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Policy Number:	F2
Relevant Delegation:	DE3-1 Authority to make payments from Trust & Municipal Accounts DE5-2 Tender Evaluation Criteria DE5-3 Minor Variation for Goods & Services DE5-4 Expressions of Interest DE5-5 Tenders to be invited for Certain Contracts
Adoption Details:	28 January 2016
Last Review Details:	22 June 2021

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#### **POLICY OBJECTIVE:**

To provide a clear approach for the procurement of all goods and services to ensure practices are efficient, transparent, ethical, provide value for money and meet all legislative requirements.

#### **POLICY SCOPE:**

This Policy applies to all purchasing activities undertaken by the Shire's officers and makes provision for regional price preference.

#### **POLICY STATEMENT:**

#### **INTRODUCTION**

The Shire procures a considerable number of products and services and it is essential that it is done in a way that achieves value for money, is transparent, accountable, without bias or preference and effective. Compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

This policy was created to ensure appropriate procurement of all goods and services and therefore good governance. A full review of relevant legislation and industry best practice was undertaken in the process of preparing this policy and the following is in accordance with the Shire of York's Statement of Business Ethics.

#### **PRINCIPLES**

- (a) Procurement undertaken by the Shire is carried out in a consistent, efficient, effective and transparent manner.
  - (b) Retaining the integrity of the procurement process by maintaining fair and ethical practices and adherence to statutory obligations is a fundamental requirement.
  - (c) Value for money will be sought in a way that achieves the most advantageous outcomes for the Shire.
  - (d) Where appropriate local suppliers and/or suppliers using significant local resources to be given preferential consideration in order to support the local economy.
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- (e) Wherever possible, other sustainable benefits such as environmental and social factors will be considered in the overall value for money assessment.
  - (f) There should be no conflicts of interest which might compromise equity, probity and integrity and the avoidance of bias in the procurement process.
  - (g) Procurement records will be maintained in accordance with the *State Records Act* and the Shire's Recordkeeping Plan.
  - (h) Confidentiality protocols that protect commercial-in-confidence information are applied with information released only where appropriately approved.
  - (i) Risks related to the procurement process are identified and managed within the Shire's Risk Management Framework.

## PROVISIONS

### ETHICS AND INTEGRITY

**1. All employees of the Shire shall observe the highest standards of ethics and integrity in undertaking purchasing activities, and act in an honest and professional manner that supports the standing of the Council.**

The following principles, standards and behaviour, must be observed and enforced through all stages of the purchasing process, to ensure the fair and equitable treatment of all parties.

- (i) 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.
- (ii) All purchasing practices shall comply with the *Local Government Act 1995*, *Local Government (Functions and General) Regulations 1996* and requirements consistent with the Shire's Policies, Procedures and Code of Conduct.
- (iii) Purchasing is to be undertaken on a competitive basis, in which all potential suppliers are treated impartially, honestly and consistently.
- (iv) All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable procedures and audit requirements.
- (v) Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

### **2. Value for Money**

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

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

- (i) All relevant whole of life costs, benefits of whole of life cycle costs (for goods), and whole of contract life costs (for services), including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as, but not limited to, holding costs, consumables, deployment, maintenance and disposal.
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- (ii) The technical merits of the goods or services offered in terms of compliance with specifications, contractual terms and conditions, and any relevant methods of assuring quality.
- (iii) Financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history).
- (iv) A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.
- (v) The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from its supply, operation and maintenance.

2.3 Where a higher priced, conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

### 3. Purchasing Thresholds and Practices

3.1 The Shire of York must comply with all requirements, including purchasing thresholds and processes, as prescribed within legislation, this Policy and associated procedures in effect at the Shire of York.

3.2 The following table outlines the purchasing value thresholds and applicable practices relating to purchasing activities.

3.2.1 Purchasing value for the purposes of this policy is exclusive of GST.

3.2.2 Where no contract exists, the purchasing value will be the estimated total expenditure for a minimum three-year period.

Amount of Purchase	Process to be followed
Up to \$2,000	Direct purchase from suppliers. No quotation required. Market testing is strongly encouraged.
\$2,001 to \$5,000	Seek at least two verbal or written quotations from suitable suppliers (may include print outs from reputable suppliers' catalogues or websites). Recommendation to purchase, include on quotation form reason for choosing selected supplier, official order for the goods and services to be countersigned by the Officers designated in this Policy. At least one quotation must be obtained
\$5,001 to \$20,000	Seek at least three verbal or written quotations from suitable suppliers. Recommendation to purchase, include on quotation form reason for choosing selected supplier, official order for the goods and services to be countersigned by the Officers designated in this Policy. At least one quotation must be obtained
\$20,001 to \$50,000	Seek at least three written quotations from suitable suppliers after outlining in writing the requirements of the supply. Recommendation to purchase, include on quotation form reason for choosing selected supplier, and that the official order for the goods and services be countersigned by the Officers designated in this Policy. At least two quotations must be obtained.
\$50,001 to \$150,000	Obtain at least three written quotations (using the Shire of York's Request for Quotation template) containing price and specification of goods and

	services. Recommendations to purchase to be accompanied by a written evaluation against pre-determined criteria and approved by the Chief Executive Officer.
\$150,001 and above	Conduct a public tender process, as prescribed under the <i>Local Government (Functions and General) Regulations 1996</i> .
WALGA Services (excluding Preferred Supplier Program)	For the purchasing of WALGA services, a minimum of one written quotation is to be sought and recorded.
Local Government Insurance Services (LGIS) and affiliated companies.	For the purchasing of LGIS services, a minimum of one written quotation is to be sought and recorded. The suite of LGIS insurances is established in accordance with s.9.58(6)(b) of the Local Government Act 1995 and is provided to WALGA Member Local Governments as the owners of LGIS. Therefore, obtaining LGIS insurance services is available as a member-based service and is not defined as a purchasing activity subject to this Policy.

See also Clause 11.

3.3 The *Local Government (Functions and General) Regulations 1996* were amended in April 2020 and the tender threshold raised from \$150,000 to \$250,000. The Shire of York will continue to call for tenders for purchases over \$150,000.

3.4 *Western Australian Local Government Association (WALGA)/State Government Common Use Arrangement (CUA)*

3.4.1 Where the intended purchase is within the \$150,000 threshold, the above quotation process still applies with respect to obtaining quotations from either WALGA preferred suppliers or non-WALGA suppliers.

3.4.2 Where the intended purchase is over \$150,000 and the Shire wishes to use the Council Purchasing Service of WALGA without going through the tender process, the Shire must still follow the process of obtaining quotations from the WALGA panel.

3.5 Emergency purchases not included in the adopted budget must be authorised in advance by the Shire President in accordance with s6.8 of the *Local Government Act 1995*.

3.6 Purchasing Procedures

The Shire has developed a comprehensive Procurement Manual and procedures relating to all aspects of procurement which must be adhered to at all times.

#### **4. Insufficient Suppliers**

4.1 It is recognised that in some cases, it may not be possible to obtain three quotations in accordance with the above. In this case, officers must attach a file note to the purchase order outlining the details of the companies contacted (date, method, contact details) and their response. This option is not permitted for purchase values above \$50,000.

#### **5. Sole Source of Supply**

5.1 The procurement of goods and/or services available from only one private sector source of supply is permitted without the need to call for competitive quotation provided that there is genuinely only one source of supply. Written information regarding endeavours to find other sources must be included on the purchase order.

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## 6. Panels of Pre-Qualified Suppliers

Panels will be established in accordance with the provisions of Part 4, Division 3 of the *Local Government (Functions and General) Regulations 1996* and the Council's Finance Policy F9 Panels of Pre-Qualified Suppliers.

## 7. Anti-Avoidance

Shire Officers are not to enter into two (2) or more contracts for the purchase of goods and services in order to avoid the requirements of the above monetary thresholds.

## 8. Exemptions

- 8.1 Notwithstanding that the principles of ethics and integrity as outlined in Section 1 apply at all times, in addition to the regulatory Tender exemptions for purchasing as set out in Regulation 11(2) of the Regulations, certain circumstances may arise where it is not reasonably practicable to adhere to the purchasing thresholds outlined in Section 3.
- 8.2 The following purchases are exempt from the requirement to undertake a competitive purchasing process as outlined in Section 3, where the total value of the purchase is within the Shire's approved annual budget, does not exceed \$50,000 in value, and where the overall business risk has been assessed as low to medium:
- Emergency reactive building maintenance purchases under \$5,000
  - Advance/Prior Payment of Services (accommodation, travel services, seminars, training courses)
  - Annual memberships/subscriptions
  - Annual license/software maintenance/support fees
  - Conferences
  - Purchases of consumables, defined as items which are able to be consumed and likely to be used up or depleted over a short period of time
  - Purchases of goods or services supplied by or obtained through the Western Australian State government or the Commonwealth or any of its agencies, or by a local government or a regional local government
  - Purchase of legal services where that service is obtained from a pre-qualified supplier under the WALGA Preferred Supplier Arrangement
  - Reimbursements (TAFE, training course fees, accommodation/meal costs, telephone and internet)
  - Reimbursements for Shop Local Programs made in accordance with approved budget allocations
  - Procurement of performing arts, defined as forms of creative activity that are performed in front of an audience, such as drama, music or dance
  - Provision of utility services
  - Where the contract is for petrol, oil or other liquid or gas used for internal combustion engines
  - Purchases from Original Equipment Manufacturer (OEM's), or a sole agent thereof, where warranty provisions may otherwise be void
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- Purchases of goods, services or works where there is genuinely only one private sector source of supply (manufacturer, supplier or agency) in line with Section 5 of this Policy
- Purchases of goods or services with demonstrated unique technical requirements that integrate explicitly with existing Shire systems, deviation from which would be inefficient and would otherwise not be considered value for money
- Emergency purchases in line with Section 3.5 of this Policy
- Sponsorships and donations made in accordance with Policy C3 *Community Funding: Grants and Sponsorship* or Policy C4 *Sponsorship of Tourism Events*

## 9. Record Keeping

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

## 10. Creation of New Suppliers

- 10.1 A background check of all new suppliers should be undertaken prior to the supplier being created in the system.
- 10.2 Checks serve as an anti-fraud control measure and should be stored against the completed new creditor documents.

## 11. Authorisation for the Signing of Official Orders and Certification of Invoices

- 11.1 At all times, an order must be raised, with full supporting quotation documentation, prior to the official engagement of a creditor. The signing of official orders and certification of invoices for the supply of goods and services can only be exercised by those Officers indicated in the following schedule, and only to the extent indicated.

Chief Executive Officer	Tender related purchasing – to a maximum value in accordance with the approved tender as determined by Council
	Non-tender related purchases - to a maximum of \$150,000 in any one transaction within the approved Budget Allocations
Executive Manager Corporate and Community Services	To a maximum of \$50,000 in any one transaction within the approved Budget Allocations
Executive Manager Infrastructure and Development Services	To a maximum of \$50,000 in any one transaction within the approved Budget Allocations
Works Supervisor	To a maximum of \$2,000 in any one transaction within the approved Budget Allocations

## 12. Officers in acting capacity

- 12.1 Officers in acting capacity may sign official orders and authorise an invoice for payment of goods and services, as detailed within this Policy.

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12.2 Acting capacity is defined when the Chief Executive Officer and/or the Officer for the time being appointed as Acting Chief Executive Officer is absent, on annual leave, long service leave, sick leave, conferences, meetings or absent from office during the course of business.

**13. All official orders for goods and services must be countersigned as follows:**

13.1 All Purchases up to the designated value for public tenders to be called (being \$150,000) shall be countersigned by the officers designated in table 11.1.

13.2 Purchases above \$150,000 (excluding GST), conduct a public tender with a report to Council to award the contract.

**14. Sustainable Procurement**

14.1 *Local Economic Benefit*

The Shire encourages the development of competitive local businesses within its boundary first, and second within its broader region. As much as practicable, the Shire will:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses.
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support).
- ensure that procurement plans address local business capability and local content.
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses.
- avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and
- provide adequate and consistent information to local suppliers.

To this extent, a qualitative weighting will be included in the evaluation criteria for quotes and Tenders where suppliers are located within the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy. These criteria will relate to local economic benefits that result from Tender processes.

14.2 *Local Price Preference*

A preference will be applicable to all locally based contractors and suppliers with a permanent office and staff located within the Shire of York. This also applies to contractors based outside the Shire of York who use goods, materials or services which are sourced from within the Shire.

(a) Goods and Services

- (i) A 10% price preference, to a maximum of \$5,000, applies to goods and services, sourced and used in the Shire of York.
- (ii) A 5% price preference to a maximum of \$2,500 applies to goods and services sourced within the Avon Valley.

(b) Construction

- (i) A 5% price preference, to a maximum of \$5,000, applies to all construction conducted by businesses/contractors based within the Shire of York.
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- (ii) A 2.5% price preference, to a maximum of \$2,500, applies to all construction conducted by business/contractors based within the Avon Valley.

#### 14.3 *Purchasing from Australian Disability Enterprises*

Where possible and appropriate, Australian Disability Enterprises (ADE) are to be invited to quote to supply goods, services or works under the tender threshold.

For purchases above the tender threshold, an ADE may be contracted without the need to undertake a public Tender process. The ADE will still need to be issued a request for quotation document, and a value for money assessment of the ADE's offer must be made to demonstrate benefits for the Shire's achievement of its strategic and operational objectives.

#### 14.4 *Purchasing from Aboriginal Businesses*

A business registered in the current Aboriginal Business Directory WA (produced by the Small Business Development Corporation) may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, only where:

- the contract value is or is worth \$250,000 or less, and
- a best and sustainable value assessment demonstrates benefits for the Shire's achievement of its strategic and operational objectives.

A qualitative weighting will be used in the evaluation of quotes and tenders to provide advantages to businesses registered in the current Aboriginal Business Directory WA, in instances where not directly contracted.

### **15. Non-Compliance**

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

15.2 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.

15.3 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*.
- misconduct in accordance with the *Corruption, Crime and Misconduct Act 2003*.

### **KEY TERMS/DEFINITIONS:**

Not applicable.

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Responsible Officer:	Executive Manager Corporate & Community Services
Contact Officer:	Executive Manager Corporate & Community Services
Relevant Legislation:	Local Government Act 1995 – Section 3.57 Local Government Act 1995 – Section 6.10

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Local Government (Financial Management) Regulations 1996 –  
Regulation 11

Other Relevant Documents: E1 Code of Conduct: Council Members, Committee members &  
Candidates  
O8 Employee Code of Conduct  
F5 Authority to make Payments from Trust and Municipal Funds  
Shire of York Procurement Manual  
F6 Corporate Credit Card Policy  
F9 Panels of Pre-Qualified Suppliers Policy

Department of Local Government Guideline No 11 – Use of Corporate  
Credit Cards

Review History:

<b>Date Review Adopted:</b>	<b>Resolution Number</b>
Adopted – 28 January 2016	
Reviewed – 24 October 2016	121016
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