

<b>Responsible Directorate</b>	<b>Corporate Services</b>
<b>Responsible Business Unit/s</b>	<b>Finance Services</b>
<b>Responsible Officer</b>	<b>Manager Finance</b>
<b>Affected Business Unit/s</b>	<b>All</b>

## Objective

The objectives of this policy are to:

- ensure best practice policies and procedures are followed in relation to procurement for the City of Stirling (the City);
- ensure compliance with the *Local Government Act 1995* (the Act) and Part 4 of the *Local Government (Functions and General) Regulations 1996* (the Regulations);
- ensure compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- undertake procurement processes that ensure value for money for the City by delivering the most advantageous outcome possible;
- ensure openness, transparency, fairness and equity through the procurement process to all potential suppliers; and
- ensure efficient and consistent procurement processes are implemented and maintained across the City.

## Scope

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

## Policy

### 1. Ethics & Integrity

#### 1.1. Code of Conduct

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

#### 1.2. Procurement Principles

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

- full accountability shall be taken for all procurement decisions and the efficient, effective and proper expenditure of public monies to achieve value for money;

- all procurement practices shall comply with relevant legislation, regulations, and requirements consistent with the City's applicable policies and Code of Conduct;
- procurement is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and in a similar manner;
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;
- any information provided to the City by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation; and
- any canvassing of the City's Councillors or staff shall disqualify businesses seeking to do business with the City in relation to the applicable procurement.

## **2. Anti-Avoidance**

The 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 purchase in consideration below a particular purchasing threshold. Refer to Regulations 12(1) and 12(2).

## **3. Value for Money**

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

Where all qualitative criteria have resulted in similar scores and there is a significant price advantage by selecting a lower ranked response, this could be considered for recommendation.

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

## **4. Sustainable Procurement and Corporate Responsibility**

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

The City is committed to sustainable procurement, and will ensure that sustainable and CSR considerations are balanced against value for money outcomes, in accordance with the City's sustainability objectives.

## **5. Buy Local Policy**

Under the State Government's Buy Local Policy, Government Agencies and Local Governments, including the City, are encouraged to maximise participation of local and small businesses in the supply of goods, services and works purchased or contracted by the City in accordance with the City's local economy objectives and Strategic Community Plan.

A key goal in this policy is open and fair competition to ensure that Western Australian businesses are provided with every opportunity to bid for work. It is recognised that not all categories of goods,

services or works purchased by the City will lend itself to supply by Local Businesses. However, where practicable, best endeavours should be made to include businesses defined as a Stirling Business or a Local Business (see definitions below) in the procurement process.

For formal tenders, where appropriate, a Local Content Weighting will be applied. The weighting will be a minimum of 5%. Stirling and Local Businesses will receive preference in the tender evaluation for this weighting.

## **6. Legislative / Regulatory Requirements**

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

## **7. Procurement through a Tender Process**

Where the value of the goods or services to be procured is over \$250,000 (excluding GST) the City is required to publicly invite open tenders

### **7.1. Tendering Exemptions**

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

- the purchase is from a pre-qualified supplier(s) under a Panel of Pre-qualified Suppliers (Panel) established by the City;
- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA) (Regulation 11(2)(b) and 11(2)(e));
- the purchase is to be obtained from expenditure authorised in an emergency (Regulation 11(2)(a));
- the purchase is of a unique nature, with a sole source of supply (Regulation 11(2)(f));
- the purchase is acquired from a provider registered on the WA Aboriginal Business Directory, as published by the Chamber of Commerce and Industry of Western Australia Limited or a provider registered with the Australian Minority Supplier Office Limited (trading as Supply Nation), where the consideration under contract is worth \$250,000 or less and represents value for money (Regulation 11(2)(h));
- the purchase is acquired from an Australian Disability Enterprise (Regulation 11(2)(i)); or
- any of the other exclusions under Regulation 11 of the Regulations apply.

### **7.2. Inviting Tenders Under the Tender Threshold**

Where considered appropriate and beneficial, or to manage procurement risk, the City may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold (more than \$250,000 excluding GST).

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

## 8. Specification

Specification should be documented and submitted to suppliers as part of any procurement process. Specification documents should identify all requirements including but not limited to technical requirements, relevant standards, compliance to Regulations or Acts.

Consideration should be given to delivery of the product/services:

- associated risk and in accordance with the City's Risk Management Framework document
- fit for purpose, fit for their intended purposes, objectives, functions, uses and requirements as specified in, or reasonably inferred from the Principal's Project Requirements; and in accordance with all applicable laws and standards (whether mandatory or not), this should include a checklist of must have requirements
- WHS requirements

## 9. Purchasing Thresholds

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

When seeking quotations/tenders request documentation should contain but not be limited to:

- specification/brief
- pricing either Lump Sum or Schedule of Rate
- warranty/defect liability
- relevant insurance requirements
- Conditions of Quote/Tender
- Conditions of Contract

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

All market approach will comply with the table below, including Open Public Tenders and Tendering Exemptions (refer 7.1) excluding CUA which will follow CUA buying rules (<https://www.wa.gov.au/government/cuas/common-use-arrangements-cuas>)

Where quotes are obtained under Tender Exemption (see 7.1) for providers registered as WA Aboriginal Business, Supply Nation or Australian Disability Enterprise, it is acceptable to obtain one quote. The quote however must represent Value for Money (refer item3).

<b>Purchase Value Threshold (exclusive of GST)</b>	<b>Procurement Requirement where no existing agreement/contract exists with the City</b>	<b>Evaluators</b>
* Up to \$2,000	Direct Procurement from suppliers requiring one verbal or written quotation. The preference is to procure from a Stirling Business if a suitable supplier can be sourced. The supplier must provide quality and value for money. A written note of this quotation must be recorded.	Sole internal evaluator

Purchase Value Threshold (exclusive of GST)	Procurement Requirement where no existing agreement/contract exists with the City	Evaluators
* Over \$2,000 and up to \$10,000	<p>A minimum of <b>one written quotation</b> from suppliers containing price, and details of the supply including basic specifications and warranty offerings.</p> <p>The preference is to procure from a Stirling Business if a suitable supplier can be sourced.</p> <p>The supplier must provide quality and value for money.</p>	Sole internal evaluator
* Over \$10,000 and up to \$50,000	<p>Seek a minimum of <b>two written quotations</b> from different suppliers containing price, and details of supply including basic specifications and warranty offerings.</p> <p>At least one written quote should be attained from a Local Business if a suitable supplier can be sourced.</p> <p>When assessing the quotes the Local Business would be preferred if it is in line with other preferred quotes, and</p> <p>The price is no more than 5% higher than the other preferred quotes</p>	Minimum of one internal evaluator
* Over \$50,000 and up to \$250,000	<p>Seek a minimum of <b>three written quotations</b> from different suppliers containing price, detailed specifications, timing, capacity and warranty offerings.</p> <p>At least one written quote should be attained from a Local Business if a suitable supplier can be sourced.</p> <p>Quotations are sought by the Business Unit unless the project has high risk or high public profile. In these cases assistance may be required from Strategic Procurement and Contracts.</p> <p>A desktop assessment of the quotes must be undertaken by two officers and documented on an evaluation scorecard. The scorecard will nominate the successful supplier and must be forward to the Coordinator/Manager/Director for review and approval by the person with delegated authority.</p> <p>When assessing the quotes the Local Business would be preferred if it is in line with other preferred quotes, and</p> <p>The price is no more than 5% higher than the other preferred quotes</p>	Minimum of two internal evaluators
Over \$250,000	<p>Strategic Procurement and Contracts must lead the procurement process.</p> <p>Procurement will work with the Business Unit to determine the most appropriate market approach to deliver the best outcome.</p> <p>The preference is to procure from a Local Business if a suitable supplier responds to the tender.</p>	<p>Minimum of three internal evaluators</p> <p>Over \$500,000 purchase value the Business Unit Manager must</p>

<b>Purchase Value Threshold (exclusive of GST)</b>	<b>Procurement Requirement where no existing agreement/contract exists with the City</b>	<b>Evaluators</b>
	<p>Local Content Weighting will be included, where appropriate, in the tender assessment process. Local Businesses will receive preference when evaluating this criteria.</p> <p>Market approaches could be:</p> <ul style="list-style-type: none"> <li>• Open tender; or</li> <li>• Seek 3 quotes from tender exempt suppliers as detailed in section 7.1 where possible.</li> </ul>	Chair the Evaluation Panel.

Note: All approvals must be obtained in accordance with the Delegated Authority Register.

All contracts with a value of \$750,000 (excluding GST) or more or variations where the total amended contract value is \$750,000 (excluding GST) or more require approval by Council.

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

## 9.1. Exemptions from the Quotation Process

The requirement to obtain quotations can be waived under the following circumstances

### 9.1.1. Waiver of Quotation

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

### 9.1.2. Sole Source of Supply

Where the procurement requirement is of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can demonstrate 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 any alternative sources of supply.

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

### 9.1.3. Emergency Purchases

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

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

purchases must be authorised by the Mayor in advance and reported to the next Ordinary Council Meeting.

#### **9.1.4. State of Emergency Declaration**

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

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

Limits on this apply; the original contract must have less than three months to expiry. The renewal or extension cannot be for more than twelve months. Refer regulation 11(2)(ja)

#### **9.1.5. Requirements of other Legislation**

The City delivers services under the National Disability Insurance Scheme Act 2013 and Aged Care Act 1997 where the client is entitled to a choice of service provider. Where the City engages the client's chosen service provider to deliver the service, the requirements of the City's Procurement Policy are waived.

### **10. Standing Offer Agreement**

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

Standing Offer is established by seeking quotations as per the Procurement Requirements tabled in section 9 "Purchasing Thresholds" of this policy, within the range of \$10,000 to \$250,000 (Exclusive of GST).

### **11. Panels of Pre-Qualified Suppliers**

#### **11.1. Establishment of a Panel of Pre-Qualified Suppliers**

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

In accordance with Regulation 24AC, 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 a low to medium risk;
- the Panel will streamline and will improve procurement processes; and

- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

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. The City must also state the evaluation criteria by which applications will be assessed and accepted.

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.

## **11.2. Purchasing from the Panel**

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:

- obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases;
- purchase goods and services exclusively from any pre-qualified supplier appointed to that panel, and under what circumstances; or
- develop a ranking system for selection to the Panel, with the work to be awarded on a ranked basis.

## **11.3. Distributing work amongst Panel members**

The distribution of work among Panel members will be::

Detailed in the contract. The distribution method could be based on type of scope, location, zone or contractor preference detailed in a Procurement User Guide (as required) and included in the tender documents and contract. A minimum threshold may be set by the Business Unit Manager allowing direct engagement with the contractor using the pricing fixed within the contract. Above the threshold all panellists will be requested to provide quotes.

If the distribution method is not documented all Panel members 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.

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 9 of this policy.

In every instance, when engaging with a pre-qualified supplier from a panel, an item of work must not extend beyond 12 months, which includes options to extend the work.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must be captured on the City's electronic records system.

#### **11.4. Removal or Addition of Suppliers from a Panel**

Should a panel member leave or be terminated from the Panel, they may be replaced by the next ranked tenderer (for a category if applicable) determined in the value for money evaluation, provided the evaluation was completed within the last six months. The inclusion of a replacement panellist would be at the discretion of the Business Unit.

#### **11.5. Recordkeeping**

In accordance with the City's Recordkeeping Management Practice, record of all communications with Suppliers/Contractors with respect to the procurement process, subsequent purchases made through the Panel and contract management, must be retained. The City is also to retain itemised records of all requests for quotation, including quotations received from suppliers.

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 City.

### **12. Contract Management**

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

Where a contract extension or variation is required, a bilateral agreement must be completed by the Strategic Procurement and Contracts Team and the details updated in the Contract Management System (CMS). The agreement must be signed by a person with appropriate delegation and authorisation.

### **13. Records Management**

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

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

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## **Definitions**

### **Stirling Business**

- Businesses registered in the City of Stirling
- Businesses that have premises in any of the City of Stirling's suburbs

### **Local Business**

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

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## Relevant management practices/documents

Delegated Authority Register  
Procurement Guidance  
Contract Management Guidance  
Recordkeeping Management Practice  
City of Stirling Code of Conduct  
Strategic Community Plan  
Risk Management Framework

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## Legislation/local law requirements

*Local Government Act 1995*  
*Part 4 of Local Government (Functions and General) Regulations 1996*  
*Freedom of Information Act 1992*  
*Occupational Safety and Health Act 1984*  
*Construction Contracts Act 1984*  
*State Records Act 2000*

Office use only				
<b>Relevant delegations</b>	Appointment of Consultants, Purchase Orders, Tenders			
<b>Initial Council adoption</b>	<b>Date</b>	1 March 2016	<b>Resolution #</b>	0316/021
<b>Last reviewed</b>	<b>Date</b>	31 August 2021	<b>Resolution #</b>	0821/062
<b>Next review due</b>	<b>Date</b>	2023		