

CP.24 Procurement

<i>Responsible Department</i>	Corporate Services
<i>Resolution Number</i>	C.4720
<i>Resolution Date</i>	19/04/2023
<i>Next Scheduled Review</i>	2024/2025
<i>Related Shire Documents</i>	Delegated Authority Register Shire of Northam Code of Conduct Strategic Community Plan Manage Procurement Process
<i>Related Legislation</i>	<i>Local Government Act 1995</i> <i>Part 4 of Local Government (Functions and General) Regulations 1996</i> <i>Freedom of Information Act 1992</i> <i>Occupational Safety and Health Act 1984</i> <i>Construction Contracts Act 1984</i> <i>State Records Act 2000</i>

OBJECTIVE

The objectives of this policy are to:

- ensure best practice policies and procedures are followed in relation to procurement for the Shire of Northam (the Shire);
- undertake procurement processes that ensure value for money for the Shire by delivering the most advantageous outcome possible;
- ensure openness, transparency, fairness and equity through the procurement process to all potential suppliers; and
- ensure efficient and consistent procurement processes are implemented and maintained across the Shire.

SCOPE

This policy applies to all procurement activities undertaken by the Shire's officers, appointed representatives and, where applicable, contractors procuring on behalf of the Shire.

POLICY

1 Ethics & Integrity

1.1 Code of Conduct

All officers of the Shire undertaking procurement activities are expected to have regard for the Code of Conduct requirements and observe the highest standards of ethics and integrity. All officers of the Shire are expected to act in an honest and professional manner consistent with the Shire's values.

1.2 Procurement Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the procurement process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all procurement decisions and the efficient, effective and proper expenditure of public monies to achieve value for money;
- all procurement practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire's applicable policies and Code of Conduct;
- procurement is to be undertaken on a competitive, in the context of this policy framework, basis where all potential suppliers are treated impartially, honestly and in a similar manner;
- 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;
- 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; and
- any canvassing of the Shire's Councillors or staff shall disqualify Suppliers / contractors seeking to do business with the Shire in relation to the applicable procurement.

2 Value for Money

Value for money is an overarching principle governing procurement that seeks the best possible outcome for the Shire. Compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, safety and quality standards, sustainable procurement objectives, timeliness of supply, whole of life cycle costing and other relevant service benchmarks.

However, when a higher priced offer(s) is recommended, there should be clear and demonstrable benefits over and above the lowest total priced offer(s).

3 Purchasing Requirements

3.1 Legislative / Regulatory Requirements

The requirements that must be complied with by the Shire are prescribed within the Regulations as noted in the Legislation/Local Law Requirements section of this Policy.

3.2 Tendering Exemptions

Refer to regulation 11 (2) of the Local Government Act (Functions & General) Regulations 1996,

3.3 Purchasing Thresholds

The Purchasing Threshold relate to the actual or expected value of a contract over the full contract period or the extent to which the Shire will continue to purchase a particular category of goods, services or work and the total value of that purchase.

The following thresholds apply where the total value (excluding GST) of the full contract period for the purchasing of goods and/or services is, or is expected to be:

Purchase Value Threshold (exclusive of GST)	Procurement Requirement where no existing agreement/contract exists with the Shire	Evaluators
Up to \$2,000	All market approach will comply with the table below, including Open Public Tenders and Tendering Exemptions (refer 3.2) Direct Procurement from suppliers requiring one verbal or written quotation . The preference is to procure from a Shire based Business if a suitable supplier can be sourced. The supplier must provide quality and value for money.	Sole internal evaluator
Over \$2,000 and up to \$10,000	A minimum of one written quotation from suppliers containing price, and details of the supply including basic specifications and warranty offerings. The preference is to procure from a Shire based Business if a suitable supplier can be sourced. The supplier must provide quality and value for money.	Sole internal evaluator
Over \$10,000 and up to	A minimum of two written quotations from different suppliers containing price, and details of supply including basic	Minimum of one internal evaluator

Purchase Value Threshold (exclusive of GST)	Procurement Requirement where no existing agreement/contract exists with the Shire	Evaluators
\$50,000	<p>All market approach will comply with the table below, including Open Public Tenders and Tendering Exemptions (refer 3.2)</p> <p>specifications and warranty offerings.</p> <p>At least one written quote should be attained from a Local Business if a suitable supplier can be sourced.</p> <p>When assessing quotes the Local Business would be preferred if it is providing comparable quality and quantity to other quoters, and the price is no more than 10% higher than the other preferred quotes, and in the case of construction (building) contracts up to 5%, in accordance section 24D of the Local Government (Functions and General) Regulations 1996.</p>	
Over \$50,000 and up to \$250,000	<p>Seek a minimum of three written quotations from different suppliers containing price, detailed specifications, timing, capacity and warranty offerings. At least one written quote should be attained from a Local Business if a suitable supplier can be sourced.</p> <p>When assessing the quotes the Local Business would be preferred if it is providing comparable quality and quantity to other quoters, and the price is no more than 10% higher than the other preferred quotes and in the case of construction (building) contracts up to 5%, in accordance section 24D of the Local Government (Functions and General) Regulations 1996.</p>	Minimum of two internal evaluators
Over \$250,000	<p>Tenders must be called Conduct a public Request for Tender process in accordance with Part 4 of the Local Government (Functions and General) Regulations 1996, this policy and the Shire's tender processes.</p> <p>Local Content Weighting will be included, where appropriate, in accordance section 24D of the Local Government (Functions and General) Regulations 1996, in the tender assessment process. Local Businesses will receive preference when evaluating this criteria.</p>	<p>Minimum of three internal evaluators</p> <p>Over \$250,000 purchase value the Chief Executive Officer or Executive Manager must Chair the Evaluation Panel.</p>

Whenever it is not possible to meet the procurement requirements of the Shire, appropriate justification must be documented through records in accordance with the Shire's Recordkeeping Management Practice.

3.4 Waiver of Quotation

Where quotes are not practical, e.g. due to limited suppliers, the Chief Executive Officer or Executive Manager/Director may, at their discretion, waive the requirements to obtain quotes providing that written, justifiable reasons for such waiver are provided by the responsible Officer and documented through records.

3.5 Inviting Tenders under the Tender Threshold

Where considered appropriate and beneficial, or to manage procurement risk, the Shire may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold (\$250,000). This decision should be made after considering the benefits of this approach in comparison with the costs, timeliness and compliance requirements.

If a decision is made to undertake a public Tender for contracts expected to be \$250,000 or less in value, the Shire's tendering procedures must be followed in full.

3.6 Minor Variations to Tenders

- I. In accordance with regulation 20, *Local Government (Functions and General) Regulations 1996*, a minor variation may be made to a contract following a tender process, by the Shire, prior to the Shire and the preferred tenderer formalising the contract.
- II. A minor variation has been determined by the Shire to mean a variation which does not materially alter the specification or structure provided for by the initial tender.
- III. Where the initial procurement required Council approval, and the variation does not meet condition 2 above, then the variation must be presented to Council for consideration.
- IV. All decisions regarding minor variations must be documented and recorded.

3.7 Standing Offer Agreement

This is an Agreement where a supplier(s) agrees to provide specified goods (which are considered commodities/services off the shelf (COTS) which are readily available from multiple suppliers and frequently purchased), at an agreed price fixed for a set period of time (usually for one year). Standing Offers are a commitment by suppliers to provide agreed products at the fixed price on receipt of a Shire Purchase Order. Standing offers do not commit the Shire to any minimum volume. A standing offer once accepted by the Shire is deemed to have met the quotation process.

Standing Offer is established by seeking quotations as per the Procurement Requirements tabled in section 3.3 "Purchasing Thresholds" of this policy, within the range of \$10,000 to \$250,000 (Exclusive of GST).

3.8 Sole Source of Supply

Where the procurement requirement is 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 demonstrate 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 any alternative sources of supply.

From time to time, the Shire may publicly invite an expression of interest to effectively determine that one sole source of supply prevails in this situation.

3.9 Anti-Avoidance

The Shire shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of "splitting" the value of the purchase or contract to take the value of the purchase in consideration below a particular purchasing threshold. Refer to Regulations 12(1) and 12(2).

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

An emergency purchase does not relate to purchases not planned for due to time constraints. Every effort must be made to anticipate the Shire's procurement requirement in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

3.11 Council Approvals

The Local Government (Functions and General) Regulations 1996 provide that Council is required to Accept tenders (subject to approved Delegations of Authority). For the avoidance of doubt, Council approval is not required for the provision of goods or services when public tenders are not required to be invited (and are not invited), providing the expenditure is authorised through the annual budget or approved in accordance with section 6.8(1) of the Local Government Act 1995.

Regulation 13 of the Local Government (Functions and General) Regulations 1996

specify that if:

“a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited to the requirements of this Division.”

4 State of Emergency Declaration

4.1 Sourcing

A formal tender process does not need to be undertaken when sourcing and securing essential goods and services when a state of emergency declaration is in force for local government and the goods or services must be required to address needs arising from, or impacts or consequences of, the hazard to which the emergency relates. Refer regulation 11(2) (aa) of the Local Government (Functions and General) 1996.

4.2 Contract Extension

When a state of emergency declaration is in force a contract that is due to expire within the next three months can be renewed or extended at the discretion of the Shire, even though this option is not included in the original contract.

Limits on this apply: the original contract must have less than three months to expiry. The renewal or extension cannot be for more than twelve months. Refer regulation 11(2) (ja) of the Local Government (Functions and General) 1996.

5. Records Management

Records relating to all procurement activities must be retained in compliance with the *State Records Act 2000 (WA)*, the Shire's Recordkeeping Management Practice and associated procurement procedures.

As a minimum a comprehensive register of all contracts is to be maintained, with all contract information, where the value required an Open Tender to be conducted in line with the Local Government Regulations threshold.

6. Sustainable Procurement and Corporate Social Responsibility

Sustainable Procurement and Corporate Social Responsibility (CSR) is defined as the procurement of goods and services that have less environmental and social impacts than competing goods and services.

The Shire is committed to sustainable procurement, and will ensure that sustainable and

CSR considerations are balanced against value for money outcomes, in accordance with the Shire's sustainability objectives.

7. Buy Local Policy

7.1 Local Price Preference

A price preference will apply to suppliers who are based in, operate from or source goods or services from within the Shire in relation to all quotations/tenders invited by the Shire for the supply of goods, services and construction (building) services.

The Local price preference enables suppliers to be evaluated as if the proposed tender/quotation bid price were reduced in accordance with permitted price preferences as specified below in this policy.

This policy will operate in conjunction with the purchasing considerations and procedures as outlined within this Policy when evaluating and awarding tender contracts.

7.2 Qualifying Criteria

7.2.1 Local Supplier:

A supplier of goods or services who submits a tender/quotation is regarded as being a local tenderer if:

- i. the supplier has a physical business premises (in the form of an office, depot, shop, outlet, headquarters or other premises where goods or services are being supplied from), located within the Shire. This does not exclude suppliers whose registered business is located outside the Shire but undertake the business from premises located in the Shire;
- ii. a business having permanent staff that are based at the business premises located within the Shire;
- iii. management or delivery of the majority of the outcomes will be carried out from the business premises located in the shire; and

In order for the policy to apply, the supplier is required to provide to the Shire sufficient evidence which demonstrates compliance with the above criteria.

7.3 Local Price Preference Value

7.3.1 Goods and Services:

The Shire of Northam will provide a local price preference to the maximum allowable amount specified in section 24D of the Local Government (Functions and General) Regulations 1996.

8. Contract Management

Refer to regulation 20 of the Local Government (Functions and General) Regulations 1996. The Shire may make minor variations, in accordance with regulation 20 of the Local Government (Functions and General) Regulations 1996 and Delegated Authority F04, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.

Contracts are to be proactively managed during their lifecycle by the Shire Officer responsible for the delivery of the contracted goods, services or works, to ensure the Shire receives value for money and to enforce performance against the contract. Requirements are outlined in the Shire's Contract Management Practice.

Where a contract extension or variation is required the details must be updated in the Shires Contract Management system or database. The agreement must be signed by a person with appropriate delegation and authorisation.

9. Panels of Pre-Qualified Suppliers

9.1 Establishing a Panel

- Panels may be established for one type of supply requirement, or a number of similar types of supply requirements under defined categories within the Panel.
- Panels may be established for a minimum of one (1) year and for a maximum of three (3) years as deemed appropriate by the Shire.
- Evaluation criteria must be determined and communicated in the invitation process by which applications will be assessed and accepted.
- Where a Panel is to be established, the Shire will appoint at least three (3) suppliers to the Panel (or each category under the Panel), on the basis of best value for money. Where less than three (3) suppliers are determined as offering value for money, either per category or the Panel, the Panel or category of the Panel is not to be established.
- In each invitation to apply to become a pre-qualified supplier (through a state-wide notice and Shire official website), the Shire must state the number of suppliers it intends to pre-qualify onto the Panel, or to each category under the Panel.
- Should a Panel member leave the Panel during its operation, they may be replaced by the next ranked supplier as determined in the original value for money assessment to join the Panel of pre-qualified suppliers (should the supplier agree to do so), with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

9.2 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Local Government (Functions and General) Regulations 1996, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Shire intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases; or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances (e.g. emergence purchases, etc).

Contracts under the Panel must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes any options to extend the contract.

9.3 Purchasing from the Panel

All purchases made under the Panel must be made in accordance with the method prescribed in the Invitation to Join a Panel of pre-qualified suppliers, and applied in a consistent fashion.

9.4 Recordkeeping

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

For the creation of a Panel, this includes:

- The procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- Procurement planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- A copy of the invitation to apply to become a pre-qualified supplier documentation;
- Copy of public advertisement inviting applications;
- Copies of all applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;

- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Copies of framework agreements entered into with pre-qualified suppliers; and
- Records of orders issued under the Panel and any subsequent performance details of works undertaken.

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

Information on each Panel of pre-qualified suppliers, including scope of the Panel, details of pre-qualified suppliers under each Panel and term of the Panel must be maintained and made available for access by all officers across the Shire.

Definitions

1.1 Shire Business

- Businesses registered in the Shire of Northam.
- Businesses that have premises in any of the Shire of Northam's localities.

1.2 Local Business

- Businesses registered in the Shire of Northam.
 - Businesses that have premises in any of the Shire of Northam's localities.
 - Businesses not registered in the Shire, but that have an economic impact on the Shire from using local sub-contractors, employing Shire residents or making significant material purchases from suppliers operating within the Shire of Northam.
-