

Introduction

The Shire of Capel (the Shire), is committed to applying the objectives, principles, and practices, outlined in this Policy to all purchasing activity to achieve the Shire's strategic, statutory, and operational objectives.

Purpose

The objectives of this Policy are to ensure:

- a. Best value for money that considers sustainable benefits, such as, environmental, social, and local economic factors;
- b. Sustainable economic development is fostered by encouraging participation of local businesses in the delivery of goods and services;
- c. Consistent, efficient, and accountable purchasing processes and decision- making are used, including competitive quotation processes, assessment of best value for money, and sustainable procurement outcomes, for all purchasing activity (including tender exempt arrangements);
- d. Application of fair, equitable and competitive purchasing processes that engage potential suppliers impartially, honestly, and consistently;
- e. Disclosure and appropriate management of any identified perceived or actual conflicts of interest, including the avoidance of bias, and of perceived and actual conflicts of interest;
- f. Compliance 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. Purchasing outcomes contribute to time and resource efficiencies for the Shire;
- h. Risks arising from purchasing processes and purchasing outcomes, are identified and managed in accordance with the Shire's Risk Management Framework;
- i. Compliance with the *State Records Act 2000* and the Shire's Record Management Policy; and
- j. Confidentiality that protects commercial-in-confidence information, only releasing information where appropriately approved.

Definitions

Additional Purpose – means a purpose for which no expenditure estimate is included in the Shire's annual budget.

Category of Supply - can be defined as groupings of similar goods or services with common supply and demand drivers, market characteristics or suppliers.

Contract – means the legally binding agreement between parties with set terms and conditions.

Contractor – means the party who is engaged by the Principal under the Contract.

CUA – means Common Use Agreement.

Letter of Award – means an Order or Long-Term Award issued by the Principal to the Contractor accepting the Request Response.

LGIS – Local Government Insurance Services.

Municipal Fund – means all monies and the value of all assets received or receivable by the Shire to be held and brought to account in this fund, unless required under legislation to be held in a trust fund.

Principal – means the party engaging the other party under the Contract.

Request – means a Request for information (RFI), Request for Proposal (RFP), Expressions of Interest (EOI), Request for Quotation (RFQ) and/or Request for Tender (RFT).

Respondent – the party replying to a Request.

Tenderlink – The e-tendering portal currently used to advertise and receive submissions for Requests.

WALGA – means the Western Australian Local Government Association.

Policy statement

1. Ethics and Integrity

1.1 Code of Conduct

In accordance with the Shire's Code of Conduct, purchasing activities and decision making of Elected Members and employees must observe the highest standards of ethics, integrity, honesty and professionalism.

1.2 Purchasing Principles

The following principles, standards and behaviors, will be observed and enforced through all stages of the purchasing process:

- a. Full accountability for all purchasing decisions and the efficient, effective, and proper expenditure of public monies;
- b. Purchasing practices shall comply with relevant legislation, regulations, and the Shire's Code of Conduct;
- c. 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 and procedures, audit requirements, and relevant legislation;
- e. Disclosure and appropriate management of any actual or perceived conflicts of interest; and
- f. Information provided to the Shire shall be treated as commercial-in-confidence and will not be released unless authorised.

2. Value for Money

The Shire will apply value for money principles by critically assessing purchasing including price, risk, timeliness, environmental, social, and economic qualitative criteria to determine the most advantageous outcomes for the Shire. The Shire acknowledges that the lowest price may not always be the most advantageous.

2.1 Assessing Value for Money

Value for money assessment considers:

- a. 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. 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. Supplier's financial viability and capacity to supply without the risk of default or delay, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history;
- d. A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations whenever possible;
- e. 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. Environmental, economic and social benefits arising from the goods, services, or works required;
- g. Opportunities for local businesses within the South West Region (as defined by the Government of Western Australia) to provide quotations wherever possible; and
- h. Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier(s) and the goods or services required, including previous performances.

3. Purchasing Practices

3.1 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. Where requirements are able to be satisfied by a single supplier, purchasing activity for the same category of supply is aggregated into single contract arrangements to achieve best value for money and efficiency in future purchasing activities.

3.2 Purchasing Value Assessment

The Purchasing Value is:

- a. Exclusive of Goods and Services Tax;
- b. The actual or estimated total expenditure for the proposed supply, including the value of all contract extension options, and where applicable, incorporation of all TCO considerations;
- c. Where there is no existing contract arrangement, the Purchasing Value is the estimated total expenditure for a category of goods, services or works over a minimum three-year period; and
- d. For a Category of Supply, the Purchasing Value Assessment is to be based upon the average annual accumulative purchase value across the previous three (3) financial years.

4. Purchasing Exemptions

Circumstances may arise where it is not reasonably practicable to adhere to the requirements of this Policy or, there may be other purchasing options that offer better value for money. The following purchases are specifically exempt from the requirements of this policy:

- 4.1 The supply of goods or services obtained through the Western Australian Local Government Association ("WALGA") Preferred Suppliers Program;
WALGA has identified a number of pre-qualified suppliers that are collectively known as the WALGA preferred suppliers. The Shire can make purchases from WALGA preferred suppliers:
- a. For purchase values under \$250,000 (ex GST), provided that the number of quotations required under this policy are obtained; and
 - b. For purchase values of \$250,000 (ex GST) or above, provided that three (3) quotations are obtained.

Where the purchasing value is \$50,001 (ex GST) or more the purchasing decision is to be documented using the Evaluation Report template, based on the supplier's response to:

- a. A detailed written specification for the goods, services or works required; and
- b. Pre-determined evaluation criteria that assess all the best and sustainable value considerations.

When purchasing from WALGA Preferred Suppliers the purchasing activity is exempt from the additional requirements of a formal Request for Quotation or Request for Tender.

- 4.2 Purchases under a State Government Common Use Agreement (CUA);
Common Use Agreements (CUAs) are contracts set up for goods and services commonly bought by the State Government with provision given for Local Governments to access these and make purchases. Please find the current list of CUA contracts [here](#).
- 4.3 Purchases where a legitimate sole source of supply exists;
An arrangement with a supplier based on the unique nature of the goods or services required, or for any other reason, may only be approved where the Shire is satisfied that there is genuinely only one source of supply. In this case the purchase is exempt from the Purchasing Threshold Requirements of this policy.

To demonstrate that there is genuinely only one source of supply for a particular good or service, the Purchasing Officer must ensure:

- a. The purchasing requirement has been documented in a detailed specification;
- b. The specification has been market tested and only one supplier has been identified with the capability of meeting the specified purchase requirement(s); and
- c. The market testing process and outcomes of supplier assessments have been documented in records, inclusive of a rationale for why the supply is determined as unique, and why quotations or tenders cannot be sourced through more than one potential supplier.

Once the determination has been made by the Purchasing Officer:

- a. Where the value is less than \$250,000 (ex GST), the Sole Source of Supply arrangement must be endorsed by the CEO or a Director prior to a contract being entered into; or
- b. Where the Purchasing Value is \$250,000 (ex GST) or more, the sole source arrangement must be made by Council resolution (absolute majority).

A Sole Source of Supply arrangement is only permitted to be approved for a period of two (2) years. To extend the arrangement, market testing will need to be re-performed, documented, and reapproved in accordance with this policy.

4.4 Purchasing from Disability Enterprises;

The *Local Government (Functions and General) Regulations r.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 determines to contract directly with an Australian Disability Enterprise for any amount, including an amount over the Shire's tender threshold of \$250,000 (ex GST), it must be satisfied through alternative means that the offer truly represents value for money.

A formal Request for Quotation or Request for Tender will be issued to the relevant Disability Enterprise if the contract value exceeds \$50,000 or \$250,000 (ex GST) respectively. The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Management Policy.

4.5 Purchasing from an Aboriginal Business;

The *Local Government (Functions and General) Regulations r.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 (ex GST).

The Shire will first consider undertaking a quotation process with other suppliers (which may include other registered Aboriginal businesses as noted in the *Local Government (Functions and General) Regulations r.11(2)(h)*) to determine overall value for money for the Shire.

Where the Shire determines to contract directly with an Aboriginal business for any amount, including an amount over the Shire's tender threshold of \$250,000 (ex GST), it must be satisfied through alternative means that the offer truly represents value for money.

A formal Request for Quotation or Request for Tender will be issued to the relevant Aboriginal business if the contract value exceeds \$50,000 or \$250,000 (ex GST) respectively. The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Management Policy.

4.6 An emergency situation as defined by the *Local Government Act 1995*;

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 the *Local Government (Functions and General) Regulations r.11(2)(a)*; or
- c. A State of Emergency declared under the *Emergency Management Act 2005* and therefore, the *Local Government (Functions and General) Regulations r.11(2)(aa), (ja) and (3)* apply to vary the application of this policy.

It should be noted that 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 to then obtain quotes or tenders, as applicable.

- 4.7 The purchase is under public auction;
The *Local Government (Functions and General) Regulations r.11(2)(d)* provides a tender exemption if the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government.
- 4.8 The purchase is for petrol, oil or other liquid or gas used for internal combustion engines;
- 4.9 Reactive maintenance of plant and machinery which does not exceed \$3,000 (ex GST) per transaction. Reactive maintenance is defined as unscheduled maintenance such as machinery break down, or where a routine inspection identifies additional works are required;
- 4.10 Shelf acquired, non-bulk, grocery, alcohol, and sundry hardware. No quotations are required for the procurement of non-bulk fixed price retail grocery, alcohol, and sundry hardware products sourced off the shelf from retail stores that are open to the public. It is considered that the non- negotiable pricing together with strong competition within the grocery and hardware sector is sufficient to provide best pricing;
- 4.11 Annual memberships and subscriptions;
- 4.12 Procurement of LGIS Insurances;

The suite of LGIS insurances are established in accordance with s.9.58(6)(b) of the *Local Government Act 1995* 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.

- 4.13 Artwork;
- 4.14 Procurement of performing arts defined as forms of creative activity that are performed in front of an audience, such as drama, music, or dance;
- 4.15 Eligible staff reimbursements (TAFE, training course fees, eligible travel costs including meals and accommodation, telephone and internet);
- 4.16 Purchases from Original Equipment Manufacturer or a sole agent thereof, where warranty provisions may otherwise be void;
- 4.17 Provision of contributions to community groups in accordance with agreements to assist with their administrative and operating costs or as directed by a resolution of council;
- 4.18 Software support / licences / renewals / maintenance. No quotations are required for contracts for the provision, licensing, annual renewal, annual lease payment, maintenance or support of information technology hardware or software where;
 - i. The value of the contract is less than \$250,000 (ex GST); and
 - ii. The responsible officer has good reason to believe that because of the unique nature of the product and/or services, it is unlikely that there is more than one potential supplier.

This exemption must be approved by the CEO or Director Community and Corporate.

- 4.19 At the discretion of a Director or the CEO, which may be applied upon receiving written justification for the waiver, and only in the following situations:

- i. The purchasing officer has sought the required number of quotations from suitable suppliers however an insufficient number of suppliers were willing to provide a valid quotation; or
 - ii. The goods or services are to be supplied by, or obtained through, the Government of the State or Commonwealth or any of its agencies, or by another Local Government or Regional Local Government;
- 4.20 In an instance where any of the exemptions or exclusions under r.11 of the *Local Government (Functions and General) Regulations* apply;
- 4.21 The *Local Government (Functions and General) Regulations r.11(2)(c)* provides a tender exemption if within the last 6 months;
- i. The Local Government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or
 - ii. The Local Government has, under regulation 21 (1), sought expressions of interest with respect to the supply of goods or services but no person was, as a result, listed as an acceptable tenderer.
- 4.22 The Goods or Services are to be supplied by a pre-qualified supplier as defined under The *Local Government (Functions and General) Regulations Division 3 – Panels of pre-qualified suppliers*.

5. Purchasing Value Thresholds

The table below outlines the minimum requirements applicable to each purchasing value threshold.

The form and number of quotations obtained, contract conditions, and level of evaluation required, should be determined by having regard, not just to the monetary Purchasing Value, but also factors such as the nature of the purchase and associated business risk.

When obtaining quotations, officers shall seek to invite quotations from a variety of suitable suppliers to achieve an accurate representation of market pricing.

The purchasing limits for Shire officers are defined and varied by Director's authorisation. Purchasing limits are maintained in a register of officer spending limits and are assessed based on the requirements of each position.

Purchasing Value (Ex GST)	Purchasing Requirements
Up to \$5,000	<p>Purchase directly from a suitable supplier after obtaining at least one (1) verbal or written quotation from that supplier.</p> <p>Evaluated by one (1) Shire Officer. Award in line with Shire Officer purchasing authority limits.</p>
\$5,001 to \$20,000	<p>Obtain at least (2) written quotes from suitable suppliers following a brief outlining of the specified requirement.</p> <p>Evaluated by one (1) Shire Officer and authorised by another Shire Officer. Award in line with Shire Officer purchasing authority limits.</p> <p>Written notes detailing each quotation received must be recorded in the 'Office Copy' of the Purchase Order.</p>
\$20,001 to \$50,000	<p>Obtain at least three (3) written quotations from suitable 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 brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. <p>Evaluated by a minimum of two (2) Shire Officers and the decision signed off by a Manager. Award in line with Shire Officer purchasing authority limits.</p> <p>The purchasing decision is to be documented using the Brief Quotation Evaluation Form.</p>
\$50,001 to \$249,999	<p>Seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation. The Request for Quotation must be conducted utilising the Shire's <i>e-tendering</i> portal.</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 evaluation criteria that assess all best and sustainable value considerations. <p>Evaluated by a minimum of three (3) Shire Officers including a Manager. The decision must then be signed off by the Executive Management Team, including the CEO (inclusive of any Acting arrangements), and at least one Director. Award in line with Shire Officer purchasing authority limits.</p> <p>The purchasing decision is to be documented using the Quotation Evaluation Report.</p>
\$250,000 and above	<p>Public Tender to be conducted in accordance with the <i>Local Government Act 1995</i> unless the purchase is subject to an exemption under r.11(2) of the <i>Local Government (Functions and General) Regulations 1996</i>.</p> <p>The purchasing decision is to be based on 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 evaluation criteria that assess all best and sustainable value considerations. <p>Evaluated by a minimum of four (4) Shire Officers, including at least one member of the Executive Management Team. The recommendation must be submitted to Council for award.</p> <p>The purchasing decision is to be documented using the Tender Evaluation Report.</p>

6. Inviting Tenders Where Not Required

The Shire may determine to invite Public Tenders, despite the estimated Purchasing Value being less than the \$250,000 threshold.

This decision will be made after considering the benefits of this approach in comparison with the costs, risks, timeliness, compliance requirements, and whether the purchasing requirement can be met through a pre-qualified panel of suppliers including WALGA Preferred Supply Contracts and (where permitted) State Government Agreements (CUA).

If a decision is made to seek public tenders for contracts of less than \$250,000, a Request for Tender process entailing all the procedures for tendering outlined in Council procedures and State Government legislation must be followed in full.

7. Local Purchasing Preference

The Shire promotes economic development through the encouragement of competitive participation in the delivery of goods and services by local suppliers.

Where practicable the Shire will ensure:

- a. Buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- b. Indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- c. Analysis is undertaken prior to developing requests to understand local business capability and local content availability where components of goods or services may be sourced from within the South West Region for inclusion in evaluation 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. Requests for Tenders are advertised in the local newspaper as well as state-wide; and
- f. adequate and consistent information is provided to local suppliers.

Local price preference will be applied when purchasing locally sourced goods and services as follows:

- a. Up to 10% - where the contract is for goods or services, up to a maximum price reduction of \$50,000 (ex GST); or
- b. Up to 5% - where the contract is for construction services, up to a maximum price reduction of \$50,000 (ex GST); or
- c. Up to 10% - where the contract is for goods or services (including construction services), up to a maximum price reduction of \$500,000 (ex GST), if the Shire is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by the Shire.

Where the price of goods and services which are sourced locally exceed the price of non-locally sourced goods and services by less than the thresholds noted above and are considered comparable in other aspects of value for money, the locally sourced goods or services will have preference.

The local price preference will also be applied where goods or services are only partly sourced from local suppliers. Under these circumstances, only the goods or services identified as being sourced locally may be included in the discounted price calculation.

8. Segregation of Duties

To allow for the segregation of duties and complete transparency with purchase order raising and approval, Officers must ensure that these two parts of the process are always separated. This can be achieved by ensuring that the Officer that raises a purchase order is different from the Officer that authorises it. The Officer raising the purchase order also needs to ensure that the authorising Officer has sufficient purchasing authority to be able to do so.

Please refer to the Officer Spending Limit Register and Purchase Order Creation procedure manual for further details.

9. 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, 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.

10. Record Keeping

Records of all tenders, quotations, panels, and any relevant exemptions must be retained in compliance with the *State Records Act 2000* and the Shire's Records Management Policy.

11. Purchasing Policy Non-Compliance

Purchasing Activities are subject to financial and performance audits, which review compliance with legislative requirements and compliance with the Shire's policies and procedures.

A failure to comply with the requirements of this policy will 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; or
- b. a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
- c. misconduct in accordance with the *Corruption, Crime and Misconduct Act 2003*.

12. Expenditure from Municipal Fund not Included in Annual Budget

In accordance with s.6.8 (1) of the *Local Government Act 1995*, a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

- a. is incurred in a financial year before the adoption of the annual budget by a local government;
or
- b. is authorised in advance by resolution (absolute majority required); or
- c. is authorised in advance by the mayor or president in an emergency.

Application

This purchasing policy applies to all purchases made on behalf of the Shire.

Department:	Community and Corporate Services	Next review:	November 2024
Reviewer:	Director Community and Corporate Services	Legislation:	Local Government Act 1995, s2.7(2)(b) Regulation 17 Audit 09.2018 - recommendations adopted 25.11.2020
Adopted:	Minute OC0307, 14.03.07	Delegation:	
Amended:	Minute OC1108/2017, 27.11.2017 Minute OC235/2020, 25.11.2020 Minute OC61/2023, 29.03.2023	Risk:	Medium
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