

1 GOVERNANCE AND ADMINISTRATION

1.1 C-1PAT01 – Purchasing and Tender

Previous Policy Number – 1.15

PART A - Policy

Objective

The objective of this Policy is to:

- deliver value for money using a best practice approach to the procurement of all goods and services.
- ensure consistency for all purchasing activities.
- provide compliance with the *Local Government Act 1995* and the *Local Government (Function and General) Regulations 1996*.
- ensure that the Shire considers the environmental impact of the procurement process across the life cycle of the goods and services procured.

Policy Statement

The Shire of Dandaragan and Council are committed to operating efficient, effective, economical and sustainable practices and procedures for the procurement of all goods and services which align with the principles of transparency, probity and good governance.

In achieving these objectives, the Shire will ensure all staff:

- observe the highest standards of ethics and integrity in undertaking purchasing activities;
- adopt a value for money approach, which allows the best possible procurement outcome to be achieved;
- consistently provide an opportunity for local businesses to compete for the Shire's work, within the framework and principles of the Regional Price Preference Policy; and
- ensure compliance with all relevant state legislation, including the *State Records Act 2000*, the Shire's Record Keeping Plan and associated records management practices and procedures.

PART B - Management Procedures

PART 1

1. General Purchasing

1.1 Objective

The objective of these Procedures and the Policy is to provide guidelines for a consistent approach for all procurement activities including obtaining quotations and tenders for the purchase and provision of materials, goods and services and consultants for the Shire of Dandaragan.

The Policy and these Procedures will assist staff in ensuring the Shire of Dandaragan:

- Obtains value for money for the provision of materials, services and consultancy works by contractors and suppliers;
- Complies with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996* (as amended).
- Provides a best practice approach and procedures to internal purchasing.
- Consistently provides an opportunity for local businesses to compete for the Shire's work.
- Ensure compliance with the *State Records Act 2000*, the Shire's Record Keeping Plan and associated records management practices and procedures.
- Considers environmental factors in purchasing of goods and services.

1.2 Scope

These procedures and the Policy apply to all purchases by staff on behalf of the Shire, including the calling of Tenders (whether or not required by the Act).

1.3 Definitions

For the purposes of the Policy and these procedures:

Value for Money	Means an overarching principle governing Shire of Dandaragan purchasing that allows the best possible outcome to be achieved. It is important to note that compliance with specification, is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing and service benchmarks
Sustainable Procurement	Means the procurement of goods and services that have less environmental and social impacts than competing products and services.
Value of Purchase	Means the value of a purchase net of any claimable GST and any discount other than payment discount incentives. Eg. Staff housing purchases where GST cannot be claimed the value of the purchase would include GST as against a purchase where the GST can be claimed ie through monthly Business Activity Statement (BAS).
Emergency Purchase	Means an unanticipated purchase which is required in response to an emergency situation that threatens life, property or equipment
The Act	Means the <i>Local government Act 1995</i>

Regulations	Means the <i>Local Government (Functions and General) Regulations 1996</i>
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1.4 Legislation

Section 3.57 of the *Act* requires that “a local government is required to invite tenders before it enters into a contract of a prescribed Kind under which another person is to supply goods or services”.

Part 4 of the *Local Government (Functions and General) Regulations 1996* sets out the process that must be complied with in regard to tenders for the provision of goods and services where the consideration is, or is expected to be worth more than \$250,000.

The Regulations do not provide for the requirement for the purchase of goods or services that are worth less than \$250,000, however this policy prescribes the requirements for the implementation of fair and appropriate processes under the tender threshold.

Part 4A of the *Local Government (Functions and General) Regulations 1996* allows for the provision of Local Regional Price Preference, please refer to Policy C-RPP03

1.5 Ethics & Integrity Applicable to Shire Purchases

All officers and employees of the Shire of Dandaragan shall observe the highest standards of ethics and integrity in undertaking purchasing activities for the Shire and shall act in an honest and professional manner.

The following principles must be observed and enforced through all stages of the purchasing process to ensure 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, Shire of Dandaragan policies and Code of Conduct.
- Purchasing shall 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 policy and audit requirements.
- Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- Any information provided to the Shire of Dandaragan by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

1.6 Sustainable Procurement

The Shire of Dandaragan is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and / or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Shire of Dandaragan’s sustainability objectives.

Practically, sustainable procurement means the Shire of Dandaragan 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;
- products that 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;
- for motor vehicles - select vehicles featuring the highest fuel efficiency available, based on vehicle type and within the designated price range; and
- for new buildings and refurbishments - where available use renewable energy and technologies.

1.7 Managing Risk

The Shire recognises that the effective management of risk in procuring goods, services and works from external contractors and suppliers is integral to achieving the best procurement outcome and to meet the Shire's Corporate Plan objectives. Risk management shall be applied in accordance with the Shire's Risk Management Policy and Framework.

Assessing business risk is subjective. To assist the assessment process, an affirmative response to any of the following, after consideration of risk mitigation strategies to be utilised, means there is a high risk to the purchase:

- Is there any risk to public safety?
- Could any staff be exposed to health or safety risks?
- Could the financial value of the purchase exceed budget?
- Could the Shire receive any negative publicity by purchasing or using this item?

1.8 Purchase Order Authority and Limits

Purchase order authority and limits are to be in accordance with Delegated Authority – 103 – Purchase Order Authorisation and Authority for payment.

1.9 Regional Price Preference (buy local)

Where possible, the Shire will endeavour to maximise supply opportunities for small and medium businesses for its purchasing requirements provided it is in accordance with the shires needs and meets the set criteria and all other provisions of the Regional Price Preference Policy – C-RPP01

Expenditure Thresholds – Quotation Requirements for Purchasing

\$0 - \$4,999	no quotes required but responsible staff member to ensure that goods or services represent reasonable value for money.
\$5,000 - \$19,999	two email or verbal quotes to be sought, with copies of email or file note to be attached to the requisition or reference made to the relevant record number.

OR

Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts. It is recommended that wherever possible, the Local Government source multiple competitive quotations (at least two Preferred Suppliers) using a simple quotation process either through eQuotes or directly in writing.

\$20,000 - \$99,999 written specification required and two written quotes sought (unless the nature of the goods is generic).

OR

Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts or the State Common Use Agreement. It is recommended that wherever possible, the Local Government source multiple competitive quotations (at least two Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing

\$100,000 - \$249,999 written specification required and three written quotes sought). RFQ file to be developed and stored electronically.

OR

Obtain quotations directly from a pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts or the State Common Use Agreement. It is recommended that wherever possible, the Local Government source multiple competitive quotations (at least three Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing.

\$250,000+ Public tender process to be undertaken unless excluded under Exemptions listed below. Prior to any documentation being issued a Request for Tender (RFT) number must be obtained from the Executive Manager of Corporate and Community Services, as applicable provided to maintain the Shire's Tender Register.

OR

Obtain quotations directly from a Tender exempt and pre-qualified panel of suppliers which include WALGA Preferred Supply Contracts or the State Common Use Agreement. It is recommended that wherever possible, the Local Government source multiple competitive quotations (at least three Preferred Suppliers) using a formal Request for Quotation process either through eQuotes or directly in writing.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases with a value of purchase under the \$250,000 threshold. If a decision is made to seek public tenders for Contracts of less than \$250,000, a Request for Tender process must be followed.

1.10 Guidelines for Seeking Quotations

1. for Goods and Services over \$19,999 (excluding multiple purchases) it is required that a specification be developed. The specification will vary in complexity depending on **the nature and extent of the purchase. Consult with the relevant Executive Manager or Chief Executive Officer for the level of detail required in a specification if required.**
2. Quotations should be assessed on a value for money basis, including cost, quality and availability. Assessment of purchase and relevant approvals should be documented and kept on file. Please refer to the delegations register for requisition and purchasing authority amounts and refer to the WALGA Procurement Handbook for assessment techniques.
3. In determining the best value purchase, reference must be made to the Shire of Dandaragan Local Regional Price Preference Policy.
4. A purchase order is to be raised and forwarded to the supplier, prior to goods and services being delivered by the supplier.

At all times the responsible officer is required to demonstrate due diligence in seeking quotes and must comply with all record keeping and audit requirements.

1.11 Insufficient Suppliers

Where this procedure requires a certain number of quotations to be obtained, but it is not possible to obtain that number of quotations, then best endeavours must be used to obtain as many quotes as possible. Once determined, written confirmation must be kept on file for audit purposes.

1.12 Emergency Purchases

In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

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

Emergency purchases outside of the Shire's annual budgeted amount must be approved by the Shire President in line with the requirements of the Act and reported to Council at the next Ordinary Council Meeting.

Emergency purchases to be made from existing annual budget allocations must be approved in advance by a Shire officer with appropriate delegated authority.

1.13 Panels of Pre-qualified Suppliers

If it is determined that a panel of prequalified suppliers would provide benefit, the regulations under the *Local Government (Functions and General) Regulations 1996* Division 3 – Panel of pre-qualified suppliers apply. Refer to Policy – C-PPS01

1.14 Purchasing from Australian Disability Enterprises

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

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

1.15 Purchasing from Aboriginal Businesses

Where possible and appropriate, businesses registered on any government-funded register of Aboriginal Businesses in Western Australia are to be invited to quote to supply goods, services or works under the tender threshold.

For purchases above the tender threshold, the Shire may take advantage of an exemption to engage an Aboriginal Business without going through a public tender process, should such exemption be available under the Regulations, and subject to any conditions outlined in the Regulations. The business will still need to be issued with a Formal RFQ document incorporating a detailed specification of the requirement and pre-determined evaluation criteria.

1.16 Petty Cash

The purpose of petty cash is to reimburse for minor items of expenditure that do not justify the raising of orders and cheques, however the expenditure must be evidenced by receipt of monies spent. Where Council has a commercial account with a provider preference is for purchases to be made utilising a purchase order.

Minor expenditure by petty cash is restricted to sums of \$200 or less. Expenditure in excess of this amount should be processed through the normal accounts payable system accompanied by an order.

PART 2

2. Tender Procurement Requirements

2.1 Tender Process

In conducting a tender process officers are required to comply with the *Act* and *Regulations*:

1. Exemptions

Tenders do not have to be publicly invited under the *Local Government (Functions and General) Regulations 1996 Regulation 11(2)* for the following:

- (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
- (aa) *the supply of the goods or services is associated with a state of emergency; or*
- (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or*
- (c) *within the last 6 months —*
 - (i) *the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or*
 - (ii) *the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;*

or
- (d) *the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or*
- (e) *the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or*
- (ea) *the goods or services are to be supplied —*
 - (i) *in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and*
 - (ii) *by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;*

or
- (f) *the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or*
- (g) *the goods to be supplied under the contract are —*
 - (i) *petrol or oil; or*
 - (ii) *any other liquid, or any gas, used for internal combustion engines;*

or

(h) *the following apply —*

(i) *the goods or services are to be supplied by —*

(I) *a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or*

(II) *a person registered with the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;*

and

(ii) *the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and*

(iii) *the local government is satisfied that the contract represents value for money;*

or

(i) *the goods or services are to be supplied by an Australian Disability Enterprise; or*

(j) *the contract is a renewal or extension of the term of a contract (the original contract) where —*

(i) *the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and*

(ii) *the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and*

(iii) *the original contract contains an option to renew or extend its term; and*

(iv) *the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;*

or

(ja) *the contract is a renewal or extension of the term of a contract (the **original contract**) where —*

(i) *the original contract is to expire within 3 months; and*

(ii) *the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and*

(iii) *the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;*

or

(k) *the goods or services are to be supplied by a pre-qualified supplier under Division 3.*

2. Sole Source of Supply

The procurement of goods and/or services available from only one private sector source of supply (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 authorised by the relevant Director, recorded and attached to the requisition for later audit.

3. Anti-Avoidance

Contracts for supply of Goods or Services, with a combined value of purchase >\$250,000 must not be split into multiple contracts to avoid the requirement to obtain these goods or services via Public Tender. This also applies to all purchasing thresholds.

As indicated in the Department of Local Government and Communities Circular 16-2015, no timeframe for the tender threshold has been included in the regulations. However, staff should consider the importance of testing the market through a public tender process for low value, repetitive contracts. A **best practice** suggestion is that if a **tender threshold for a category of goods and/services is reached within three years, then a public tender is invited for that good or service.**

4. Tender Criteria

The Local Government shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel shall be established prior to the advertising of a tender and shall include a mix of skills and experience relevant to the nature of the purchase.

- For tenders between \$50,000 and \$249,999, the panel must contain two (2) members.
- For tenders \$250,000 and above, the panel must contain three members.

5. Advertising of Tenders

To comply with legislation, Tenders must be advertised Statewide. It is preferable to advertise in the Local Government Tenders section of the West Australian Newspaper, preferably on a Wednesday or Saturday and notices are to be placed on the notice boards of the Administration Building and Libraries.

Tenders may also be advertised locally if the responsible officers deems appropriate.

The tender must remain open for at least 14 full days after the date the tender is advertised and before the day the tender closes.

The notice must include:

- A brief description of the goods and 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 on tendering may be obtained.

6. Issuing Tender Documentation

Issuing of tenders must be accompanied by a stringent process of recording all parties who acquire this documentation. This is essential if any clarification, addendums or further information is required prior to the close of tenders and all potential tenderers must have equal access to this information in order for the Shire of Dandaragan not to compromise its duty to be fair.

7. Tender Deadline

A tender not received in full in the required format by the advertised deadline shall be rejected.

8. Opening of Tenders

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 responsible Executive Manager (or their representative) and at least one other Council 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. Members of the public are entitled to be present. There is no obligation to disclose or record tendered prices at the tender opening and price information should be recorded as commercial-in-confidence.

The Tenderer's Offer form, Price Schedule and other appropriate pages from each tender shall be date stamped and initialled by at least two Local Government Officers present at the opening of the tenders.

9. No Tender Received

Where the Local Government 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 \$50,000 and \$249,999 as indicated above;
- The specification for goods and/or services remains unchanged;
- A contract is formed within 6 months of the closing date of the lapsed tender.

10. Tender Evaluation

Tenders shall be assessed by the Local Government by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender to determine which tender is most advantageous.

It is the Shire's preference that unless otherwise directed, evaluation panels are to consist of Shire staff and/or WALGA Purchasing service personnel.

11. Addendum to Tender

If after the tender has been publicly advertised, any changes, variations or adjustments to the tender document and/or conditions are required, the Shire of Dandaragan 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.

12. Minor Variation

If after the tender has been publicly advertised and a successful tender has been chosen but before the Shire of Dandaragan and the tenderer have entered into a Contract, a minor variation may be made by the Shire of Dandaragan.

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.

13. No Tender Accepted

In accordance with regulation 18(5) of the Local Government (Functions and General) Regulations 1996 the local government may decline to accept any tender.

14. Notification of Outcome

In accordance with regulation 19 of the Local Government (Functions and General) Regulations 1996 the CEO is to give each tenderer notice in writing containing particulars of the successful tender or advising that no tender was accepted.

15. Feedback to Unsuccessful Tenderers

Senior Staff and the responsible officer for the tender are authorised to provide feedback to individual Tenderers on deficiencies in their respective tenders if requested.

2.2 Other Procurement Options

a. Expression of Interest

The Shire may consider conducting an Expressions of Interest (EOI) process, prior to any public tender process.

All EOI processes are to be conducted as a public process and similar rules to a public tender process apply. However, the EOI shall not seek fixed price information from respondents, seeking instead qualitative and other non-price information against which submissions shall be evaluated.

b. Request for proposal

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

PART 3

3 Administration

Record Management

A commitment to buy without a purchase order could represent unauthorised expenditure. The failure of a responsible officer to raise a purchase order **may** cause their authority to order goods and services to be suspended for three (3) months on the third failure to raise a purchase order as required by the Policy. This will be at the discretion of the CEO or Executive Manager of Corporate and Community Services.

All records associated with a tender or a direct purchase process must be recorded and retained. All purchase orders raised under a contract resulting from a quote or tender must reference the contract number.

For a tender process, this includes, but is not limited to:

- Tender documentation
- Internal documentation
- Evaluation documentation
- Enquire and response documentation
- Notification and award documentation

For a direct purchasing process this includes, but is not limited to:

- Quotation documentation
- Internal documentation
- Order forms and requisitions