Supplier Panel exists and use as prescribed.</p> <p>If no contract exists, obtain at least three (3) written quotations using VendorPanel eQuotes.</p> <p>If you are utilising a WALGA Preferred Supplier Panel and there are more than three (3) preferred suppliers on the supplier panel, quotations must be sought from each preferred supplier, as considered appropriate by the officer.</p>
Over \$50,000 and Up To \$150,000	<p>Consult as to whether an existing Term Contract or Pre-Qualified Supplier Panel exists and use as prescribed.</p> <p>If no contract exists, obtain at least three (3) written quotations using VendorPanel eQuotes.</p> <p>The request is to be compiled using the IF/PC 2285 Request for Quotation template and include a specification of goods and services</p>

	<p>and quantitative and qualitative criteria with predetermined weightings. The procurement decision is to be based on all value for money considerations in accordance with the definition stated within this Policy.</p> <p>If you are utilising a WALGA Preferred Supplier Panel and there are more than three (3) preferred suppliers on the supplier panel, quotations must be sought from each preferred supplier, as considered appropriate by the officer.</p>
Purchasing Thresholds (ex GST)	Policy Requirements
\$150,000 and above	<p>Consult as to whether an existing Term Contract or Pre-Qualified Supplier Panel exists and use as prescribed.</p> <p>OR</p> <p>A public tender process is to be facilitated by the Probity Officer in accordance with this Policy and the legislative requirements.</p> <p>OR</p> <p>Obtain at least three (3) quotations directly from suppliers on a WALGA Preferred Supplier Panel using VendorPanel eQuotes. If there are more than three (3) preferred suppliers on the supplier panel, quotations must be sought from each preferred supplier, as considered appropriate by the officer.</p>

3.1. Term Contracts

Requisitioning Officers are to refer to the Organisational Directive *AP/FIN-4202 Purchasing Process* for information on the use of Term Contracts.

3.2. Pre-Qualified Supplier Panels

Requisitioning Officers are to refer to the Organisational Directive *OD/PC-4281 Pre-Qualified Supplier Panels* for information on the use of Pre-Qualified Supplier Panels.

3.3. WALGA Preferred Supplier Panel

Requisitioning Officers are to refer to the Organisational Directive *AP/FIN-4202 Purchasing Process* for information on the use of WALGA Preferred Supplier Panels.

3.4. Tender Exemptions

Tender exemptions apply in the following instances:

- An emergency situation as defined by the *Act*;
- The purchase is from a WALGA Preferred Supplier Panel. All WALGA Preferred Supplier Panels have been established utilising a competitive public procurement process to pre-qualify suppliers that meet compliance requirements and offer optimal value for money to the Local Government sector;

- The purchase is under auction that has been authorised by Council;
- The goods or services are being purchased from, supplied by or obtained through the State or Commonwealth government (or any of its agencies) or a local government;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- The goods or services are to be supplied by a person registered on the Aboriginal Business Directory WA, as published by the Small Business Development Corporation, where the consideration under contract is worth less than \$250,000 and represents value for money;
- The goods or services are obtained through an Australian Disability Enterprise and represents value for money;
- The goods or services are being supplied through a renewal or extension of the term of a contract (the original contract) where;
 - a) The original contract was administered through a public tender process;
 - b) The invitation for tenders contained provisions for the renewal or extension of a contract;
 - c) The original contract contains an option to renew or extend its term; and
 - d) The suppliers tender included a requirement for such an option.
- The goods or services are to be supplied by a pre-qualified supplier under Division 3 of the *Regulations*
- Any of the other exclusions contained in Regulation 11 of the *Local Government (Functions and General) Regulations 1996* apply.

Note:

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

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 which include direct access to preferred suppliers, full regulatory compliance, risk mitigation, administrative efficiencies and cost savings.

3.5 Exemptions Relating to Policy Requirements for Quotations

The obligation to source quotations is not required in the following instances:

- 1) Procurement of particular goods or services:
 - a) An emergency situation as defined by the *Act*;
 - b) Utilities; including telephone, electricity, water and gas;
 - c) Freight up to the value of \$1,000 (GST exclusive);
 - d) Annual memberships/subscriptions;
 - e) Software license fees;
 - f) Conference registration fees;
 - g) Employment of temporary staff members through temporary personnel service agencies;
 - h) Department of Land Information on-line transactions;
 - i) Motor Vehicle Licensing and Registration;

- j) Postage; and
- k) Insurance excess.
- 2) Corporate Credit Card or Corporate Fuel Card purchases up to the value of \$1,000 (GST exclusive).
- 3) Petty Cash purchases up to the value of \$200 (GST exclusive).

A single quotation must be sought in the following instances:

- 1) Procurement of particular goods or services:
 - a) Advertising – Newspaper;
 - b) Advertising – Shire Recruitment;
 - c) Statewide public notice advertisements that are required by legislation;
 - d) 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;
 - e) The purchase is from a WALGA Business Service;
 - f) Motor vehicle repairs that are identified as part of a vehicle service or additional motor vehicle repairs that are identified as part of pre-arranged repair work up;
 - g) Purchases which are necessary to not void warranty provisions; and
 - h) Purchases from plant and / or equipment authorized dealers.

3.6. 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) Procurement of particular 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; and
 - e) Insurance excess.
- 2) Corporate Credit Card or Corporate Fuel Card purchases.
- 3) Petty Cash purchases up to the value of \$200 (GST exclusive); and
- 4) Commissions

3.7. Requirements When the Shire Invites Tenders Though It Is Not Required To Do So

Where considered necessary, the Shire may consider calling public tenders in lieu of undertaking a request for quotation for purchases under the \$150,000 threshold (excluding GST).

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 preferred suppliers.

If a decision is made to undertake a public tender for contracts of less than \$150,000, a Request for Tender process entailing all the procedures for tendering outlined in the Shire's Organisational Directive and the legislation must be followed in full.

3.8. Sole Source of Supply (Monopoly Suppliers)

Where the purchasing requirement is over the value of \$1,000 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 is satisfied and can evidence 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 justification must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

Note: The application of the “Sole Source of Supply” provision should only occur in limited cases and procurement experience indicates that generally more than one supplier is able to provide the required goods and/or services.

3.9. Anti-Avoidance

The Shire shall not enter two (2) or more contracts of a similar nature for the purpose of splitting the value of the contracts to enable the value of the consideration to be below the level of \$150,000, thereby avoiding the need to undertake a public tender process.

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

3.10 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.

4. ADDITIONAL PROCEDURAL THRESHOLDS

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

Table B

PURCHASE VALUE	PRE PURCHASING ACTIONS	POST PURCHASING CLOSING ACTIONS	ASSESSMENT TIMEFRAME	EVALUATION PANEL
Over \$150,000 and less than \$1,000,000	1. Optional site briefing	In accordance with statutory requirements	Up to 2 weeks	Two (2) Shire Officers and Director
Over \$1,000,000 and less than \$5,000,000	1. Compulsory site briefing (depending on complexity of goods/services to be procured) 2. Business / Operational Plan required	In accordance with statutory requirements	Up to 4 weeks	Two (2) Shire Officers and Director

	<ol style="list-style-type: none"> 3. Peer review of design/specification including sign off* 4. Project Manager engaged (optional) 5. Tender Evaluation Plan 6. Asset Management Plan (where relevant) 			
Over \$5,000,000 and less than \$10,000,000	<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 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 \$10,000,000	<ol style="list-style-type: none"> 1. As above, and 2. Legal advice on tender documents prior to distribution is mandatory 3. External Project Manager engagement is mandatory 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 or Rates tenders.

5. VARYING A CONTRACT

A contract variation must only occur in the following circumstances:

- a) The variation is necessary for the goods / services to be provided; and
- b) The variation does not alter the scope of the Contract; or

- c) The variation is a renewal or extension to the original term of the contract, in the circumstances when the original contract contained an allowance for such provision.

If the proposed variation does not meet the above conditions, a separate competitive purchasing process must be conducted in accordance with the relevant purchasing threshold.

The funds requirement to meet the cost of the variation must be available within the amount set aside in the council adopted budget and must be approved in writing before commencement by an Approving Officer with the appropriate purchasing limit delegation.

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

6. RECORDS MANAGEMENT

Records of all tenders, requests for quotation and other purchases must be retained in compliance with the *State Records Act 2000 (WA)* and the Shire's Records Management Policy.

7. SUSTAINABLE PROCUREMENT

Sustainable procurement is defined as the purchasing of goods and services that have fewer negative environmental and social impacts than competing products and services.

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design requests for quotation and tenders to minimise negative environmental and social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the with Shire's sustainability objectives.

8. BUY LOCAL

Under the Western Australian Government's "*Buy Local Policy*", Government agencies and local governments are encouraged to maximise the participation of local and small businesses in the supply of goods, services and works purchased or contracted by government agencies.

A key goal in this policy is open and fair competition to ensure that Western Australian businesses are provided with every opportunity to bid for work. It is recognised that not every category of goods, services or works that is purchased by the Shire will lend itself to supply by local businesses.

As much as practicable, the Shire's purchasing must:

- ensure that buying practices, procedures and specifications do not unfairly disadvantage any business;
- 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.

9. PURCHASING FROM WA 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.

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, 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. PURCHASING FROM COMMON USE ARRANGEMENTS (CUA)

Common Use Arrangements (CUA) have been established by the Department of Finance for State Government use. In the instance where a CUA allows for Local Government use, a Requisitioning Officer may purchase from a CUA by following the requirements for the purchasing thresholds as defined in Table A.

12. REGIONAL PRICE PREFERENCE

All purchases above \$10,000 are subject to the application of a regional price preference. Requisitioning Officers are to refer to *CP/FIN-3217 Regional Price Preference* for information on the application of the price preference.

EXPLANATORY NOTES:

1. 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 foods and services
Part 4A – Regional price preference

RISK:

Risk: Inability to fund the infrastructure gap.

Control: Develop LTFFP to ensure critical assets maintained in Annual Budgets.

Risk: Inability to deliver levels of service expected by the community.

Control: Current budget and service levels.

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

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