

## 3.14 Purchasing Policy

### 1. Purpose

To ensure a best practice approach to procurement which promotes best value for money and purchasing practices that are transparent, equitable and competitive, and which are compliant with the *Local Government Act 1995* (“the Act”) and the *Local Government (Functions and General) Regulations 1996* (“the Regulations”).

### 2. Definitions

**Category of supply** is defined as groupings of similar goods or services with common: supply and demand drivers; market characteristics; or suppliers.

**GST excl** or **ex GST** means that pricing does not include the 10% Goods and Services Tax. All amounts shown in this Policy are GST exclusive.

**RFx** is a generic collective abbreviation of Request for Quotation (RFQ) and / or Request for Tender (RFT) and / or Request for Proposal (RFP).

**Shire officer** means a permanent or fixed term contracted employee of the Shire of East Pilbara.

**Supplier** means a prospective or contracted provider of goods, services, etc.

**The Act** means the *Local Government Act 1995*

**The Regulations** means the *Local Government (Functions and General) Regulations 1996*

**Total Cost of Ownership** means all costs associated with acquiring, operating, maintaining and eventually disposing of an asset or service.

**WALGA** means the Western Australian Local Government Association.

### 3. Policy Statement

The Shire of East Pilbara (“the Shire”) is committed to applying the objectives, principles and practices outlined in this Policy, to all purchasing activity and to ensuring alignment with the Shire’s strategic and operational objectives.

### 4. Objectives

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

- Achieve best value for money that considers sustainable benefits, including social, local economic and environmental factors;
- Foster economic development by maximising participation of local businesses in the delivery of goods and services;
- Establish consistent, efficient and accountable purchasing processes that promote openness, transparency, fairness and equity to all prospective suppliers;
- Commit to probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;

- Comply with the Act and the Regulations, other relevant legislation, Codes of Practice, Standards and the Shire's Policies and Work Directives;
- Identify and manage risks arising from purchasing processes and purchasing outcomes in accordance with the Shire's Risk Management Framework;
- Ensure evidence of purchasing activities are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire;
- Ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- Are conducted in a consistent and efficient manner across the Shire and that demonstrated ethical decision making is employed in all aspects of procurement.
- Ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.

## 5. Ethics and Integrity

The Shire's Code of Conduct for Council Members, Committee Members and Candidates and Code of Conduct for Local Government Employees, Contractors and Volunteers both apply when undertaking purchasing activities and decision making, requiring Council Members and employees to observe the highest standards of ethics and integrity and act in an honest and professional manner at all times. Suppliers and prospective suppliers are required to comply with the Shire's Statement of Business Ethics.

The highest standards of ethics and integrity are to be observed in undertaking all purchasing activities. Employees will act in an honest and professional manner that supports the standing of the Shire and promotes a proud and collaborative community.

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.

1. 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.
2. All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with Council policies, values and Code of Conduct.
3. Purchasing is to be undertaken in a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
4. All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, record keeping practices and audit requirements.
5. Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.
6. 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 under relevant legislation.

## 6. Purchasing Thresholds and Practices

### 6.1 Achieving Best Value for Money

The Shire will apply best 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 Cost of Ownership and benefits, whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, and other costs such as, but not limited to, holding costs, consumables, deployment, 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, user requirements, quality standards, sustainability, service benchmarks, 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, and any other relevant methods of assuring quality;
- c. the supplier's financial viability and capacity to supply without 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 in accordance with this Policy, wherever practicable;
- e. supplier's capability, capacity, reliability, reputation and previous experience;
- f. 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;
- g. 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 the Regional Price Preference Policy; 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.

### 6.2 Evaluation of Submissions

The Chief Executive Officer is authorised to develop, implement and amend from time to time, work directions relating to the manner in which quotations, tenders, expressions of interest and other similar submissions are evaluated. The work directions should consider the appointment of evaluation panels members or advisors, with the appropriate expertise required based upon an assessment of the risks on a case by case basis.

## 6.3 Probity Advisors

All purchases with an anticipated value over \$2,000,000 (ex GST) require the appointment of an independent Probity Advisor, unless the Chief Executive Officer determines otherwise on the basis of the nature, scale, risk and type of project.

## 7. Purchasing Thresholds and Practices

### 7.1 Purchasing Value Definition

In order to achieve an accurate estimate of the likely cost or of a good or service for procurement, a procurement value must be calculated. This calculation is achieved through procurement planning and will assist in the confirmation of project budgets and to determine which procurement process is to be followed.

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.

#### 7.1.1 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 cumulative 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.

#### 7.1.2 Individual Purchasing Value Assessments

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 actual or estimated total expenditure for the proposed supply over the full contract period, including the value of all options to extend; or to 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, together with consideration of Total Cost of Ownership.
- 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].
- e. The calculated estimated Purchasing Value will determine the applicable threshold and purchasing

practice to be undertaken.

## 7.1.3 Purchasing Thresholds and Practices

### *Purchasing Value Thresholds*

Purchasing value thresholds detailed below must be complied with at all times and are prescribed by the *Local Government (Functions and General) Regulations 1996* and this Policy, which includes completing and recording a Declaration of Quotes Form, including the quotes received and requested, and attaching to the Requisition / Purchase Order in the Shire's Electronic Document and Records Management System.

| Range<br>(excluding GST) | Requirements  |
|--------------------------|---|
| \$0 - \$499              | A legitimate advertised price (online or otherwise) is acceptable, provided evidence, including a screenshot of the price is attached to the requisition / purchase order.  |
| \$500 - \$9,999          | At least one (1) written quote must be obtained.  |
| \$10,000 - \$49,999      | <p>Seek at least three (3) written quotations from genuine and suitable suppliers.</p> <p>If purchasing from a WALGA PSA, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained.</p> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a brief outline of the specified requirement for the goods; services or works required; and</li> <li>• Value for Money criteria, not necessarily the lowest price.</li> </ul> <p>The purchasing decision is to be evidenced using the Brief Recommendation Report Template retained in accordance with the Shire's Record Keeping Plan.</p>                                |
| \$50,000 - \$249,999     | <p>Seek at least three (3) written quotes from genuine and suitable suppliers by formal invitation, by way of a <b>Formal Request for Quotation Process</b>. The Request for Quotation must include a detailed Scope of Works/Specification of Goods and Services required.</p> <p>The procurement decision is to be based on pre-determined evaluation criteria that assess all best value for money considerations in accordance with the definition stated within this Policy.</p> <p>The procurement decision is to be evidenced using the Recommendation Report template retained in accordance with the Shire's Record Keeping Plan. A copy of the signed last page of Recommendation Report (endorsement by an authorised officer to</p> |

|                    |  |
|--------------------|--|
|                    | <p>Award the RFQ to the recommended respondent) must be attached to the Requisition/Purchase Order by the officer raising the Requisition.</p> <p>Under direction from the authorised Supervisor, and in consultation with the Chief Executive Officer, or a Director, a purchase order will be created following the RFQ process.</p> <p><i>[Three quotes must be sought, including if using WALGA Preferred Supplier Panel, State Government CUA, or a Shire Prequalified Supplier].</i></p>   |
| \$250,000 and over | <p>Tenders will be invited as follows:</p> <p>If work is allowed for in the budget, a Request to Invite Tenders form is to be submitted to the Chief Executive Officer for approval.</p> <p>If the work is not allowed for in the budget, authority to seek tenders must be obtained from Council. The Chief Executive Officer is then authorised to approve a Request to Invite Tenders.</p> <p>The Tender Exempt or Public Tender purchasing decision is to be based on the suppliers response to:</p> <ul style="list-style-type: none"> <li>• A detailed specification; and</li> <li>• Pre-determined selection criteria that assesses all best and sustainable value considerations.</li> </ul> <p>The purchasing decision is to be evidenced using the Recommendation Report template retained in accordance with the Shire’s Record Keeping Plan.</p> <p>The Chief Executive Officer has delegated authority to award Tenders to the value of \$499,999 ex GST.</p> <p>Council authority is required to award Tenders \$500,000 (ex GST) and above. A copy of the Council Resolution to award the Tender to the successful Tenderer, and the Declaration of Quotes must be attached to the Requisition/Purchase Order by the officer raising the Requisition.</p> <p><i>In lieu of a Tender, a formal Request for Quotation process, sourcing a minimum of three quotes may be undertaken by utilising the WALGA Panel, State Government CUA or a Prequalified Supplier Panel, The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy. Shire’s compliance requirements will need to be addressed by the Supplier, except for compliance requirements that relate to insurance, financial risk, corporate information that have been addressed during the tender process undertaken by WALGA, State Government or SoEP Local Panel to be awarded Preferred Supplier status by the respective agency.</i></p> |

|   |   |
|---|---|
| <p>Emergency Purchases<br/>(Within Budget)<br/>Refer to Clause 7.8</p>                  | <p>Where goods or services are required for a genuine emergency response in accordance with the definition in 7.7 in this Policy of Emergency Purchases, 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 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 be evidenced in accordance with the Shire’s Record Keeping Plan.</p> |
| <p>Emergency Purchases<br/>(No budget allocation available)<br/>Refer to Clause 7.8</p> | <p>Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the Act, the President must authorise, in writing, the necessary budget adjustment prior to the expense being incurred.</p> <p>The CEO is responsible for ensuring that an authorised emergency expenditure under s.6.8 of the Act is reported to the next ordinary Council Meeting.</p> <p>The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply.</p>   |
| <p>LGIS Services<br/>Section 9.58(6)(b)<br/>Local Government Act</p>                    | <p>The suite of LGIS insurances are established in accordance with s.9.58(6)(b) of the Act 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.</p> <p>Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this Policy is required.</p>  |

## **Procurement Thresholds and Requirement Exemptions**

The following goods and services are exempt from this Policy’s procurement thresholds and requirements as per the adopted Annual Budget.

Purchase orders are not required to be raised for the following items:

- Fuels (BP Fuel Card) – bulk fuel purchases require a Purchase Order
- Credit Card Purchases

- Utilities
- Manual Cheque requests for reimbursements

Note the following will not be subject to the requirement to source three (3) quotes or undertaking a Formal RFX process.

- Pre employment medicals and medical treatment.
- Legal advice (if using a WALGA Preferred Supplier Agreement Arrangement)
- Training (if using a WALGA Preferred Supplier Agreement Arrangement)
- Travel and Accommodation (only when utilising the Corporate Travel Management System).
- Servicing and/or mechanical repairs to plant and/or machinery located remotely, where significant additional costs will be charged by Suppliers who need to travel to the remote area to view the plant and or machinery to be able to submit a quote, as this is not considered best value for the Shire. Such an exemption must be approved by a Director who is satisfied that genuine circumstances exist where it would not represent best value for money, where the price is not unreasonable in the circumstances, and where evidence to justify the decision is available and retained in accordance with the Shire's Record Keeping Plan.

## 7.2 Contract Renewals, Extensions and Variations

Where a contract has been entered into as the result of a publicly invited tender process, then regulation 21A of the Regulations 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.

Variations to contracts must not change the scope of the purchase (as put to the market) to comply with the Regulations. 'Minor variations' are defined by Council's Minor Variations Policy. Variations may be approved by the Chief Executive Officer or authorised officer within their authorised financial limits (refer to clause 7.6 of this Policy), provided the combined value of the original authorised price plus the variation remain within the officer's authorised financial limit.

*For example, if the original price of a purchase is \$95,000 (which was approved by a Director) and a variation of \$6,000 is sought, the total combined price will be \$101,000, which will require authorisation by the Chief Executive Officer as the total combined price now exceeds the financial authority of the Director.*

In any case, where an authorised officer other than the Chief Executive Officer has approved the original purchase order, all variations (of any value) require approval by an authorised officer senior to the original authoriser.



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.

### **7.3 Unique Nature of Supply (Sole Supplier)**

Where an arrangement with a supplier is 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 be approved where the:

- a. purchasing value is estimated to be under \$250,000 (a decision to approve a sole source of supply arrangement for purchasing activity with a consideration of \$250,000 or more must be made by Council resolution); 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 accordance with the Shire's Record Keeping Plan, including a rationale for why the supply is determined as unique and why quotations or tenders cannot be sourced through more than one potential supplier; and
- e. is approved by the Chief Executive Officer.

Unique Supply approval will not be approved in order to otherwise avoid an approved procurement process.

### **7.4 Tender Exemptions**

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

- An emergency situation as defined by the Act;
- To source essential goods and services to respond to a State of Emergency as per Regulations 11(2)(aa) and 11(3);
- The purchase is under a Contract of WALGA (Preferred Supplier Arrangements\*), Department of Treasury and Finance (permitted Common Use Arrangements); or another Local Government;
- The purchase is under auction which has been authorised by Council;
- The Contract is for petrol, oil or other liquid or gas used for internal combustion engines;
- The purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents best value for money\*;
- The purchase is acquired from an Australian Disability Enterprise and represents best value for money\*.
- The purchase is from a pre-qualified supplier under a Panel established by the Shire\*
- Any other exclusion under Regulation 11 of the Regulations.

\*Whilst exempt from the Tender process – three (3) written quotes are still required if purchase is to be made under this instance.

## 7.5 Purchase Order Authorisation

Shire officers authorised to approve purchase orders must successfully complete training approved by the Chief Executive Officer prior to being authorised. Until such time as this has been completed successfully staff will not have access to authorise purchase orders.

Purchase orders must be generated and signed by authorised persons for all goods and services ordered for the Shire at the time that the order is placed.

**Purchase Orders must not be raised retrospectively.**

| Authorising Officer                                      | Requirements   |
|--|--|
| Chief Executive Officer<br>(up to \$499,999 ex GST)      | May authorise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 7.1.3 of this Policy, to the maximum value of \$499,999.            |
| Directors<br>(up to \$150,000 ex GST)                    | May authorise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 7.1.3 of this Procurement Policy to the maximum value of \$150,000. |
| Senior Managers and Managers<br>(up to \$30,000 ex GST)  | May authorise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 7.1.3 of this Procurement Policy to the maximum value of \$30,000.  |
| Coordinators and Team Leaders<br>(up to \$10,000 ex GST) | May authorise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 7.1.3 of this Procurement Policy to the maximum value of \$10,000.  |
| Other Authorised Officers<br>(up to \$5,000 ex GST)      | May raise a purchase order in accordance with the Procurement Thresholds and Requirements set out in 7.1.3 of this Procurement Policy to the maximum value of \$5,000.       |

The Chief Executive Officer must expressly authorise officers in writing through the Delegations and Authorisations Register, and retains the right to withdraw authority from officers at any time.

Splitting of purchases to keep below threshold levels is a breach of the Regulations and Shire's Code of Conduct and will be subject to non-compliance enforcement action. Refer to Clause 13 of this Policy for further details.

## 7.6 Anti-Avoidance

The Shire shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature with the intent (inadvertent or otherwise) of 'splitting' the value of the purchase or contract 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.

Splitting of purchases to keep below any of the thresholds is a breach of the Regulations and the Shire's Code of Conduct and will be subject to non-compliance enforcement action. Refer to Clause 6 for further details.

## 7.7 Emergency Purchases

An emergency purchase is defined as an unanticipated purchase 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 Act and regulation 11(2)(a) of the Regulations; OR
- c. A State of Emergency declared under the *Emergency Management Act 2005* and therefore, regulations 11(2)(aa), (ja) and (3) of the Regulations apply to vary the application of this policy.

### **6.8. Expenditure from municipal fund not included in annual budget**

- (1) 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 the local government; or
  - (b) is authorised in advance by resolution\*; or
  - (c) is authorised in advance by the mayor or president in an emergency.

\* Absolute majority required.

In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken, but has to be undertaken in accordance with 6.8(1)(c) of the Act.

**An emergency purchase cannot be claimed to be required for purchases that have not been properly planned, or for due to time constraints, administrative omissions, or errors.**

Every effort must be made to plan for, research and anticipate purchases required by the Shire in advance and to allow sufficient time to obtain quotes or tenders, whichever may apply.

## 7.7.1. State of Emergency - Purchases

As per Regulation 11(2)(aa), the formal tender process does not need to be undertaken when sourcing and securing essential goods and services to respond to a state of emergency. As outlined in Regulation 11(3), there must be a state of emergency declaration in force for the local government district or part of the District 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.

## 7.7.2. State of Emergency - Contract Renewals

As per Regulation 11(2)(ja), gives a local government the discretion to renew or extend a contract that expires when a state of emergency declaration is in force, even though this option is not included in the original contract. This will overcome the practical difficulty of businesses responding to a formal tender process while they are shut down or in the transition period when normal business resumes. Limits on this apply: the original contract must have less than three months left to run, the renewal or extension cannot be for more than twelve months, and there must be a state of emergency declaration applying to the district or part of the district when the renewal or extension is entered into.

## 8. Payment for Goods and Services

To process efficiently and effect timely payments for goods and services purchased, purchase orders and invoices will be returned to staff and suppliers until satisfying policy and Australian Taxation Office requirements. This includes clearly stating the correct Shire purchase order number on an invoice submitted for payment. Unless extenuating circumstances exist, payments must be made in accordance with the Shire's payment terms.

## 9. Considerations to Determine Correct Contract Documentation to be used

The type of contractual documentation to be utilised will depend on a number of factors including but not limited to:

- a. Value of consideration
- b. Potential risk to local government in provision of goods and services
- c. Extent to which general procurement conditions adequately cover risk
- d. Nature of goods and services to be provided
- e. Special requirements that apply to the provision of the goods and services
- f. Duration of contract

Generally, the higher the contract value, the higher the potential risk to the Shire (*in the event of default or unsatisfactory performance*), which means more comprehensive, and as required, bespoke forms of contractual documentation are required to address that risk. Conversely, relatively routine and low risk procurement transactions will not require complex or bespoke contract documentation.

The following price ranges should be used as a minimum to guide the determination of which contract format is to be used

- a. \$0-\$9,999 – purchase order (with clearly incorporated terms and conditions and clear description of

goods/services required).

- b. \$10,000-\$49,999 – standard form letter of engagement with purchase order (with clearly incorporated PO terms and conditions).
- c. \$50,000-\$99,999 – standard short form contract for goods and services.
- d. \$100,000-\$249,999 – standard or bespoke formal contract (comprising formal instrument of agreement; RFX documentation, RFX offer and Australian Standard General Conditions of Contract).
- e. \$250,000 – standard or bespoke formal contract (comprising formal instrument of agreement; tender documentation, tender submission and Australian Standard General Conditions of Contract).

## 10.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.

### 10.1. Buy Local/Regional Price Preference Policy

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:

- where appropriate, consider buying practices, procedures and specifications that encourage the inclusion of local businesses;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans and analysis is undertake prior to the development of Requests for Quotations and Tenders 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;
- 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;

- consider the adoption of Key Performance Indicators (KPIs) within contractual documentation that require successful Suppliers to increase the number of employees from the District first; and
- provide adequate and consistent information to potential suppliers.

To this extent, a qualitative weighting may be afforded in the evaluation of quotes and tenders where suppliers are located within the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy.

A regional price preference may be afforded to locally based businesses for the purposes of assessment. Provisions are detailed within the Shire's Regional Price Preference Policy.

## 10.2. Purchasing from Aboriginal Businesses

Pursuant to Regulation 11(2)(h) of the Regulations, 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 WA published by the Chamber of Commerce and Industry of Western Australian Limited, ABN 96 929 977 985; or a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation), ABN 50 134 720 362, where the consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

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

Where possible, Aboriginal businesses are to be invited to quote for supplying goods and services under the tender threshold (\$250,000 ex GST). If the contract value exceeds \$50,000 (ex GST), a formal Request for Quotation will be issued to the relevant Aboriginal business.

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.

The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Keeping Plan.

## 10.3. Purchasing from Australian Disability Enterprises

Pursuant to Regulation 11(2)(i) 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.buyability.org.au](http://www.buyability.org.au).

This is contingent on the demonstration of best value for money.

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 possible, Australian Disability Enterprises are to be invited to quote for supplying goods and services under the tender threshold (\$250,000 ex GST). If the contract value exceeds \$50,000 (ex GST), a formal Request for Quotation will be issued to the relevant Disability Enterprise.

A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Keeping Plan.

## **10.4. 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 will 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.

## **11. Records Management**

Records of all purchasing activity, communications and transactions must be evidenced and retained as local government records in compliance with the *State Records Act 2000*, the Shire's Records Management Policy, Record Keeping Plan and associated procurement procedures.

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.

## **12. Training**

The Chief Executive Officer must provide for the training of all Shire officers engaged in the procurement processes, in procurement including but not limited to:

- Procurement Policy Familiarisation;
- Records Management;
- Scoping of orders and works;
- Evaluation of quotations and tenders;
- Best Value for Money;
- Conflicts of Interest;
- Strategic Procurement Planning; and
- Role specific training.

All officers authorised to approve purchase orders and those staff who raise requisitions for purchase orders, must complete recognised procurement training as set by the Chief Executive Officer. No officer is to be authorised to approve purchases until such time as such training has been successfully completed.

## 13. Purchasing Policy Non-Compliance and Enforcement Action

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, Procurement Coordinator or the Manager Governance, Risk and Procurement.

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:

- an opportunity for additional training to be provided;
- a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
- 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*.

The Chief Executive Officer is authorised to prepare work directions in relation to managing non-compliance with this Policy.

It is the responsibility of all Shire employees undertaking procurement activities to comply with this policy and its supporting systems and procedures. All Shire employees when undertaking procurement activities are required to observe the highest standards of ethics and integrity and act in an honest and professional manner that supports the standing of the Shire of East Pilbara.

All Shire officers, contractors and prospective suppliers are encouraged to report any suspected wrongdoing. Shire officers may make reports in accordance with the Shire's Public Interest Disclosure Guidelines. Contractors and prospective suppliers may make reports to the Chief Executive Officer or the Corruption and Crime Commission.



## Authorisation Details

|                                |  |                   |          |
|--------------------------------|--|-------------------|----------|
| <b>References:</b>             | <i>Local Government Act 1995</i><br><i>Local Government (Functions and General) Regulations 1996</i> |                   |          |
| <b>Authorised by:</b>          | Council  |                   |          |
| <b>Date:</b>                   | 13 December 2024   | <b>Minute No.</b> | 2024/210 |
| <b>Review/Amendment Date:</b>  |  | <b>Minute No.</b> |          |
| <b>Next Review</b>             | Annually   |                   |          |
| <b>Responsible Directorate</b> | Chief Executive Officer  |                   |          |
| <b>Responsible Officer</b>     | Manager Governance, Risk and Procurement   |                   |          |
| <b>File No.</b>                |  |                   |          |

## Schedule 1 – Transitional Arrangements

Council acknowledges the adoption of this Purchasing Policy as at 29 November 2024 will result in significant operational changes, and as such sets the following transitional arrangements to assist the Chief Executive Officer in the implementation of the Policy. For those clauses for which the Chief Executive Officer (CEO) is delegated the authority to determine the effective date, clauses 4, 6.3 and 6.5 of the revoked Procurement and Tender Procedures Policy shall remain in force until such time as the new clauses come into effect:

| Clause | Effective Date  |
|--------|---|
| 1      | 16 December 2024  |
| 2      | 16 December 2024  |
| 3      | 16 December 2024  |
| 4      | 16 December 2024  |
| 5      | 16 December 2024  |
| 6.1    | As determined by CEO, but no later than 28 February 2025. Clause 4 of the revoked Procurement and Tender Procedures Policy will prevail until effective date for 6.1 approved by CEO.     |
| 6.2    | 16 December 2024  |
| 6.3    | 16 December 2024  |
| 7.1    | As determined by CEO, but no later than 28 February 2025. Clause 6.3 of the revoked Procurement and Tender Procedures Policy will prevail until effective date for 7.1 approved by CEO.   |
| 7.1.1  | 16 December 2024  |
| 7.1.2  | As determined by CEO, but no later than 28 February 2025. Clause 6.3 of the revoked Procurement and Tender Procedures Policy will prevail until effective date for 7.1.2 approved by CEO. |
| 7.1.3  | As determined by CEO, but no later than 28 February 2025. Clause 6.5 of the revoked Procurement and Tender Procedures Policy will prevail until effective date for 7.1.3 approved by CEO. |
| 7.2    | 16 December 2024  |
| 7.3    | 16 December 2024  |
| 7.4    | 16 December 2024  |
| 7.5    | 16 December 2024  |
| 7.6    | 16 December 2024  |
| 7.7    | 16 December 2024  |
| 7.7.1  | 16 December 2024  |
| 7.7.2  | 16 December 2024  |
| 8      | 16 December 2024  |
| 9      | 16 December 2024  |
| 10     | 16 December 2024  |
| 10.1   | 16 December 2024  |
| 10.2   | 16 December 2024  |
| 10.3   | 16 December 2024  |

|      |   |
|------|---|
| 10.4 | 16 December 2024  |
| 11   | 16 December 2024  |
| 12   | As determined by CEO, but no later than 28 February 2025. |
| 13   | 16 December 2024  |