



**City of Busselton**  
*Geographe Bay*

## **Policy and Legislation Committee Agenda**

***18 February 2016***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

**CITY OF BUSSELTON**

**MEETING NOTICE AND AGENDA – 18 FEBRUARY 2016**

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**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a meeting of the Policy and Legislation Committee will be held in the Meeting Room One, Community Resource Centre, 21 Camilleri Street, Busselton on Thursday, 18 February 2016, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.



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**MIKE ARCHER**

**CHIEF EXECUTIVE OFFICER**

12 February 2016

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 18 FEBRUARY 2016

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1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

**Apologies**

**Approved Leave of Absence**

Nil

3. **PUBLIC QUESTION TIME**

4. **DISCLOSURE OF INTERESTS**

5. **CONFIRMATION OF MINUTES**

5.1 **Minutes of the Policy and Legislation Committee held on 19 November 2015**

**RECOMMENDATION**

That the Minutes of the Policy and Legislation Committee Meeting held 19 November 2015 be confirmed as a true and correct record.

## 6. REPORTS

### 6.1 REVIEW OF PURCHASING POLICY

<b>SUBJECT INDEX:</b>	Purchasing
<b>STRATEGIC OBJECTIVE:</b>	Governance systems that deliver responsible, ethical and accountable decision-making.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Manager, Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Matthew Smith
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Existing Purchasing Policy Attachment B WALGA Model Purchasing Policy

### PRÉCIS

The City of Busselton's Purchasing Policy has been reviewed due to changes to the *Local Government (Functions and General) Regulations 1996*. This report recommends adoption of a revised policy which will ensure compliance with the amended statutory framework.

### BACKGROUND

The City of Busselton's Purchasing Policy ("Purchasing Policy") provides the framework for purchasing decisions made by the City of Busselton and defines the procedures that must be followed for purchasing in accordance with the value of transactions. The Purchasing Policy was initially implemented in March 2007 and has subsequently been subject to updates in July 2012 and May 2014. The 2012 and 2014 reviews, undertaken in accordance with the City's ongoing policy review process, resulted in minor variations aimed at improving practices and procedures.

The statutory framework for procurement of goods and services by local governments is established under Part 4 of the *Local Government (Functions and General) Regulations 1996* ("the Regulations"). With the aim of improving the purchase and tendering practices of local governments, the Regulations were amended with effect 1 October 2015. In addition to increasing the tender threshold, the amendments provide for local governments to appoint a panel of pre-qualified suppliers, and make other minor changes (which are discussed in more detail under the Officer Comment section of this report).

These changes prompted a review of the Purchasing Policy to ensure compliance with the Regulations. The recently revised Western Australian Local Government Association ("WALGA") Model Purchasing Policy (Attachment A) has also been utilised extensively as part of this review.

### STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the City's policies. In terms of Regulation 11A(1) of the Regulations a local government is to implement a purchasing policy in relation to contracts for supply of goods or services where the consideration under the contract is, or is expected to be, \$150, 000 or less. Such a policy must, among other things, make provision in respect of —

- the form of quotations acceptable;
- the minimum number of oral quotations and written quotations that must be obtained; and
- the recording and retention of purchasing records.

It is also now a requirement of the Regulations that a local government adopts and implements a policy for panels of pre-qualified suppliers in accordance with Regulation 24AC(1)(a) of the Regulations.

### **RELEVANT PLANS AND POLICIES**

The current WALGA Model Purchasing Policy has been considered for the purposes of reviewing and updating the Purchasing Policy.

### **FINANCIAL IMPLICATIONS**

Adoption of the proposed updated Purchasing Policy will not have any direct financial implications. Establishing, maintaining and managing panels of pre-qualified suppliers in accordance with the new regulatory requirements imposed by the amended Regulations could require a higher level of staff involvement and internal resources in order to meet all the statutory requirements required for operating a panel. The use of such panels is however at the City's discretion.

#### **Long-term Financial Plan Implications**

Nil

### **STRATEGIC COMMUNITY OBJECTIVES**

The proposed changes to the Purchasing Policy align with Strategic Community Objective 6.2 which requires for the City's governance systems to deliver responsible, ethical and accountable decision making.

### **RISK ASSESSMENT**

The proposed changes to the Purchasing Policy are designed to ensure compliance with the relevant statutory framework and are therefore designed to mitigate compliance risks.

### **CONSULTATION**

City officers consulted with and sought guidance from WALGA with regards to the changes to the Purchasing Policy.

### **OFFICER COMMENT**

Many of the proposed changes to the Purchasing Policy are required as a consequence of amendments to the Regulations which came into effect on 1 October 2015.

#### **Changes to tender and purchasing thresholds**

The tender threshold has been increased from \$100,000 to \$150,000. If the contract for goods or services is expected to be more than \$150,000 a public tender process is required. The Purchasing Policy currently provides for the following thresholds for purchases up to \$100,000:

#### **3.6 Purchasing Thresholds**

*Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-*

	<i>Amount of Purchase</i>	<i>Model Policy</i>
3.6.1	<i>Up to \$1,000</i>	<i>Direct purchase from suppliers requiring only one verbal quotation</i>
3.6.2	<i>\$1,001 - \$4,999</i>	<i>Obtain at least two verbal or written quotations</i>
3.6.3	<i>\$5,000 - \$19,999</i>	<i>Obtain at least two written quotations</i>
3.6.4	<i>\$20,000 - \$39,999</i>	<i>Obtain at least three written quotations</i>
3.6.5	<i>\$40,000 - \$99,999</i>	<i>Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations)</i>
3.6.6	<i>\$100,000 and above</i>	<i>Conduct a public tender process</i>

Considering the increase in the tender threshold to \$150,000, the following changes to the purchasing thresholds for the purchase of goods and services under this threshold are proposed:

	<i>Amount of Purchase</i>	<i>Requirements</i>
6.3.1	<b><i>Up to \$5000</i></b>	<i>Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation</i>
6.3.2	<b><i>\$5,001 - \$14,999</i></b>	<i>Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement</i>
6.3.3	<b><i>\$15,000 - \$49,999</i></b>	<i>Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement</i>
6.3.4	<b><i>\$50,000 - \$149,999</i></b>	<i>Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the guidelines stated within the Policy.</i>
6.3.5	<b><i>Over \$150,000</i></b>	<i>Conduct a public tender process in accordance with the statutory requirements under the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996</i>

Since the current purchasing thresholds were determined, the City's annual budget and the scope of the City's operations have significantly increased. The proposed adjustments to the purchasing thresholds are generally consistent with the WALGA Model Purchasing Policy, noting the City has an additional level, and are considered necessary to enable City staff to efficiently implement the City's annual budget and deliver on the City's day-to-day operations and major projects.

#### Panels of pre-qualified suppliers

The Regulation amendments introduce the ability for local governments to create a panel of pre-qualified suppliers and to a large extent formalise current practices for establishing 'tender panels'. In terms of these provisions local governments have to invite prospective suppliers to apply by giving State-wide public notice, make available a range of detailed information about the proposed panel and outline in a written policy how the panel will operate. The policy and/or the detailed information required to be available under each invitation to join a panel must outline how the panel will operate; how each supplier will be invited to quote; how consistent communication with the panel will be achieved and how quotes and purchases from suppliers will be retained and recorded. These changes have been incorporated into the proposed Purchasing Policy in part 9 of the Policy.

### Other changes

A range of minor changes to the Purchasing Policy are proposed. Some of these changes are made as a result of the amendments to the Regulations while other changes are intended to improve day-to-day operations and efficiencies. These changes include:

- a reference to the anti-avoidance requirements under Regulation 11 of the Regulations in the Purchasing Policy in section 6.11.
- changes in section 7.7 reflecting the changes to Regulation 16 of the Regulations which has been amended to require that when tenders are opened there must be at least two employees of the local government present, or one local government employee and at least one person authorised by the Chief Executive Officer.
- Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from:
  - An Australian Disability Enterprise; or
  - A person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less.

These exemptions, which both are contingent on the demonstration of value for money, have been incorporated under parts 10 and 11 of the proposed Purchasing Policy.

The opportunity has already been taken to “tidy up” the policy by removing some provisions which do nothing more than replicate requirements of the Regulations, sometimes in a manner which does not fully reflect the complexity of the Regulations. The sections relating to “Tender Closing Date” and “No Tenders Received” are examples of this.

### **CONCLUSION**

The proposed changes to the Purchasing Policy ensure compliance with recent amendments to the Regulations and provide a best practice approach to purchasing for the City of Busselton.

### **OPTIONS**

The Council may consider a range of possible changes to the policy, other than where it reflects statutory requirements. In particular, Council could alter the purchasing requirements and thresholds for purchases of a value less than \$150,000.00.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The revised policy would be effective immediately upon adoption by the Council.



**OFFICER RECOMMENDATION**

That the Council adopts the Purchasing Policy:

239	City of Busselton Purchasing Policy	
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**1 PURPOSE**

This policy provides a best practice approach to purchasing for the City of Busselton (the "City"). It also ensures compliance with the *Local Government Act 1995* ("the Act") and the *Local Government (Functions and General) Regulations 1996* ("the Regulations").

**2 SCOPE**

This policy provides the framework for all purchasing decisions made by employees of the City and defines the procedures that must be followed for purchasing in accordance with the value of the transaction.

**3 POLICY CONTENT****3.1 Objectives**

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

- \* demonstrate that best value for money is attained for the City;
- \* are compliant with relevant legislations, including the Act and the Regulations;
- \* are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- \* mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- \* ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- \* are conducted in a consistent and efficient manner across the City and that ethical decision making is demonstrated; and
- \* to establish a written policy as required under Regulation 11A and to address the particular requirements of Regulation 24AC(1)(a) of the Regulations for the purposes of establishing panels of pre-qualified suppliers.

**4 ETHICS & INTEGRITY**

All employees of the City 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 City of Busselton.

**4.1 Purchasing principles**

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 under the City policies, practices and procedures, 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, practices and procedures, and audit requirements; and
  - \* any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;

## **5 VALUE FOR MONEY**

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the City.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

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

- \* 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;
- \* 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;
- \* 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);
- \* 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;
- \* the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- \* purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- \* providing opportunities for businesses within the City's boundaries to quote for providing goods and services wherever possible.

## **6 PURCHASING REQUIREMENTS**

The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the City.

Purchasing that is \$150,000 or below in total value must be in accordance with the relevant thresholds detailed at section 6.3.

Purchasing that exceeds \$150,000 in total value must be put to public tender in accordance with the statutory requirements under the Regulations (unless a regulatory tender exemption is deemed suitable).

### **6.1 Purchasing Value Definition**

Determining purchasing value is to be based on the following considerations:

- Exclusive of Goods and Services Tax (GST);
- The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the City of Busselton will continue to purchase a particular category of goods, services or works and what the total

purchased value is or could be reasonably expected to be . Best practice is if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply; and

- Any variation to the scope of the purchase is limited to a 10% tolerance of the original purchasing value.

## 6.2 Purchasing from Existing Contracts

Where the City has an existing contract in place that relates to a particular good or service, it must endeavour to purchase required goods or services under that existing contract, to the extent that the scope of the contract allows. When planning the purchase, the City must consult its contract register in the first instance before seeking to obtain quotes or tenders.

## 6.3 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	Amount of Purchase	Requirements
6.3.1	<b>Up to \$5000</b>	Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation from that supplier either from: <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
6.3.2	<b>\$5,001 - \$14,999</b>	Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
6.3.3	<b>\$15,000 - \$49,999</b>	Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
6.3.4	<b>\$50,000 - \$149,999</b>	Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is

		<p>to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>The selection should not be based on price alone. Consideration should be given to qualitative factors such as quality, availability, accreditation requirements, time for completion or delivery, warranty conditions, technology, maintenance requirements, an organisation's capability, previous relevant experience and any other relevant factors. The quotations are to be evaluated by a panel with a minimum of two members with a mix of skills and experience relevant to the nature of the purchase.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
6.3.5	<b>Over \$150,000</b>	Conduct a public tender process in accordance with the statutory requirements under the Act and the Regulations.

#### 6.4 \$ 150,000 and above

For the procurement of goods or services where the value exceeds \$150,000, it is a requirement to follow a public tender process in accordance with the statutory requirements under the Regulations (see also part 7 of this Policy).

#### 6.5 Inviting tenders under the Tender Threshold

Where considered appropriate and beneficial, procurement of goods and services with a value of less than the tender threshold of \$150,000, may, in lieu of obtaining quotations, be done by way of a tender process in accordance with the statutory requirements under the Regulations. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements.

#### 6.6 Verbal Quotations

The general principles for obtaining verbal quotations are:

- \* ensure that the requirement/specification is clearly understood by the employee seeking the verbal quotations;
- \* ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote;
- \* read back or confirm in writing the details to the supplier's contact person to confirm their accuracy; and
- \* ensure the terms and conditions of the purchase are clear to both parties and that they are fair and reasonable and do not pose any unacceptable risk to the City.

## **6.7 Written Quotations**

The general principles relating to written quotations are:

- \* an appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion;
- \* they should include general terms and conditions of contract that are appropriate and adequate for the purchase and which do not pose any unacceptable risk to the City;
- \* requests to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond;
- \* any new information that is likely to change the requirements should be offered to all prospective suppliers at the same time.
- \* responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented; and
- \* respondents should be advised in writing as soon as possible after the final determination is made and approved.

## **6.8 Due Diligence**

The responsible City officer is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for a higher transaction value may be appropriate to a purchase, despite it being of a lower value. As best practice the number of quotations, the contract conditions and level of evaluation required should be determined by the type and nature of the purchase and the associated risk and not purely its value. The value dictates the minimum requirements for the purchase.

In addition, it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value robust evaluation are maintained.

## **6.9 Sole source of supply (monopoly suppliers)**

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. If the view is formed that there is no alternative source of supply, a written justification to this effect must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

## **6.10 Waiver of requirements**

The Chief Executive Officer may, at his/her discretion, waive the requirements to obtain the number or nature of quotations set out in section 6.3. The responsible City officer must request such a waiver in writing, providing sufficient justification therefore, by way of a 'Waiver to the Purchasing Policy' form or equivalent.

## **6.11 Anti-Avoidance**

The City shall not enter into two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby

avoiding the need to follow the tender process under the Regulations.

### **6.12 Recordkeeping**

The responsible City officer must ensure that all aspects of any procurement or purchase are properly documented and registered in the City's record keeping systems in accordance with all statutory requirements and relevant City practices and procedures.

## **7 REGULATORY COMPLIANCE - TENDERS**

This part includes detail on the requirements of the Act and the Regulations for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the relevant statutory requirements when conducting a tender process and not rely on this policy alone.

### **7.1 Tender exemption**

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

- \* the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;
- \* the purchase is from a Regional Local Government or another Local Government;
- \* 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 value for money;
- \* the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- \* the purchase is from a pre-qualified supplier under a Panel established by the City; or
- \* any of the other exclusions under Regulation 11 of the Regulations apply.

### **7.2 Tender Criteria**

The City shall, before tenders are publicly invited, determine in writing the criteria by which tenders will be evaluated.

### **7.3 Advertising Tenders**

Requests for tenders must be advertised in a state wide publication and, in addition, may also be advertised locally. The tender must remain open for a minimum of at least 14 days after the date the tender is advertised.

The notice must include;

- \* a brief description of the goods or services required;
- \* information as to where and how tenders may be submitted;
- \* the date and time after which tenders cannot be submitted;
- \* particulars identifying a person from who more detailed information as to tendering may be obtained. Detailed information shall include;
  - such information as the local government decides should be disclosed to those interested in submitting a tender;
  - detailed specifications of the goods or services required;
  - the criteria for deciding which tender should be accepted;
  - whether or not the local government has decided to submit a tender; and
  - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may be submitted.

#### **7.4 Issuing Tender Documentation**

Approved tenders will be allocated a tender number, which shall be recorded in the City of Busselton's Tender Register.

A written record will be kept of the details of all persons who request and are supplied with tender documentation.

#### **7.5 Addendum to Tender**

Clarifications, variations or adjustments to the tender documentation and/or the conditions of tender may be made by way of addendum after the tender has been publicly advertised but prior to the tender closing date. An addendum is to be given to all prospective tenderers who requested and have been supplied with tender documentation by the City and the responsible City officer must use his/her best endeavours to ensure that all addendums are acknowledged by the receiving persons.

#### **7.6 Opening of Tenders**

A lockable tender box is to be kept by the City and all tenders received by the City are to be placed in the tender box. No tenders are to be removed from the tender box, or opened, read or evaluated prior to the tender closing date.

Tenders are to be opened in the presence of at least two persons which can be either:

- (1) Two employees of the City; or
- (2) One employee of the City and another person authorised by the Chief Executive Officer for that purpose.

The details of all tenders received and opened shall be recorded in the Tender Register.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence to the Local Government. Members of the public are entitled to be present.

#### **7.7 Tender Evaluation**

Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender represents best value for money.

The evaluation panel must contain a minimum of three members and shall be established prior to the advertising of a tender. Panel members shall have a mix of skills and experience relevant to the nature of the purchase.

#### **7.8 Notification of Outcome**

Each tenderer is to be given notice in writing containing particulars of the successful tender or advising that no tender was accepted.

#### **7.9 Tender Register**

The City must maintain a tender register which is to include:

- (a) a brief description of the goods and services required;
- (b) particulars of —
  - (i) any notice by which expressions of interests from prospective tenderers was sought; and
  - (ii) any person who submitted an expression of interest; and
  - (iii) any list of acceptable tenderers that was prepared under Regulation 23(4); and
- (c) a copy of the notice of the invitation to tender; and
- (d) the name of each tenderer whose tender has been opened; and
- (e) the name of any successful tenderer.

#### **7.10 Minor Variation prior to awarding a contract**

Prior to awarding a contract from a tender, the City may negotiate and agree on minor variations with the preferred tenderer. Any amendments must be incorporated into the contract with the chosen tenderer for the supply of the varied requirement. Any major variation will require a new and separate tender. A minor variation may not materially alter the specification or structure provided for by the initial tender.

### **8 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION PREFERRED SUPPLIERS PROGRAM**

The Western Australian Local Government Association (WALGA) has a number of pre-qualified suppliers called WALGA preferred suppliers. Using WALGA preferred suppliers may be considered appropriate for particular procurement. This method of sourcing goods and services can simplify the process otherwise required for a request for quotation or request for tender, however, in all other respects purchasing via WALGA's preferred supplier panels must comply with this policy.

The City can make purchases from suppliers on a WALGA preferred supplier panel:

- \* for purchases up to \$150,000; and
- \* for purchases over \$150,000 in reliance on the exemption to the requirement for a public tender,

provided that:

- \* the purchasing thresholds in section 6.3 are observed in relation to numbers of and types of quotation sought;
- \* this purchasing policy is otherwise followed, in particular the principles of ethics, integrity and best value for money in section 4 and 5.

Note: WALGA terms and conditions are available for use in connection with requests for quotation via eQuotes, however consideration must be given to whether such terms and conditions are appropriate for the proposed purchase. If alternative terms and conditions are used then they must meet the requirements of this Policy.

### **9 PANELS OF PRE-QUALIFIED SUPPLIERS ("PANEL")**

#### **9.1 Background**

In accordance with Regulation 24AC of the Regulations, the City may establish a Panel of Pre-qualified Suppliers ("Panel") where there is an ongoing need for particular goods or services. Using these Panels simplifies the process that would otherwise be required as part of a request for quotation. A Panel may be created where most of the following factors apply:



- the City determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of low to medium risk;
- the Panel will streamline and will improve procurement processes;
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The City will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

## **9.2 Establishing a Panel**

Should the City determine that a Panel is beneficial to be created, it must do so in accordance with Regulation 24AC of the Regulations.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Subject to 9.3(b), panels may be established for a minimum of 2 years and for a maximum length of time deemed appropriate by the City.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the City will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the Panel category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the City must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

## **9.3 Distributing Work Amongst Panel Members**

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with section 9.3(a); or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with section 9.3 (b).

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

- a) 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 Panel will be awarded on the basis of value for money in every instance; or
- b) work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) of the Regulations when establishing the Panel. The City is to 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 contract is awarded to a Panel member for the work to be undertaken. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the City may then invite suppliers that are not pre-qualified under the Panel, in accordance with the purchasing thresholds stated in section 6.3 of this policy. When a ranking system is established, the Panel must 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.

#### **9.4 Recordkeeping**

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept in the City's records system in accordance with all statutory requirements and relevant practices and procedures.

### **10 PURCHASING FROM DISABILITY ENTERPRISES**

Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from an Australian Disability Enterprise, as registered on [www.ade.org.au](http://www.ade.org.au). This is contingent on the demonstration of value for money.

Australian Disability Enterprises may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

A complete list of approved Disability Enterprises registered in Western Australia is available at [www.wade.org.au](http://www.wade.org.au).

### **11 PURCHASING FROM ABORIGINAL BUSINESSES**

Pursuant to Part 4 of the Regulations the City 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 published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less. This is contingent on the demonstration of value for money.

Aboriginal businesses may be invited to quote for supplying goods and services under abovementioned threshold. A qualitative weighting may be afforded in the evaluation of quotes to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

A complete list of persons registered on the Aboriginal Business Directory is available at

[www.abdwa.com.au](http://www.abdwa.com.au).

## 12 SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

The City is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the City shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the City's sustainability objectives.

## 13 OPERATIONAL PRACTICES

Operational Practices, including standard documentation and more detailed information regarding procedures, may be prepared and endorsed by the Chief Executive Officer or their delegate for any action or process referred to in this City of Busselton Purchasing Policy. Any such Operational Practices shall comply with terms of the Act, the Regulations and this Policy.

### **Policy Background**

Policy Reference No. – 239

Owner Unit – Corporate Services

Originator – Contracts and Tendering Officer

Policy approved by – Council

Date Approved –

Review Frequency – As required

Related Documents –

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
	February 2016	Update policy in accordance with Amendments effective 01 October 2015 Version 4
C1405/123	14 May 2014	Update to Sustainable Procurement and purchases under the WALGA exemption Version 3
C1207/196	25 July, 2012	Update to policy format, City terminology and minor editing Version 2
C0703/069	28 March, 2007	Date of implementation of purchasing policy which replaces former Council policy 188/1 Tender Procedures. Version 1

<b>239</b>	<b>Purchasing</b>	<b>V3 Current</b>
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## **1. PURPOSE**

This policy provides a best practice approach to internal purchasing for the City of Busselton. It also ensures compliance with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.

## **2. SCOPE**

This policy provides the framework for all purchasing decisions made by employees of the City of Busselton and defines the procedures that must be followed for purchasing in accordance with the value of the transaction.

## **3. POLICY CONTENT**

### **3.1 Specific Objectives**

The objectives of the Purchasing Policy are:

- \* to ensure compliance with the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996*;
- \* to deliver a best practice approach and procedures to internal purchasing for the City of Busselton;
- \* to ensure consistency for all purchasing activity that integrates within all the City of Busselton operational areas;
- \* to facilitate the compliance of service providers with relevant legislation (including *Workers Compensation & Injury Management Act 1981*, *Occupational Safety & Health Act 1984*, Codes of Practice, Guidelines and Australian Standards).

### **3.2 The Requirement for a Purchasing Policy**

The City of Busselton is committed to efficient, effective, economical and sustainable procedures in all purchasing activities. This policy:

- \* provides the City of Busselton with an effective way of purchasing goods and services;
- \* ensures that purchasing transactions are carried out in a fair and equitable manner;
- \* strengthens integrity and confidence in the purchasing system;
- \* ensures that the City of Busselton receives value for money in its purchasing;
- \* ensures that the City of Busselton considers the environmental impact of the procurement process across the life cycle of goods and services;
- \* ensures the City of Busselton is compliant with all regulatory obligations;
- \* promotes effective governance and definition of roles and responsibilities;
- \* upholds respect from the public and industry for the City of Busselton's purchasing practices that withstands probity;
- \* ensures consideration is given when purchasing, hiring or leasing in order to prevent hazards entering the workplace.

6.1 Attachment A Existing Purchasing Policy

### **3.3 Ethics and Integrity**

All employees of the City of Busselton 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 City of Busselton.

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 City of Busselton policies, practices and procedures, 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, practices and procedures, and audit requirements;
- \* any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- \* any information provided to the City of Busselton by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

### **3.4 Value for Money**

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the City of Busselton. 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:

- \* 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;
- \* 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;
- \* 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);
- \* 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.

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

6.1 Attachment A Existing Purchasing Policy

**3.5 Responsible Purchasing: Sustainable Procurement, Corporate Social Responsibility and Purchasing from WA Disability Enterprises**

Sustainable Procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services.

Corporate Social Responsibility in procurement is defined as purchasing which provides preference to organisations that can demonstrate compliance with ethical and regulatory standards and can demonstrate making a positive impact on the communities and markets in which they operate.

The City of Busselton is committed to sustainable procurement and high levels of corporate social responsibility. Where appropriate, the City of Busselton shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts and embrace corporate social responsibility. Sustainable and corporate social responsibility considerations must be balanced against value for money outcomes in accordance with the City of Busselton's sustainability objectives.

Practically, sustainability and corporate social responsibility in procurement means the City of Busselton shall endeavour at all times to identify and procure products and services that:

- \* have been determined as necessary;
- \* demonstrate environmental best practice in energy efficiency / and or consumption which can be demonstrated through suitable rating systems and eco-labelling;
- \* demonstrate environmental best practice in water efficiency;
- \* are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage;
- \* can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste;
- \* to the extent permitted under the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*, demonstrate a regard for the local economy and a supply chain that supports local business development;
- \* are ethically sourced from sustainable and fair trade supply chains;
- \* for motor vehicles – select vehicles featuring the highest fuel efficiency available, based on vehicle type and within the designated price range;
- \* for new buildings and refurbishments – where available use renewable energy and technologies.

In addition, the City of Busselton is committed to inviting relevant WA Disability Enterprises to respond to a request for quotation or tender for goods or services. This is contingent on the provision of fair value and quality and the normal purchasing processes will be followed in relation to evaluation of submissions from relevant WA Disability Enterprises. A complete list of approved Disability Enterprises registered in Western Australia is available at [www.wade.org.au](http://www.wade.org.au).

### 3.6 Purchasing Thresholds

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	Amount of Purchase	Model Policy
3.6.1	Up to \$1,000	Direct purchase from suppliers requiring only one verbal quotation
3.6.2	\$1,001 - \$4,999	Obtain at least two verbal or written quotations
3.6.3	\$5,000 - \$19,999	Obtain at least two written quotations
3.6.4	\$20,000 - \$39,999	Obtain at least three written quotations
3.6.5	\$40,000 - \$99,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations)
3.6.6	\$100,000 and above	Conduct a public tender process

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$100,000 threshold (excluding GST). If a decision is made to seek public tenders for Contracts of less than \$100,000, a Request for Tender process that entails all the procedures for tendering outlined in this policy must be followed in full.

These purchasing thresholds also apply to all purchasing via a WALGA preferred supplier panel. See Section 3.8A for more information.

#### 3.6.1 Up to \$1,000

Where the value of procurement of goods or services does not exceed \$1,000, purchase on the basis of *at least one verbal quotation* is permitted. This purchasing method is suitable where the purchase is relatively small and low risk.

#### 3.6.2 \$1,001 to \$4,999

This category is for the procurement of goods or services where the value of such procurement ranges between \$1,001 and \$4,999. Where the value of procurement of goods or services does not exceed \$4,999, purchase on the basis of *at least two verbal or written quotations* is permitted.

#### 3.6.3 \$5,000 to \$19,999

This category is for the procurement of goods or services where the value of such procurement ranges between \$5,000 and \$19,999. Where the value of procurement of goods or services is within this range *at least two written quotations* are required.

#### 3.6.4 \$20,000 to \$39,999

For the procurement of goods or services where the value exceeds \$20,000 but is less than \$39,999, it is a requirement that *at least three written quotations* are obtained.

6.1 Attachment A Existing Purchasing Policy

3.6.5 \$40,000 to \$99,999

For the procurement of goods or services where the value exceeds \$40,000 but is less than \$99,999, it is a requirement to obtain *at least three written quotations* containing price and a sufficient amount of information relating to the specification of goods and services being purchased.

For this procurement range, the selection should not be based on price alone, and it is strongly recommended to consider some of the qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience and any other relevant factors as part of the assessment of the quote. The quotations are to be evaluated by a panel with a minimum of two members with a mix of skills and experience relevant to the nature of the purchase.

3.6.6 \$100,000+

For the procurement of goods or services where the value exceeds \$100,000, it is a requirement to follow a public tender process, the requirements for which are replicated at Section 3.8 of this policy, unless an exception in Section 3.8.1 applies and this policy is otherwise followed in relation to the procurement of the goods and services.

### **3.7 Procurement Principles**

#### 3.7.1 General principles for obtaining quotations

##### Verbal Quotations

The general principles for obtaining verbal quotations are:

- \* ensure that the requirement / specification is clearly understood by the employee seeking the verbal quotations;
- \* ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote;
- \* read back the details to the Supplier contact person to confirm their accuracy;
- \* written notes detailing each verbal quotation must be recorded.

##### Written Quotations

The general principles relating to written quotations are;

- \* an appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion;
- \* the request for written quotation should include as a minimum:
  - Written Specification
  - Selection Criteria to be applied
  - Price Schedule
  - Conditions of responding
  - Validity period of offer
- \* invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond;
- \* offer to all prospective suppliers at the same time any new information that is likely to change the requirements.



6.1 Attachment A Existing Purchasing Policy

- \* responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented;
- \* respondents should be advised in writing as soon as possible after the final determination is made and approved.

3.7.2 Waiver of requirements

The Chief Executive Officer may, at his discretion, waive the requirements to obtain the number or nature of quotations set out in 3.6.2, 3.6.3, 3.6.4 or 3.6.5 providing that written, justifiable reasons for such waiver (example being a limited number of suppliers) are provided by the officer responsible, and file noted accordingly.

3.7.3 Record-keeping and audit

Records that enable the purchasing decision process to be audited must be maintained in accordance with relevant practices and procedures of the City of Busselton.

3.7.4 Due diligence

The responsible employee is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for a higher transaction value may be appropriate to a purchase despite it being of a lower value. Commonly a sufficient number of quotes would be sought according to the type and nature of purchase, not purely its value. The value dictates the minimum requirements for the purchase. In addition, it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value is maintained.

### 3.8 Regulatory Compliance

For the sake of completeness, this policy section includes detail on the requirements of the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996* for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the Act and Regulations when conducting a tender process and not rely on this policy alone.

3.8.1 Tender exemption

In the following instances public tenders are not required (regardless of the value of expenditure):

- \* an emergency situation as defined by the *Local Government Act 1995*;
- \* the purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government – see section 3.8A for more information;
- \* 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;
- \* any of the other exclusions under Regulation 11 of the Functions and General Regulations apply.

6.1 Attachment A Existing Purchasing Policy

3.8.2 Sole source of supply (monopoly suppliers)

The procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be kept on file for later audit.

3.8.3 Anti-Avoidance

The City of Busselton shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$100,000, thereby avoiding the need to publicly tender.

3.8.4 Tender Criteria

The City of Busselton shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted. Approved tenders will be allocated a Tender Number, which shall be recorded in the City of Busselton's Tender Register.

The evaluation panel must contain a minimum of three members and shall be established prior to the advertising of a tender. Its members shall have a mix of skills and experience relevant to the nature of the purchase.

3.8.5 Advertising Tenders

Tenders are to be advertised in a state wide publication. The tender must remain open for at least 14 days after the date the tender is advertised. Care must be taken to ensure that 14 full days are provided as a minimum.

The notice must include;

- \* a brief description of the goods or services required;
- \* information as to where and how tenders may be submitted;
- \* the date and time after which tenders cannot be submitted;
- \* particulars identifying a person from who more detailed information as to tendering may be obtained. Detailed information shall include;
  - such information as the local government decides should be disclosed to those interested in submitting a tender;
  - detailed specifications of the goods or services required;
  - the criteria for deciding which tender should be accepted;
  - whether or not the local government has decided to submit a tender; and
  - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.

3.8.6 Issuing Tender Documentation

A written record will be kept of the details of all persons to whom tender documentation is supplied. Any clarification, addendum or further communication required prior to the close of tenders, is to be given to all potential tenderers who have been supplied tender documentation by the City of Busselton.

6.1 Attachment A Existing Purchasing Policy

3.8.7 Tender Deadline

A tender that is not received in full in the required format by the advertised Tender Deadline shall be rejected.

3.8.8 Opening of Tenders

A lockable Tender Box is to be kept by the City of Busselton and all tenders received by the City of Busselton, prior to the advertised closing of tenders, are to be placed in the Tender Box. No tenders are to be removed from the Tender Box, or opened (read or evaluated) prior to the Tender Deadline.

Tenders are to be opened in the presence of the Chief Executive Officer's delegated nominee and at least one other City of Busselton Officer. The details of all tenders received and opened shall be recorded in the Tender Register.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence to the Local Government. Members of the public are entitled to be present.

3.8.9 No Tenders Received

Where the City of Busselton has invited tenders, however no compliant submissions have been received, direct purchases can be arranged on the basis of the following:

- \* a sufficient number of quotations are obtained;
- \* the process follows the guidelines for seeking quotations between \$40,000 & \$99,999;
- \* the specification for goods and/or services remains unchanged;
- \* purchasing is arranged within 6 months of the closing date of the lapsed tender.

3.8.10 Tender Evaluation

Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender is most advantageous.

3.8.11 Addendum to Tender

If, after the tender has been publicly advertised, any changes, variations or adjustments to the tender document and/or the conditions of tender are required, the City of Busselton may vary the initial information by taking reasonable steps to give each person who has sought copies of the tender documents notice of the variation.

3.8.12 Minor Variation

If after the tender has been publicly advertised and a successful tenderer has been chosen, but before the City of Busselton and tenderer have entered into a contract, a minor variation may be made by the Local Government. A minor variation will not alter the nature of the goods and/or services procured, nor will it materially alter the specification or structure provided for by the initial tender.

6.1 Attachment A Existing Purchasing Policy

3.8.13 Notification of Outcome

Each tenderer shall be notified of the outcome of the tender following Council resolution. Notification shall include:

- \* The name of the successful tenderer;
- \* The total value of consideration of the winning offer.

The details and total value of consideration for the winning offer must also be entered into the Tenders Register at the conclusion of the tender process.

3.8.14 Records Management

All records associated with the tender process or a direct purchase process must be recorded and retained in accordance with the applicable operational practice.

3.8A Using a WALGA preferred supplier panel

WALGA has a number of panels of pre-qualified suppliers. Using these panels alleviates some of the due diligence and documentation that the City of Busselton would otherwise prepare for a request for quotation or request for tender, however, in all other respects purchasing via WALGA's preferred supplier panels must comply with this purchasing policy.

The City of Busselton can make purchases from suppliers on a WALGA preferred supplier panel:

- \* for purchases over \$100,000 in reliance on the exemption to the requirement for a public tender; and
- \* for purchases up to \$99,999, provided that, in all cases:
  - \* the request for quotation is made via WALGA's eQuotes system;
  - \* the purchasing thresholds in Section 3.6 are observed in relation to numbers of and types of quotation sought;
  - \* this purchasing policy is otherwise followed, in particular the principles of ethics and integrity and best value for money in Sections 3.4 and 3.5.

WALGA terms and conditions are available for use in connection with requests for quotation via eQuotes, however consideration must be given to whether such terms and conditions are appropriate for the contract.

3.8B Tender Panels

If the City of Busselton has appointed a panel of suppliers under a tender process, where appropriate this purchasing policy, in particular the purchasing thresholds, principles of ethics and integrity and best value for money in Sections 3.4 to 3.6, should be followed when purchasing goods and services from member of the appointed tender panel.

### 3.9 Operational Practices

Operational Practices, including standard documentation and more detailed information recording procedures, may be prepared and endorsed by the CEO or his/her delegate for any action or process referred to in this City of Busselton Purchasing Policy. Any such Operational Practices shall comply with terms of the *Local Government Act 1995*, the *Local Government (Functions and General) Regulations 1996*, and this Policy.

**Policy Background**

Policy Reference No. – 239

Owner Unit – Corporate Services

Originator – Contracts and Tendering Officer

Policy approved by – Council

Date Approved – 14 May, 2014

Review Frequency – As required

Related Documents –

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

**History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1405/123	14 May, 2014	Update to Sustainable Procurement and purchases under the WALGA exemption Version 3
C1207/196	25 July, 2012	Update to policy format, City terminology and minor editing Version 2
C0703/069	28 March, 2007	Date of implementation of purchasing policy which replaces former Council policy 188/1 Tender Procedures. Version 1

# Model Purchasing Policy

**WALGA Note:** This document has been prepared by WALGA as a guide for local government authorities to consider when creating or amending a purchasing policy to comply with Regulation 11A and 24AC of the Local Government (Functions and General) Regulations 1996.

Items in yellow highlight are for the local government to review in determining its own purchasing policy requirements. The text in blue boxes are for notation purposes only and must be deleted if a policy is to be created from this template.

Local Governments may elect to create a separate policy for the creation and management of panels of pre-qualified suppliers instead of such provisions being represented in a Purchasing Policy.

## 1 POLICY

The **Shire/Town/City** of **[Insert Name of Local Government]** (the "**Shire/Town/City**") is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the "**Act**") and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the "**Regulations**") Procurement processes and practices to be complied with are defined within this Policy and the **Shire/Town/City**'s prescribed procurement procedures.

## 2 OBJECTIVES

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

- demonstrate that best value for money is attained for the **Shire/Town/City**;
- are compliant with relevant legislations, including the Act and Regulations;
- are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the **Shire/Town/City**;
- mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- 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/Town/City** and that ethical decision making is demonstrated.

## 3 ETHICS & INTEGRITY

### 3.1 Code of Conduct

All officers and employees of the **Shire/Town/City** undertaking purchasing activities must have regard for the Code of Conduct requirements and shall observe the highest standards of ethics and integrity. All officers and employees of the **Shire/Town/City** must act in an honest and professional manner at all times which supports the standing of the **Shire/Town/City**.

### **3.2 Purchasing Principles**

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 **Shire/Town/City's** policies and Code of Conduct;
- purchasing is to be undertaken on a competitive basis where 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, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the **Shire/Town/City's** by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

## **4 VALUE FOR MONEY**

### **4.1 Policy**

Value for money is determined when the consideration of price, risk and qualitative factors that are assessed to determine the most advantageous outcome to be achieved for the **Shire/Town/City**.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

### **4.2 Application**

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

- all relevant Total Costs of Ownership (TCO) and benefits 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;
- 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, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.
- 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);

6.1 Attachment B WALGA Model Purchasing Policy

- 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;
- the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- providing opportunities for businesses within the **Shire/Town/City**'s boundaries to be given the opportunity to quote for providing goods and services wherever possible.

## 5 PURCHASING REQUIREMENTS

### 5.1 Legislative / Regulatory Requirements

The requirements that must be complied with by the **Shire/Town/City**, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the **Shire/Town/City**.

### 5.2 Policy

Purchasing that is **\$150,000 or below in total value** (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under section 5.5 of this Purchasing Policy.

Purchasing that **exceeds \$150,000 in total value** (excluding GST) must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under 0 of this Policy is not deemed to be suitable.

### 5.3 Purchasing Value Definition

Determining purchasing value is to be based on the following considerations:

1. Exclusive of Goods and Services Tax (GST);
2. The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the **Shire/Town/City** 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. A best practice suggestion is that if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply.
3. Must incorporate any variation to the scope of the purchase and be limited to a 10% tolerance of the original purchasing value.

### 5.4 Purchasing from Existing Contracts

Where the **Shire/Town/City** has an existing contract in place, it must ensure that goods and services required are purchased under these contracts to the extent that the scope of the contract allows. When planning the purchase, the **Shire/Town/City** must consult its Contracts Register in the first instance before seeking to obtain quotes and tenders on its own accord.



## 5.5 Purchasing Thresholds

The table below prescribes the purchasing process that the **Shire/Town/City** must follow, based on the purchase value:

**WALGA Note:** *The local government may determine its own purchasing thresholds and establish its own purchasing requirements in the table below. The values are provided as a guide only, however are generally representative of the local governments requirements.*

Purchase Value Threshold	Purchasing Requirement
Up to \$5,000	<p>Purchase directly from a supplier using a Purchasing or Corporate Credit Card issued by the <b>Shire/Town/City</b>, or obtain at least one (1) oral or written quotation from a suitable supplier, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the <b>Shire/Town/City</b>; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or</li> <li>• from the open market.</li> </ul>
Over \$5,000 and up to \$50,000	<p>Obtain at least three (3) written quotations from suppliers following a brief outlining the specified requirement, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the <b>Shire/Town/City</b>; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
Over \$50,000 and up to \$150,000	<p>Obtain at least three (3) written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the <b>Shire/Town/City</b>; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>Requests for quotation from a pre-qualified panel of suppliers (whether administered by the <b>Shire/Town/City</b> through the WALGA preferred supply program or State Government CUA)</p>

	are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.
Over \$150,000	Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 0 of this Policy, conduct a public Request for Tender process in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i> , this policy and the <b>Shire/Town/City</b> 's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.

## 5.6 Tendering Exemptions

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

- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement.
- the purchase is from a Regional Local Government or another Local Government;
- 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 value for money;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a Panel established by the **Shire/Town/City**; or
- any of the other exclusions under Regulation 11 of the Regulations apply.

**WALGA Note:** *When making a decision about whether to conduct a public Tender or utilise a Tender exempt arrangement, the Local Government should compare the cost and benefits of both processes.*

*The compliance requirements, time constraints, costs and risks associated with a public Tender should be evaluated against the value delivered by such a process. This should then be compared with the costs and benefits of using a Tender exempt arrangement which include direct access to pre-qualified suppliers, full regulatory compliance, risk mitigation, administrative efficiencies and cost savings.*

## 5.7 Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the **Shire/Town/City** may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA.

If a decision is made to undertake a public Tender for contracts expected to be \$150,000 or less in value, the **Shire/Town/City**'s tendering procedures must be followed in full.

### **5.8 Sole Source of Supply**

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the **Shire/Town/City** is satisfied and can evidence that there is only one source of supply for those goods, services or works. The **Shire/Town/City** must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the justification must be endorsed by the **Chief Executive Officer / Director / Executive Manager**, prior to a contract being entered into.

From time to time, the **Shire/Town/City** may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

### **5.9 Anti-Avoidance**

The **Shire/Town/City** shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of "splitting" the value of the purchase or contract to take the value of the consideration of the purchase below a particular purchasing threshold, particularly in relation to Tenders and to avoid the need to call a public Tender.

### **5.10 Emergency Purchases**

An emergency purchase is defined as an unanticipated and unbudgeted purchase which is required in response to an emergency situation as provided for in the *Local Government Act 1995*. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

An emergency purchase does not relate to purchases not planned for due to time constraints. Every effort must be made to anticipate purchases required by the **Shire/Town/City** in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

## **6 RECORDS MANAGEMENT**

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*, the **Shire/Town/City**'s Records Management Policy and associated procurement procedures.

For each procurement activity, such documents may include:

- The Procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;

6.1 Attachment B WALGA Model Purchasing Policy

- Request for Quotation/Tender documentation;
- Copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- Copies of quotes/tenders received;
- Evaluation documentation, including individual evaluators note and clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to respondents notifying of the outcome to award a contract;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of contract(s) with supplier(s) formed from the procurement process.

## 7 SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

The **Shire/Town/City** is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the **Shire/Town/City** shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the **Shire/Town/City**'s sustainability objectives.

## 8 BUY LOCAL POLICY

As much as practicable, the **Shire/Town/City** must:

- 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 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/Town/City**, or substantially demonstrate a benefit or contribution to the local economy.

**WALGA Note:** *Insert the following clause if the local government is located outside the Perth metropolitan area and has adopted its own Regional Price Preference Policy, in accordance with Part 4A of the Local Government (Functions and General) Regulations 1996. Otherwise, delete the clause.*

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

## 9 PURCHASING FROM DISABILITY ENTERPRISES

**WALGA Note:** *Regulation 11(i) provides a tender exemption if the goods or services are supplied by an Australian Disability Enterprise.*

*WALGA recommends testing of quotations received against other suppliers (which may include other Australian Disability Enterprises) to determine overall value for money for the local government.*

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the **Shire/Town/City** 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.ade.org.au](http://www.ade.org.au). This is contingent on the demonstration of value for money.

Where possible, Australian Disability Enterprises are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

## 10 PURCHASING FROM ABORIGINAL BUSINESSES

**WALGA Note:** *Regulation 11(h) provides a tender exemption if the goods or services are supplied by a person registered on the Aboriginal Business Directory WA, where the consideration under contract is, or expected to be under \$250,000.*

*WALGA recommends testing of quotations received against other suppliers (which may include other Aboriginal businesses) to determine overall value for money for the local government.*

*A further qualitative weighting (as determined by the local government) may be afforded where non-Aboriginal businesses demonstrate a well-established Aboriginal engagement strategy.*

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the **Shire/Town/City** 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 published by the Small Business Development Corporation on [www.abdwa.com.au](http://www.abdwa.com.au), where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Where possible, Aboriginal businesses are to be invited to quote for supplying goods and services under the tender threshold. 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.

## 11 PANELS OF PRE-QUALIFIED SUPPLIERS

**WALGA Note:** *If the local government has intent to establish and manage panels of pre-qualified suppliers, it must do so in accordance with Division 3 Part 4 of the Local Government (Functions and General) Regulations 1996, through the creation of a written policy permitting the local government to do so.*

*The local government may create a separate policy with respect to panels of pre-qualified suppliers, or define the policy within its existing Purchasing Policy.*

### 11.1 Policy Objectives

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers (“Panel”) may be created where most of the following factors apply:

- the **Shire/Town/City** determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of ‘value for money’;
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- the **Shire/Town/City** has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The **Shire/Town/City** will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

### 11.2 Establishing a Panel

Should the **Shire/Town/City** determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a minimum of two (2) years and for a maximum length of time deemed appropriate by the **Shire/Town/City**.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the **Shire/Town/City** will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the **Shire/Town/City** must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

### 11.3 Distributing Work Amongst Panel Members

**WALGA Note:** *The local government is to establish the requirements before establishing panels of pre-qualified suppliers, including factors to take into account when distributing work among pre-qualified suppliers (Regulation 24AC(d))*

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 must either prescribe whether the Shire/Town/City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 11.4; or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with Clause 11.3(b).

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

- a) 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
- b) 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/Town/City is to 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

6.1 Attachment B WALGA Model Purchasing Policy

the Panel, the **Shire/Town/City** may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 5.5 of this Policy. When a ranking system is established, the Panel must 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.

#### 11.4 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 member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

**WALGA Note:** *Insert the following clause if the Local Government has upgraded its eQuotes license, or adopted any other electronic quotation facility, to enable the ability to create and manage its own local panels and facilitate communications with pre-qualified suppliers.*

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 made through eQuotes, or any other electronic quotation facility.

**WALGA Note:** *Insert the following clause if the Local Government has not elected to upgrade its eQuotes licence, or has not adopted an 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/Town/City**'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/Town/City** and Panel members.

#### 11.5 Recordkeeping

**WALGA Note:** *The recording and retaining of written information is required under Regulation 24AC of the Regulations, which prescribes that information is to include all quotations received and all purchases made from pre-qualified suppliers.*

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a Panel, this includes:

- The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;



6.1 Attachment B WALGA Model Purchasing Policy

- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- Request for Applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Contract Management Plans which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

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

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the **Shire/Town/City**.

## 12 ADOPTION

Adoption of this Purchasing Policy was endorsed by the **Shire/Town/City** by:

	Date	Signature
CEO		
Mayor/President		

Policy/Procedure Links:

	Policy Number	Reference
Records Management Policy		
<b>Regional Price Preference Policy</b>		
Procurement Procedures		

6.2 REVIEW OF APPLICATIONS FOR EXPLORATION OR MINING/EXTRACTION LICENSES FOR COAL WITHIN THE CITY OF BUSSELTON

<b>SUBJECT INDEX:</b>	Policy Development
<b>STRATEGIC OBJECTIVE:</b>	Governance systems that deliver responsible, ethical and accountable decision-making.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Manager, Governance Services - Lynley Rich
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Existing Policy Relating to Applications for Exploration or Mining/Extraction Licenses for Coal Within the City of Busselton

### PRÉCIS

The Council has had a policy in place since February 2012 setting out an approach to guide the City's response to applications for exploration and mining licenses for coal wholly or partially within the District of the City of Busselton. This review has been proposed through the Policy and Legislation Committee on the basis that a Councillor was seeking to move a notice of motion to review the policy, however, as the process of review is established through the Committee, the notice of motion process was deemed to not be required.

Recently, a presenter at a Council meeting requested the Council to consider extending the provisions of its policy to include conventional gas mining and the Mayor indicated in response that policies are reviewed through the Policy and Legislation Committee and that this could be considered through this Committee.

This report is presented to enable the Committee to make a recommendation to Council as to whether any changes to the policy are required. It is the recommendation of officers that if the Council deems there is sufficient concern to warrant consideration of a policy relating to conventional gas that the Council seek briefings and/or further information from relevant sources before determining whether it should extend the current coal related policy to conventional gas, adopt a separate but similar policy or to remain policy neutral. No changes are recommended to the policy at this time.

### BACKGROUND

A representative of Gas Free South West WA through public question time at a Council meeting on 27 January, 2016 requested Council's consideration of extending its existing policy relating to coal mining to include conventional gas mining.

The development of the Council's policy position relating to coal mining occurred in 2011 in consultation with the Shire of Augusta-Margaret River through the established CapeROC partnership in response to applications for coal exploration licenses that were occurring at the time and significant community concern relating to the potential for coal mining or coal seam gas extraction to occur in the District.

At its meeting on 22 February 2012, the Council adopted a position of opposing the mining of coal (at mining application stage), on the basis of concerns about its potential impacts on groundwater and surface water quality and quantity, conflict with existing land uses such as tourism, recreation, agriculture and viticulture, and the potential for coal mining to impact on the character, attraction and quality of life of the region.

The Council also supported continued lobbying of the Minister for Mines and Petroleum and other relevant Parliamentarians against the granting of exploration licences for coal resources in the district of the City of Busselton and neighbouring Shire of Augusta-Margaret River on the basis that the City of Busselton opposes coal mining for the reasons in its policy, and an exploration licence may eventuate in a coal mining license. The policy was adopted in its current form (attached).

### **STATUTORY ENVIRONMENT**

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

While the exact approvals required for conventional gas mining would vary depending upon the activity being undertaken, it is most likely that approval for a gas well would be required under the Petroleum and Geothermal Energy Resources Act 1967 and regulations associated with that Act. All approvals under that legislation are dealt with at a State Government level.

### **RELEVANT PLANS AND POLICIES**

Council policy 043 currently applies to a process to guide the City's response to applications for coal related mining activity wholly or partially within the District of the City of Busselton. The Council has been requested to consider extending the application of this policy to include conventional gas mining.

### **FINANCIAL IMPLICATIONS**

Not applicable with regard to the review of the policy, while noting that any decision to actively oppose conventional gas mining generally or applications specifically may have resourcing implications.

#### **Long-term Financial Plan Implications**

NA.

### **STRATEGIC COMMUNITY OBJECTIVES**

This matter relates to responsible, ethical and accountable decision-making.

### **RISK ASSESSMENT**

Not required.

### **CONSULTATION**

It is recommended that if the Council seeks to consider a policy position relating to conventional gas mining that it be undertaken in consultation with relevant stakeholders.

### **OFFICER COMMENT**

As identified in this report, the City currently has an established position relating to coal and coal seam gas including having requested consideration of amendments to legislation, planning frameworks and planning policies as well as a position to lodge objections relating to coal mining applications and require Council consideration of any coal seam gas application or notification. This was in response to a specific application at the time that caused significant community concern.

It must be noted that in relation to mining applications all approvals are dealt with at a State Government level. Depending upon the circumstances surrounding the application, there may not even be a requirement for the City to be consulted before an approval is issued.

The Council has been requested to consider whether the same concerns exist in relation to the mining of conventional gas, and if so, to consider what changes can be implemented to the existing policy provisions. It is recommended that if the Council seeks to consider policy changes that it first seek to consult with relevant stakeholders before proposing such changes to enable an informed decision to be made.

## **CONCLUSION**

If the Council seeks to make any policy changes it is recommended that the Council obtain additional information as to the risks pertaining to conventional gas mining specifically before proceeding. However, this report relates to matters that are ultimately within the control of the State Government. No changes to the policy are recommended.

## **OPTIONS**

The Council may be of the view that it currently has sufficient concerns to amend the current policy.

The Council may be of the view that it needs more information to determine whether there are sufficient concerns relating to conventional gas extraction before considering a policy position on this matter. If this is the case, it is recommended that other stakeholders be consulted before any policy changes are considered.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Immediately upon consideration by Council.

## **OFFICER RECOMMENDATION**

That the Council:

1. does not make any changes to its policy position articulated in Council policy 043 at this time for the reasons outlined in the report.

<b>043</b>	<b>Applications for Exploration or Mining/extraction licenses for coal within the City of Busselton</b>	<b>V3 Current</b>
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## 1. PURPOSE

This policy will guide the City's response to notification of applications for exploration or mining licences for coal under the *Mining Act, 1978*.

## 2. SCOPE

This policy covers all land within the district of the City of Busselton and relates to applications under the Mining Act whether wholly or partly over land within the district, for the purpose of coal and related materials extraction. The policy is not applicable to notification of applications that relate to mineral sands and related materials.

## 3. POLICY CONTENT

3.1 The City of Busselton is committed to ensuring that the extraction of natural resources within the district is consistent with the economic, environmental and social sustainability of the area. The mining of coal within the district is considered to be potentially inconsistent with this objective due to the following:

- \* The potential for coal mining to jeopardise the quality and quantity of groundwater and surface water available in the area as is required for environmental and other uses.
- \* The potential for coal mining to conflict with existing land uses in the region such as; tourism, recreation, agriculture and viticulture.
- \* The significant community concern about proposed coal mining in the region and the potential for a coal mine to impact on the character, attraction and quality of life in the region.

3.2 In achieving the above objective the City of Busselton will as a minimum:

- a) lodge a letter of objection to any application for an exploration licence where it can be reasonably ascertained that coal is one of or the principal target mineral, and for which the City has received notification, with the reasons for that objection based on the City's concerns with coal mining identified in 3.1 above.
- b) lodge a formal objection (form 16) with The Warden to any application for a mining lease for coal for which the City has received notification, with the reasons for that objection based on the City's concerns with coal mining identified in 3.1 above.

## 4. COAL SEAM GAS PROPOSALS

The Council has significant concerns regarding the potential implications, particularly on ground water resources, of any coal seam gas extraction activity in the district and therefore requires that any referral or advertising of an application or notification pertaining to this activity is to be reported to the Council for consideration of lodgement of a formal objection.

### Policy Background

Policy Reference No. - 043  
Owner Unit – Planning and Development Services  
Originator – Director, Planning and Development Services  
Policy approved by – Council  
Date Approved – 22 February, 2012

### History

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1202/030	22 February, 2012	Version 3 Differentiates responses to exploration applications and mining licence applications
		Version 2 Developed and considered by the Council but not adopted – direction given to review further
C1108/269	24 August, 2011	Version 1 Implementation

**7. GENERAL DISCUSSION ITEMS****7.1 POLICY REVIEW PROCESS**

<b>SUBJECT INDEX:</b>	Policy Development
<b>STRATEGIC OBJECTIVE:</b>	Governance systems that deliver responsible, ethical and accountable decision-making.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Manager, Governance Services - Lynley Rich
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Nil

Information will be presented at the meeting relating to the policy review process and current policies outstanding for discussion purposes.

**8. NEXT MEETING DATE**

Thursday, 17 March 2016

**9. CLOSURE**