

## 2/007 Procurement Policy

### Objective

The Town of Port Hedland (the **Town**) is committed to procurement practices that achieve value for money outcomes in an equitable, transparent and legal way.

### Content

#### 1 Scope

The policy applies to all Town employees including temporary and agency employees, appointed representatives, and where applicable, contractors procuring on behalf of the Town.

#### 2 Ethics and Integrity

All individuals are expected to observe the highest standards of ethics and integrity in all procurement activities and are to act in an honest, fair and professional manner consistent with the Town's values, Code of Conduct and the law.

- a) All procurement decisions must be fully accountable with expenditure of public money undertaken through a transparent, unbiased, efficient and effective process resulting in best value for money outcomes.
- b) Procurement is to be undertaken on a competitive basis (unless otherwise authorised by way of exemption) in which all potential suppliers are treated impartially, honestly and consistently.
- c) All procurement activities are to be carried out in strict compliance with all applicable legislation including the *Local Government Act 1995* and the *Local Government (Function and General) Regulations 1996*.
- d) Any actual or perceived conflict of interest are to be identified, disclosed to the Procurement Business Unit for review and appropriately managed.

#### 3 Procurement Principles

The following principles must be observed at all stages of the procurement process;

- a) Procurement practices must strictly adhere to this Policy, the Statement of Business Ethics and all procurement operating procedures administered by the Procurement Business Unit.
- b) Purchasing decisions are to deliver efficient, effective, economical and sustainable outcomes that are in the best interests of the Community and the Town's Strategic and Operational objectives.
- c) Purchasing activities must be free from bias with all suppliers treated fairly and equitably.

- d) Suppliers and contractors are financially, technically and operationally capable to comply with specifications in the supply of goods, services and works safely.
- e) All activities are fully documented, stored in compliance with approved record keeping practices and able to withstand probity.
- f) Supplier information clearly marked as confidential or reasonably expected to be confidential will be treated as commercial-in-confidence and not released to any third party unless authorised by the supplier or as required by law.

## **4 Purchasing Requirements**

### ***4.1 Contracts Register***

The Town's central Contracts Register must be considered prior to the procurement of goods or services to ensure existing contracts are effectively and efficiently used and to prevent contract duplication.

### ***4.2 Value for Money***

Value for money underlies all procurement activities, which measures the benefits realisable by the Town from the whole-of-life costs.

Value for money does not mean accepting the lowest quote and must include written consideration of all associated costs, the financial viability of suppliers, past contractor performance, safety and quality standards, timely supply, risk exposure and other relevant service considerations.

A strong element of competition must be applied through all procurement processes. Where a higher priced offer is recommended there must be clear written demonstrable benefits of the preferred supplier over and above lower priced offers.

### ***4.3 Determining Tender Values (Over \$250,000)***

When determining whether a tender is required, the following factors are to be considered:

- Estimated contract values are exclusive of the Goods and Services Tax (GST);
- The estimated contract value is to include the full contract period, including all options to extend even if all future options are not accepted.
- The actual or estimated total expenditure for a minimum three (3) year period.
- The estimated purchasing value will be used to determine the applicable Purchasing threshold (section 4.4) to be applied.

#### 4.4 Purchasing Thresholds

The following table details the mandatory procurement process that is to be followed prior to entering into a contract.

Values represent the actual or expected total cost of the contract over its entire life cycle and for the purpose of decided which method to use, GST is to be excluded.

Value (Ex. GST)	Procurement Method (Minimum requirement)	Evaluation (Minimum requirement)	Approval
Less than \$5,000	One verbal quote	One internal evaluator	Refer to Financial Delegation Limits
\$5,000 but less than \$15,000	One written quote		
\$15,000 but less than \$100,000	Two written quotes	Two evaluators	
Unless exemptions apply use of Vendor Panel is required for all procurement activities valued over \$100,000 (Excluding GST)			
\$100,000 but less than \$250,000	Three written quotes (Formal RFQ process via Vendor Panel)	Two evaluators (Process administered by Procurement)	
\$250,000 but less than \$1,000,000	a) Public Tender <b>OR</b>	Three evaluators (Process administered by Procurement)	CEO
\$1,000,000 or higher	b) If exemptions <sup>1</sup> apply three written quotes (Formal RFQ process via Vendor Panel)	Three evaluators - two from the Executive team (Process administered by Procurement)	Council

## 5 Calling tenders when not required

When considered beneficial, tenders may be called in lieu of undertaking an RFQ process for procurement activities up to \$250,000 (excluding GST). If this occurs standard statutory tender processes apply.

Any such determination must be made after considering all associated costs, risks, timeliness, regulatory compliance requirements and whether the purchase requirement could be obtained through:

- A WALGA, State Government or Commonwealth CUA; or
- The Town's existing preferred supplier panel arrangements.

## 6 Procurement Exemptions

### 6.1 Quotation Exemptions

If it is not possible to obtain the requisite number of quotes detailed within the Town's Purchasing Thresholds (refer section 4.4) a Procurement Exemption form is to be completed to ensure appropriate justification.

### 6.2 Tender Exemptions

Regulation 11.2 of the *Local Government (Functions and General) Regulations 1996* prescribes tender exemptions, examples include;

- Use of WALGA Preferred Supplier Program, State Government Common User Arrangement or Commonwealth Contracts.
- Purchases from other Local Governments.
- Purchases from an Australian Disability Enterprise.
- Use of a pre-qualified supplier under a Panel already established by the Town.
- The contract is a renewal or extension of a term contained within the original contract.
- The supply of goods, services or works is associated to a state of emergency (Regulation 11(3)).

### 6.3 Procurement from Aboriginal Businesses

Tenders are not required if the goods, services or works are to be supplied from:

- a) a person or organisation registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited, or
- b) the Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation); **and**

the value of the contract is \$250,000 (excluding GST) or less and the contract represents value for money.

#### 6.4 *General Exemptions (\$250,000 or less – excluding GST)*

Competitive procurement processes are not required for the following categories;

- Advanced payments for accommodation, travel, seminars, training, and conferences directly relating to the Town's activities.
- Annual service / software maintenance / support or licensing fees (where a competitive contract is not already in place).
- Goods or services from an original equipment manufacturer (OEM) and where warranty provisions may be void (where a competitive contract is not already in place).
- Legal services.
- Engagement of artists or performers.
- Professional memberships, subscriptions and/or renewals.

***NOTE: The Town's standard Financial approval processes still apply which includes the raising of purchase orders (or use of credit cards) and Manager or Director approval in line with their financial delegation approval limits.***

#### 6.5 *Special Exemptions*

Competitive procurement processes are not required for the following organisations of any value;

- All Town insurances sourced through Local Government Insurance Services (LGIS).
- All advertising services through WALGA Group Advertising Services contract.
- All payments made to the Office of the Auditor General e.g. Audit fees.
- Utility services where the relevant utility is the only provider of such services.
- Australian Taxation Office (ATO) payments.
- All payments required by legislation.

### 7 **Panels of Pre-Qualified Suppliers**

Panels of Pre-Qualified Suppliers may be established where there is, or will be, a continuing need for particular goods, services or works. These panels must be in established in strict accordance with Regulation 24AC.

### 8 **Records Management**

All records and documents associated with all procurement processes must be recorded and retained as defined within the *State Records Act 2000* and the Town's Records Keeping Policy and Plan.

## 9 Sustainable Procurement

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

Where practical and appropriate the Town will consider environmental and social impacts along with value for money outcomes when making procurement decisions and shall endeavour (within budgetary constraints) to source suppliers that:

- Demonstrate innovative sustainable policies and practices.
- Generate less waste material, encourage waste prevention, recycling and use of recycled/recyclable materials.
- Reduce greenhouse gas emissions and integrate climate change resilience.
- Enable and promote social and cultural diversity.
- Generate local employment.

## 10 Buying Local

This Policy encourages the investment in and development of local businesses that operate permanently from staffed local business premises within the Town's boundaries first, and secondly within the Pilbara region.

A key objective is to ensure open and fair competition and provide opportunities for local businesses to bid for work.

It is recognised that not every procurement activity will lend itself to supply by local businesses however, as much as practicable, procurement activities will:

- Where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses.
- Explore the capability of local businesses to meet requirements and ensure that Requests are designed to accommodate the capabilities of local businesses.
- Consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support, local employment).
- Ensure that procurement plans address local business capability and local content.
- Support, train and empower local business to be able to effectively respond to the Town's Requests for goods, services and works.

The Town's Regional Price Preference Policy 2/016 further enables this opportunity.

## 11 Contract Variations (Regulation 20)

### *11.1 Pre-Contract Variations*

If after a Tender has been publicly advertised and a preferred tenderer has been chosen, but before the Town and tenderer have entered into a contract, a minor variation may be approved. A minor variation must not alter the nature of the goods or services, or materially alter the specification provided for by the initial Tender.

A minor variation is to be approved in accordance with the Town's Delegation Register.

### *11.2 Post Contract Variations*

In accordance with Regulations, a contract entered into must not be varied unless;

- a. The variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
- b. The variation is a renewal or extension of the term of the contract as described in Regulations.

Variations can be approved by Town officers in accordance with delegated authority and where the total project cost is within the approved budget.

Should the total project cost exceed the approved budget Council approval is required.

## **12 Procurement Compliance**

Procurement activities are subject to financial, performance and integrity audits and also compliance with the Town's policies and procedures.

Failure to adhere to the requirements of this policy is considered serious with all reports or findings of non-compliance appropriately reviewed, audited and/or for more serious matters formally investigated.

Where a breach is substantiated it may be:

- An opportunity for additional training.
- Required to review and update the Town's Procurement processes.
- A disciplinary matter in line with the Town's Human Resource processes.
- A matter subject to mandatory reporting requirements under the *Corruption, Crime and Misconduct Act 2003* and other relevant legislation.

All reviews are to be recorded in a register and reported to the CEO.

## Definitions

“**CEO**” means the Chief Executive Officer of the Town of Port Hedland.

“**CUA**” means Common Use Agreement.

“**Regional Price Preference**” means during the evaluation process applying a local price weighting in accordance with the Town’s Regional Price Preference Policy 2/016.

“**Regulation OR Regulations**” means the *Local Government (Functions and General) Regulations 1996*.

“**Request**” means a Request for Information (RFI), Request for Tender (RFT), Request for Proposal (RFP), Expression of Interest (EOI) and / or Request for Quote (RFQ).

“**WALGA**” means the Western Australian Local Government Association.

<i>Relevant legislation</i>	Local Government Act 1995 Local Government (Financial Management) Regulations 1996 Local Government (Functions and General Regulations) 1996 State Records Act 2000 Corruption, Crime and Misconduct Act 2003. Policy 2/016 ‘Regional Price Preference’ Policy 2/020 ‘Corporate Credit Card’ Policy 2/022 ‘Panels of Pre-Qualified Suppliers’ Record Keeping Plan
<i>Delegated authority</i>	<i>In accordance with the Delegation Register</i>
<i>Business unit</i>	<i>Governance</i>
<i>Directorate</i>	<i>Corporate Services</i>

<i>Governance to complete this section</i>			
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