

COUNCIL POLICY

Title: Procurement

Responsible Officer: Deputy Chief Executive Officer

Shire of
Kellerberrin

Version: Current

1. PURPOSE

The purpose of this policy is to provide compliance with the Local Government Act 1995 (as amended) and the Local Government Act (Functions and General) Regulation 1996 (as amended in March 2007).

To ensure consistency for all purchasing activities that integrates within all the Local Government operational areas.

2. SCOPE

This policy is applied to the Shire of Kellerberrin and its elected members and employees.

3. DEFINITIONS

4. STRATEGIC CONTEXT

This policy links to core drivers:

1. Relationships that bring us tangible benefits (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

5. POLICY STATEMENT

The Shire's purchasing activities will achieve:

- The attainment of best value for money;
- Sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- Consistent, efficient and accountable processes and decision-making;
- Fair and equitable competitive processes that engage potential suppliers impartially, honestly and consistently;
- Probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- Compliance with the Local Government Act 1995, Local Government (Functions and General) Regulations 1996, as well as any relevant legislation, Codes of Practice, Standards and the Shire's Policies and procedures;
- Risks identified and managed within the Shire's Risk Management framework;
- Records created and maintained to evidence purchasing activities in accordance with the State Records Act and the Shire's Record Keeping Plan;
- Confidentiality protocols that protect commercial-in-confidence information and only release information where appropriately approved.

ETHICS & INTEGRITY

All officers and employees of the Local Government shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Local Government.

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

- Full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- All purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Local Government policies and code of conduct;
- Purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;
- Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- Any information provided to the Local Government by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

VALUE FOR MONEY

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Local Government. 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. An assessment of the best value for money outcome for any purchasing should consider:

1. All relevant whole-of-life costs 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 as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal.
2. 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.
3. 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).
4. 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.
5. A strong element of competition by obtaining a sufficient number of competitive quotations wherever practicable and consistent with this Policy;
6. 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;
7. 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; and
8. Providing opportunities for businesses within the Shire's boundaries to quote wherever possible.

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

PURCHASING THRESHOLDS AND PRACTICES

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

Policy Purchasing Value Definition

Purchasing value for a specified category of goods, services or works is to be determined upon the following considerations:

- Exclusive of Goods and Services Tax (GST); and
- Where a contract is in place, the actual or expected value of expenditure over the full contract period, including all options to extend specific to a particular category of goods, services or works. OR
- Where there is no existing contract arrangement, the Purchasing Value will be the estimated total expenditure for a category of goods, services or works over a minimum three year period. This period may be extended to a maximum of 5 years only where the supply category has a high risk of change i.e. to technology, specification, availability or the Shire's requirements (Regulation 12).

The calculated estimated Purchasing Value will be used to determine the applicable threshold and purchasing practice to be undertaken.

Purchasing from Existing Contracts

The Shire will ensure that any goods, services or works required that are within the scope of an existing contract will be purchased under that contract.

Table of Purchasing Thresholds and Practices

This table prescribes Purchasing Value Thresholds and the applicable purchasing practices which apply to the Shire's purchasing activities:

Purchase Value Threshold (exc GST)	Purchasing Practice Required
Up to \$5,000 (exc GST)	Direct purchase, no quote needed
From \$5,001 and up to \$35,000 (exc GST)	<p>Seek at least one (1) verbal or written quotation from a suitable supplier.</p> <p>Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, seek quotations in accordance with the contract requirements.</p> <p>If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then a quote must be sought from either:</p> <ul style="list-style-type: none"> • a supplier included in the relevant WALGA Preferred Supplier Arrangement; or • other suppliers that are accessible under another tender exempt arrangement; or • the open market.

Purchase Value Threshold (exc GST)	Purchasing Practice Required
	<p>The purchasing decision is to be based upon assessment of the suppliers 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>The procurement decision is to be represented using the Brief Evaluation Report Template.</p>
<p>From \$35,001 and up to \$85,000 (exc GST)</p>	<p>Seek at least two (2) written quotations, if practical, from suitable suppliers.</p> <p>Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, seek quotations in accordance with the contract requirements.</p> <p>If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then a quote must be sought from either:</p> <ul style="list-style-type: none"> • a supplier included in the relevant WALGA Preferred Supplier Arrangement; or • other suppliers that are accessible under another tender exempt arrangement; or • the open market. <p>If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation is to be sought, where a suitable supplier is available, from:</p> <ul style="list-style-type: none"> • a WA Disability Enterprise; and / or • an Aboriginal Owned Business; and / or • a Local Supplier. <p>The purchasing decision is to be based upon assessment of the suppliers 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>The procurement decision is to be represented using the Brief Evaluation Report Template.</p>

Purchase Value Threshold (exc GST)	Purchasing Practice Required
<p>\$85,001 and up to \$249,999 (exc GST)</p>	<p>Seek at least three (3) written quotations from suppliers by invitation under a formal Request for Quotation.</p> <p>Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, seek quotations in accordance with the contract requirements.</p> <p>If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then a quote must be sought from either:</p> <ul style="list-style-type: none"> • a supplier included in the relevant WALGA Preferred Supplier Arrangement; or • other suppliers that are accessible under another tender exempt arrangement; or • the open market. <p>If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation of the three (3) quotations is to be sought, where a suitable supplier is available, from either:</p> <ul style="list-style-type: none"> • a WA Disability Enterprise; and / or • an Aboriginal Owned Business; and / or • a Local Supplier. <p>The purchasing decision is to be based upon assessment of the suppliers 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 assesses all best and sustainable value considerations. <p>The procurement decision is to be represented using the Evaluation Report template</p>
<p>Over \$250,000 (exc GST)</p>	<p>Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, seek quotations in accordance with the contract requirements.</p> <p>If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then either:</p> <ul style="list-style-type: none"> • Seek at least three (3) written quotations from a supplier included in the relevant WALGA Preferred Supplier Arrangement and / or another tender exempt arrangement; OR

Purchase Value Threshold (exc GST)	Purchasing Practice Required
	<ul style="list-style-type: none"> • Conduct a Public Request for Tender process in accordance with the Local Government Act 1995 and relevant Shire Policy requirements. <p>The purchasing decision is to be based upon the suppliers response to:</p> <ul style="list-style-type: none"> • a specification of the goods, services or works (for a tender exempt process including the WALGA Preferred Supplier Arrangement); or a detailed specification for the open tender process; and • pre-determined evaluation criteria that assesses all best and sustainable value considerations. <p>The procurement decision is to be represented using the Evaluation Report template.</p>
Emergency Purchases (Within Budget)	Must be approved by the President or by the Chief Executive Officer under delegation and reported to the next available Council Meeting.
Emergency Purchases (Not Included in Budget)	<p>Only applicable where, authorised in advance by the President in accordance with s.6.8 of the <i>Local Government Act 1995</i> and reported to the next available Council Meeting.</p> <p>Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, the emergency supply must be obtained from the Panel suppliers.</p> <p>If however, no member of the Panel of Pre-qualified Suppliers or a suitable supplier from WALGA Preferred Supplier Arrangement is available, then the supply may be obtained from any supplier capable of providing the emergency purchasing requirement, and to the extent that it is reasonable in context of the emergency requirements, with due consideration of best and sustainable consideration.</p>

Exemptions

An exemption from the requirement to publically invite tenders may apply when the purchase is:

- Obtained from a pre-qualified supplier under the WALGA Preferred Supplier Arrangement or other suppliers that are accessible under another tender exempt arrangement.
- From a pre-qualified supplier under a Panel established by the Shire;
- From a Regional Local Government or another Local Government;
- Acquired from a person/organisation 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 (exc GST) and represents value for money;
- Acquired from an Australian Disability Enterprise and represents value for money;
- The purchase is authorised under auction by Council under delegated authority; within 6 months of no tender being accepted;
- Where the contract is for petrol, oil, or other liquid or gas used for internal combustion engines; or
- The purchase is covered by any of the other exclusions under Regulation 11 of the Regulations.

Inviting Tenders Under the Tender Threshold

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

This decision will be made after considering:

- Whether the purchasing requirement can be met through the WALGA Preferred Supplier Program or any other tender exemption arrangement; and
- Any value for money benefits, timeliness, risks; and
- Compliance requirements.

A decision to invite Tenders, though not required to do so, may occur where an assessment has been undertaken and it is considered that there is benefit from conducting a publicly accountable and more rigorous process. In such cases, the Shire's tendering procedures must be followed in full.

Other Procurement Processes

Expressions of Interest

Expressions of Interest (EOI) are typically considered in situations where the project is of a significant value, or contains significant complexity of project delivery that may solicit responses from a considerable range of industry providers.

In these cases, the Shire may consider conducting an EOI process, preliminary to any Request for Tender process, where the purchasing requirement is:

- Unable to be sufficiently scoped or specified;
- Open to multiple options for how the purchasing requirement may be obtained, specified, created or delivered;
- Subject to a creative element; or

- To establish a procurement methodology that allows for an assessment of a significant number of tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes are conducted as a public process and similar rules to a Request for Tender apply. However, the EOI should not seek price information from respondents, seeking qualitative and other non-price information only. All EOI processes should be subsequently followed by a Request for Tender through an invited process of those shortlisted under the EOI.

Request for Proposal

As an alternative to a Request for Tender, the Shire may consider conducting a Request for Proposal where the requirements are less known, or less prescriptive and detailed. In this situation, the Request For Proposal would still be conducted under the same rules as for a Request For Tender but would seek responses from the market that are outcomes based or that outline solutions to meet the requirements of the Shire.

Emergency Purchases

An emergency purchase is defined as an unanticipated purchase which is required in response to an emergency situation as provided for in the Act and including natural disasters such as fire and flood. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

Time constraints are not a justification for an emergency purchase. Every effort must be made to anticipate purchases in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

Sole Source of Supply

A sole source of supply arrangement may only be approved where the:

- Purchasing value is estimated to be over \$5,000; and
- purchasing requirement has been documented in a detailed specification; and
- specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and
- market testing process and outcomes of supplier assessments have been documented, inclusive of a rationale for why the supply is determined as unique and cannot be sourced through more than one supplier.

A sole source of supply arrangement will only be approved for a period not exceeding three (3) years. For any continuing purchasing requirement, the approval must be re-assessed before expiry to evidence that a Sole Source of Supply still genuinely exists.

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, avoiding 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.

Utilising rolling contract extensions at the end of a contract term without properly testing the market or using a Tender exempt arrangement will not be adopted as this would place this Local Government in breach of the Regulations (Regulation 12).

The Shire administration will conduct regular periodic analysis of purchasing activities within supply categories and aggregating expenditure values in order to identify purchasing activities which can be more appropriately undertaken within the Purchasing Threshold practices detailed in clause 1.4.3 above.

6. SUSTAINABLE PROCUREMENT

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. This criteria will relate to local economic benefits that result from Tender processes.

PURCHASING FROM DISABILITY ENTERPRISES

An Australian Disability Enterprise may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, where a value for money 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 Australian Disability Enterprises, in instances where not directly contracted.

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.

PURCHASING FROM ENVIRONMENTALLY SUSTAINABLE BUSINESSES

The Shire will support the purchasing of recycled and environmentally sustainable products whenever a value for money 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 suppliers which:

- demonstrate policies and practices that have been implemented by the business as part of its operations;
- generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used, and disposed; and
- encourage waste prevention, recycling, market development and use of recycled/recyclable materials.

7. PANELS OF PRE-QUALIFIED SUPPLIERS

OBJECTIVES

The Shire will consider creating a Panel of Pre-qualified Suppliers ("Panel") when a range of similar goods and services are required to be purchased on a continuing and regular basis.

Part of the consideration of establishing a panel includes:

- a. there are numerous potential suppliers in the local and regional procurement related market sector(s) that satisfy the test of 'value for money';
- b. the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- c. the Panel will streamline and will improve procurement processes; and
- d. the Shire has the capability to establish a Panel, and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.

ESTABLISHING AND MANAGING A PANEL

If the Shire decides that a Panel is to be created, it will establish the panel in accordance with the Regulations.

Panels will be established for one supply requirement, or a number of similar supply requirements under defined categories. This will be undertaken through an invitation procurement process advertised via a state-wide notice.

Panels may be established for a maximum of three (3) years. The length of time of a Local Panel is decided with the approval of the CEO Evaluation criteria will be determined and communicated in the application process by which applications will be assessed and accepted.

In each invitation to apply to become a pre-qualified supplier, the Shire will state the expected number of suppliers it intends to put on the panel.

If a Panel member leaves the Panel, the Shire will consider replacing that organisation with the next ranked supplier that meets/exceeds the requirements in the value for money assessment – subject to that supplier agreeing. The Shire will disclose this approach in the detailed

information when establishing the Panel.

A Panel contract arrangement needs to be managed to ensure that the performance of the Panel Contract and the Panel members under the contract are monitored and managed. This will ensure that risks are managed and expected benefits are achieved. A Contract Management Plan should be established that outlines the requirements for the Panel Contract and how it will be managed.

DISTRIBUTING WORK AMONGST PANEL MEMBERS

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel will prescribe one of the following as to whether the Shire intends to:

- e. obtain quotations from each pre-qualified supplier on the Panel with respect to all discreet purchases; or
- f. purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- g. develop a ranking system for selection to the Panel, with work awarded in accordance with the Regulations.

In considering the distribution of work among Panel members, the detailed information will also prescribe whether:

- h. each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or
- i. work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the Panel. The Shire will invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 1.4.3 of this Policy. When a ranking system is established, the Panel will not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

PURCHASING FROM THE PANEL

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every Panel member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with Panel members, quotations received, evaluation of quotes and notification of award communications can be made through eQuotes (or other nominated electronic quotation facility).

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's 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.

8. PURCHASING POLICY NON-COMPLIANCE

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.

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:

- 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.

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 of Kellerberrin's Record Keeping Plan. This includes those with organisations involved in a tender or quotation process, including suppliers.

10. RELATED LEGISLATION/ DOCUMENTATION

Local Government Act 1995 (as amended) and the Local Government Act (Functions and General) Regulation 1996 (as amended in March 2007).

11. REVIEW DETAILS

Council Adoption	Date	May 2020	Resolution #	MIN 070/20
Previous Adoption	Date	February 2020	Resolution #	MIN 009/20