



2/007 PURCHASING POLICY

1. Objectives

The objectives of this Policy are to:

- Demonstrate that best value for money is attained for the Town of Port Hedland (ToPH);
- Ensure best practice management procedures are followed in relation to all purchasing undertaken on behalf of the ToPH;
- Ensure compliance with all relevant legislation including, but not limited to, *Local Government Act 1995* (the Act), *Local Government (Functions and General) Regulations 1996* (the Regulations), the *State Records Act 2000*, Code of Conduct;
- Demonstrate probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interests;
- Mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- Ensure sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- Achieve fair and equitable, competitive processes that engage potential suppliers impartially, honestly and consistently.

2. Ethics, Integrity and Probity

In order to ensure the selection process is fair and objective for all requests (RFXs), the ToPH shall observe the highest standards of integrity. This will be achieved by ensuring that:

- Processes, procedures and documentation demonstrates fairness, openness and accountability;
- Tenders are undertaken on a competitive basis, in which the ToPH seeks to attract a wide range of tender respondents that are treated impartially, honestly and consistently so that no individual respondent is either advantaged or disadvantaged;
- Actual or perceived conflicts of interest are identified, disclosed and dealt with according to local government obligations;
- Recommendations are made and decision-making is undertaken in a manner that is transparent, free from bias and fully documented; and
- Commercial-In-Confidence' information provided by Tender Respondents shall be treated in confidence, unless authorised for publication by the Tender Respondent or relevant legislation.

3. Value for Money

Value for money is achieved through the critical assessment of price, risk, timeliness, environmental, social, economic and qualitative factors. This assessment determines the most advantageous supply outcome that contributes to the ToPH achieving its strategic and operational objectives.

Whilst it is necessary to ensure purchasing is conducted within budget, the lowest price does not necessarily present the best value for money. As such, purchasing decisions must be made with greater consideration than just obtaining lowest price, by also incorporating qualitative and risk factors into the decision.



4. Purchasing Thresholds and Practices

4.1. Purchasing Value Definition

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

- The values listed are 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 ToPH 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.

When planning the purchase, the ToPH must consult its Contracts Register in the first instance. Where the ToPH 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.

4.2. Purchasing Thresholds

Purchase Value Threshold	Purchasing Requirement
Up to \$5,000	Goods and Services of a low risk and occasional nature may be purchased without the need for multiple quotes. These Purchases can be made directly from a supplier using a Purchasing Card or Corporate Credit Card issued by the ToPH, or after obtaining at least one verbal or written quotation from a suitable supplier.
Over \$5,000 and up to 20,000*	Seek at least three written quotations from suppliers.
Over \$20,000 and up to \$50,000*	Seek at least three written quotations from suppliers.
Over \$50,000 and up to \$150,000*	Seek at least three written quotations from suppliers by invitation under a formal Request for Quotation.
Over \$150,000**	Tenders are to be publicly invited as per requirements of the Local Government Act 1995, unless exempt (see section 4.3 of this policy).

*Quotation requests between the value of \$5,000 and \$150,000 are to be obtained utilising the Town's online procurement portal, from:

- An existing Panel of Pre-Qualified Suppliers administered by the ToPH (See Policy 'Panels of Pre-Qualified Suppliers'); or
- A pre-qualified supplier on the WALGA Preferred Supply Program; or
- Standing Offer Arrangement; or
- The open market.

Quotations can also be received from State Government Common User Arrangements (CUAs), directly through their online procurement portals.

** Tenders are to be invited:



- Through Panel of Pre-Qualified Suppliers relevant to the required purchasing category, where at least three written quotations must be sought from those suppliers only; or
- From suppliers included in the relevant WALGA Preferred Supplier Arrangement and / or another tender exempt arrangement, where at least three written quotations must be sought; or
- By conducting a Public Request for Tender process in accordance with the *Local Government Act 1995* through the Town's online tender portal.

When reviewing the different supplier options, officers are to consider which will provide the ToPH best value for money whilst still promoting the ToPH's purchasing principles. ToPH officers are to refer to the Procurement Internal Operating Procedure (IOP) and associated flowcharts for detailed procurement processes.

4.3. Exemptions for Publicly Inviting Tenders

In line with Regulation 11 (2), an exemption to publicly invite Tenders may apply in the following instances:

- At least three (3) written quotations have been sought from WALGA Preferred Supply Program;
- At least three (3) written quotations have been sought from a pre-qualified supplier's panel administered by the ToPH;
- 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 \$150,000 or less and represents value for money;
- The purchase is acquired from an Australian Disability Enterprise and represents value for money;
- The goods or services are to be supplied by or obtained through the government of the State (Common Use Agreements) or the Commonwealth or any of its agencies, or by a local government or a regional local government;
- The goods or services are to be supplied in an emergency situation whereby it is authorised in advance by the Mayor;
- A genuine sole supplier exists;
- The purchase is to be conducted via auction following authorisation from Council resolution;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- The contract is a renewal or extension of a term of a contract where:
 - i. The original contract was awarded as a result of a complying Tender; and
 - ii. The original Tender contained a provision for renewal or extension; and
 - iii. The original contract contained an option to renew or extend its term; and
 - iv. The supplier's Tender required such an option and specified the consideration payable, or the method by which consideration is to be calculated, if the option is exercised
- Within the last 6 months:
 - i. Tenders were invited for supply of goods or services but no tender was received that met the tender specifications or the value for money assessment; or



- ii. Expressions of interests were sought pursuant to Regulation 21(1) but no supplier was, as a result, listed as an acceptable tenderer.
- The goods or services are to be supplied:
 - i. Where an area of land has been incorporated into the ToPH district as a result of an order made under section 2.1 of the Act, which changed the boundaries of the district; and
 - ii. By a supplier who had a contract to supply the same type of goods and services to the ToPH, when the order was made to change the district boundaries.

When reviewing the different options for supply of goods and services, officers are to consider which will provide the ToPH best value for money whilst still promoting the ToPH's purchasing principles.

4.4. Exemptions from Purchasing Thresholds (under \$150,000)

The following are further exemptions where the ToPH is not required to undertake a competitive purchasing process. These only apply where the total value of the purchase does not exceed \$150,000.

A purchasing decision is exempt from the purchasing thresholds of this policy (as stipulated in section 4.2) where the costs are:

- Fixed (eg. state wide and local advertising, memberships and subscriptions, taxi / cab charges and some industry based training);
- Available only through a sole source of supply (e.g some utilities);
- Acts / Entertainers / Artists for festivals and events where it can be demonstrated that the act has appropriate artistic merit and the decision is consistent with the purpose and intent of the event, and have no conflicts of interest

In addition to the above, where it has not been possible or feasible to obtain multiple quotes the CEO, or relevant officers as per the Delegation/Subdelegation/Authorisation Registers, may, at his/her discretion, waive the requirements to obtain multiple quotes. See the Procurement IOP and the exemption process flow chart for more information.

4.5. Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the ToPH may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the \$150,000 tender threshold. The decision should consider the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements, and whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA. As per Regulation 13, if a decision is made to undertake a public Tender for contracts expected to be \$150,000 or less in value, the complete Tendering procedures must be adhered to.

4.6. Expressions of Interest

Expressions of Interest (EOI) are typically considered in situations where the goods or services are anticipated to be of a significant value, or contain complex deliverables that may solicit responses from a considerable range of industry providers.



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

- Unable to be sufficiently scoped or specified;
- Open to multiple options for how the purchasing requirement may be obtained, specified, created or delivered;
- Subject to a creative element; or
- To establish a procurement methodology that allows for an assessment of a significant number of tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes must follow the same advertising processes as RFTs. However, the EOI should not seek price information from respondents, seeking qualitative and other non-price information only. All EOI processes should be subsequently followed by a Request for Tender through an invited process of those shortlisted under the EOI.

4.7. Request for Proposal

As an alternative to a Request for Tender, the ToPH may consider conducting a Request for Proposal where the requirements are less known, or less prescriptive and detailed. The Request For Proposal would still be conducted under the same rules as stipulated in Section 4.2 of this policy but would seek responses from the market that are outcomes based or that outline solutions to meet the requirements of the ToPH.

4.8. Emergency Procedures

An emergency purchase is defined as an unanticipated purchase which is required in response to an emergency situation as provided for in the Act. 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.

Dependent on the nature of the emergency, it may be determined that only a portion of the required goods or services will be obtained via emergency expenditure. The remainder of expenditure will be required to comply with the purchasing threshold requirements stipulated in this Policy.

4.9. Sole Source of Supply

A Sole Source of Supply arrangement may only be approved where:

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

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



Where the anticipated value exceeds \$150,000, an EOI must be completed, ensuring compliance with sections 21-24 of the Regulations. The processes in line with inviting public tenders are to be adhered to.

4.10. Anti-Avoidance

The ToPH will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of splitting the purchase value or the contract value, in order to avoid a particular purchasing threshold, or the need to call a public tender. This includes the creation of two or more contracts, or creating multiple purchase order transactions of a similar nature.

The ToPH will conduct regular periodic analysis of purchasing activities within supply categories and combining expenditure values in order to identify purchasing activities which can be more appropriately undertaken within the purchasing threshold practices detailed in section 4.2 of this policy.

5. Purchasing from Aboriginal Businesses

A business registered in the current Aboriginal Business Directory WA (produced by the Small Business Development Corporation) may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, only where:

- the contract value is worth \$150,000 or less, and
- a best and sustainable value assessment demonstrates benefits for the ToPH's achievement of its strategic and operational objectives.

Where not directly contracted, a qualitative weighting will be used in the evaluation of Quotations and Tenders to provide advantages to businesses registered in the current Aboriginal Business Directory WA.

6. Purchasing From Australian Disability Enterprises

An Australian Disability Enterprise may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, where a value for money assessment demonstrates benefits for the ToPH's achievement of its strategic and operational objectives. Where not directly contracted a qualitative weighting will be used in the evaluation of Quotations and Tenders to provide advantages to Australian Disability Enterprises.

7. Sustainable Procurement and Corporate Social Responsibility

The ToPH is committed to implementing sustainable procurement by providing a preference to suppliers that demonstrate sustainable business practices (social advancement, environmental protection and local economic benefits).



The ToPH will embrace Sustainable Procurement by applying the value for money assessment to ensure that wherever possible our suppliers demonstrate a contribution to improved environmental, social and local economic outcomes. The ToPH supports the procurement of products and services that create a universally accessible community for people with disability, diverse backgrounds and cultures.

Sustainable Procurement can be demonstrated as being internally focussed (i.e. operational environmental efficiencies or employment opportunities and benefits relating to special needs), or externally focussed (i.e. initiatives such as corporate philanthropy). Requests for Quotation and Tenders will include a request for information from Suppliers regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

The Town shall endeavour at all times (within budgetary considerations) to identify and purchase products and services that:

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

8. Buy Local

The Town encourages the development of competitive local businesses within its boundary first, and second within its broader region. A key goal in this policy is open and fair competition to ensure that local businesses are provided with every opportunity to bid for work. It is recognised that not every category of goods, services or works that is purchased by the Town will lend itself to supply by local businesses.

As much as practicable, the ToPH 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;
- 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;
- 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 municipal boundary of the Town of Port Hedland.



A regional price preference may be applied to businesses as detailed within the ToPH's Regional Price Preference Policy.

9. Authorisations & Contractual Arrangements

All authorisations associated with any procurement process will be conducted in accordance with the relevant Delegations/Subdelegations/Authorisations Registers.

All contracts and agreements must be signed by the Chief Executive Officer.

10. Contract Variations

10.1. Pre- Contract Variations

Pre-contract variations are permitted pursuant to Regulation 20. If after a Tender has been publicly advertised and a preferred tenderer has been chosen, but before the ToPH and tenderer have entered into a contract, a minor variation may be made by the ToPH. A minor variation will not alter the nature of the goods or services, nor will it materially alter the specification provided for by the initial Tender.

In the event the chosen tenderer is unable or unwilling to enter into a contract that contains a minor variation, or if the tenderer and the ToPH are unable to agree on any other variation to be included in the contract as a result of the minor variation, then that tenderer ceases to be the preferred tenderer. The ToPH may then choose the tenderer who submitted the next most advantageous submission.

A minor variation must be authorised by the Chief Executive Officer prior to the commencement of any negotiation.

10.2. Post Contract Variations

As per section 21A of the Regulations, if a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract 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 regulation 11(2)(j).

A variation can only be approved by a ToPH officer with the relevant delegation (as detailed within the relevant Delegation/Subdelegation/Authorisation Registers) for the total project cost, not just the variation value. The total project cost is calculated by the initial award price plus any variation/s.

Variations can only be approved by ToPH officers up to 10% of the initial project cost. Where the variance exceeds 10% of the initial project cost, the variation/s must be reported to CEO for his/her authorisation. Where the total project cost exceeds the CEO's delegation, the variation must be presented to Council for approval.



11. Payment Methods

Where the ToPH holds an account with a supplier a purchase order should be issued to authorise the goods or services.

If the purchase is a one off purchase or the supplier does not accept Purchase Orders the following payment methods may be used in limited circumstances:

- Request for Payment (must provide detailed justification for why a purchase order was not completed prior to completion of works)
- Purchasing Card
- Corporate Credit Card (the requirements can be found in policy 2/020 Corporate Credit Card); or
- Reimbursements.

Some purchases of a recurring nature may not require a Purchase Order or Request for Payment. Details are outlined in the Procurement IOP.

The commitment of expenditure using any of the above payment methods must comply with the relevant delegation of authority as detailed within the Delegation/Subdelegation/Authorisation Registers.

12. Purchasing Policy Non-Compliance

The ToPH shall:

- Implement processes to facilitate this Policy and associated management procedures, and will implement processes to report departures, non-compliance and/or exceptions;
- On a quarterly basis report to the ToPH's Audit and Risk Committee any identified non-compliance with this Policy and associated management procedures, and any occurrence of the CEO exercising his/her discretion to undertake any policy exempt procurement; and
- Review, and if appropriate, seek to revise this Policy and associated management procedures to ensure ongoing relevance.

A failure to comply with the requirements of this policy will be subject to investigation. Findings will be considered in context of the code of conduct, and reasonable expectations for the officer's performance of their role.

Where a breach is substantiated it may be treated as:

- An opportunity for additional training to be provided;
- A disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*;
- Misconduct in accordance with the Corruption, Crime and Misconduct Act 2003.

13. Records Management

All records and documents associated with the RFx process must be recorded and retained as defined within the State Records Act and the ToPH's Records Keeping Policy.



14. Definitions

“Regional Price Preference” involves assessing the Quotation or Tender as if the proposed price were discounted in accordance with the Regional Price Preference Policy.

“RFX” is a generic term for a request to suppliers. It can therefore stand for Request for Information (RFI), Request for Tender (RFT), Request for Proposal (RFP), Expression of Interest (EOI) and / or Request for Quote (RFQ).

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Relevant legislation	<u>Local Government Act 1995</u> <u>Local Government (Financial Management) Regulations 1996</u> <u>Local Government (Functions and General Regulations) 1996</u> <u>State Records Act 2000</u>
Related Policy	Policy 2/011 ‘Tender Evaluation’ Policy 2/016 ‘Regional Price Preference’ Policy 2/020 ‘Corporate Credit Card’
Delegated authority	Delegations/Subdelegations/Authorisations Registers
Business unit	Governance
Directorate	Corporate and Performance
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