**Procurement of Goods and Services**

**Status** Council

**Responsible Division** Corporate and Strategy

**Objective** This policy outlines Council’s approach to the procurement of goods and services.

1. **Policy Context**

Regulation Part 4, Division 1(11A) of the *Local Government (Functions and General) Regulations 1996* (As at 07 November 2020) requires a local government to prepare, adopt and implement a purchasing policy in relation to the supply of goods or services where the consideration under the contract is, or is expected to be $250,000 or less. Purchases above $250,000 must follow the process detailed in Division 2 of the *Local Government (Functions and General) Regulations 1996* and requires a local government to invite tenders.

Division 3 of the *Local Government (Functions and General) Regulations 1996* requires a local government to prepare, adopt and implement a policy in relation to establishing a panel of pre-qualified suppliers for the procurement of goods or services.

1. **Policy Objectives**

The City is committed to establishing and implementing efficient, effective, economical and sustainable procedures for all procurement activities.

The purpose of this procurement policy is to:

* Provide the City with an efficient process for the procurement of goods and services
* Ensure that all procurement transactions are conducted in a transparent, fair, unbiased and equitable manner
* Strengthen the integrity and confidence in the procurement system
* Ensure effective and proper expenditure of public moneys based on achieving value for money
* Ensure that the City gives appropriate consideration to the environmental impact of its procurement through the lifecycle of goods and services.
* Ensure that the City, where value for money can be demonstrated, gives appropriate consideration to the use of recycled construction and demolition products including but not limited to recycled road base and drainage rock
* Ensure that the City, at all times, remains compliant with all statutory and regulatory obligations, City policies and code of conduct
* Promote effective governance, accountability and a clear definition of all City officers roles and responsibilities
* Uphold community and industry respect for the City’s procurement practices

1. **Value for Money**

Value for money is an overarching principle governing procurement that allows the best possible outcomes to be achieved for the City. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account end user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

An assessment of the best value for money outcome for any procurement above $5,001.00 shall consider:

* All relevant whole-of-life costs and benefits for goods and whole of contract life costs (for services). This consideration includes transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
* The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
* The financial viability and capacity of the supplier to supply in the specified time without risk of default;
* A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by seeking a sufficient number of competitive quotations wherever practicable; and
* Minimising the average social, environmental and economic impacts in procurement decision making.

1. **Procurement Thresholds:**

The following table outlines the procedure for City procurement. The value for procurement is the expected value (excluding GST) of the contract over the full contract period (including options to extend).

|  |  |
| --- | --- |
| Procurement value (ex GST) | Procedure |
| Up to $5,000 | Direct purchase from one supplier after seeking one (1) verbal or written quotation or priced printouts from a reputable supplier’s catalogue or website. |
| $5,001 and up to $10,000 | Seek a minimum of two\* verbal or written quotations. The method used should be based on risk and complexity.  The purchasing decision is to be based upon assessment of the supplier’s response to:   * A brief outline of the specified requirement for the goods; services or works required; and * Value for Money criteria, not necessarily the lowest quote. |
| $10,001 and up to $50,000 | Seek a minimum of three\* written quotations from suppliers.  The purchasing decision is to be based upon assessment of the supplier’s response to:   * A brief outline of the specified requirement for the goods; services or works required; and * Value for Money criteria, not necessarily the lowest quote. |
| $50,001 and up to $250,000 | Obtain a minimum of three\*\* written responses from suppliers by invitation under a formal Request for Quotation, in accordance with City procurement procedures.  The purchasing decision is to be based upon assessment of the suppliers response to:   * A detailed written specification for the goods or services required * pre-determined selection criteria that assesses value for money considerations. |
| Over $250,000 | Conduct a public tender process in accordance with the Regulations and City procurement procedures. Tender award to be approved for acceptance by Council. |

\*A minimum of one written quotation may be accepted in place of multiple quotations at the discretion of the CEO on a case-by-case basis, where the selected supplier can be demonstrated to offer value for money and approved by the responsible Manager of the business unit.

\*\*A minimum of one written quotation may be accepted in place of three at the approval of Council.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for procurements under $250,000 (excluding GST). If a decision is made to seek public tenders for contracts of less than $250,000 a Request for Tender process that follows the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed to the extent required of Regulation 13.

1. **Form of Quotation**

The general principles for obtaining quotations are:

* All formal Request for Quotations (RFQs) must be processed through the Procurement team who will allocate a control RFQ number to the document and maintain a register of RFQs issued by the City;
* Ensure that the requirements/specification/scope of services is clearly understood by the Local Government employee seeking quotations;
* Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote; and
* Ensure due diligence is performed in approaching a sufficient number of suppliers to comply with the number of quotes required as per this policy.

1. **Details of quotation that must be recorded in the Online Requisition System**

* The request for tender/quotation number
* Name of company and person contacted;
* Contact number of suppliers;
* Adequate product/service description, quantity, unit price and total value;
* In cases where the choice of supplier is a WALGA preferred supplier, the WALGA contract number must be stated in the Narration column;
* Written quotes obtained must at least include all of the above details and be captured in the City’s Document Management System. Further, the applicable Document Management System reference number must be stated;
* In cases of inability to obtain sufficient number of quotes, the procurement may proceed and Procurement must state the reason in the narration column of the respective supplier contacted for a quote;
* Procurement without the required number of quotes may be made only with valid reasons as allowed in the Exemptions Allowed under this policy; and
* In cases where the lowest quote is not the choice of supplier, the reason must be clearly stated in the Narration column of the choice of supplier.

1. **Panels of Pre-Qualified Suppliers:**

Where the City has a continuing need for any particular goods or services to be supplied by a panel of pre-qualified suppliers, the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed in full. This ensures that the process must be inclusive of clear and consistent information being made available to all suppliers and must include the release of specifications, selection criteria, price schedules, and conditions.

The number of pre-qualified suppliers successfully selected for a panel will be dependent on the number of conforming submissions received from potential suppliers, and their suitability to provide goods or services against applicable selection criteria.

Each pre-qualified supplier selected for a panel will be assessed for suitability and value for money to the City. Any procurement from the pre-qualified suppliers, including the process for obtaining quotations from them shall follow normal competitive procedures as stated in this policy.

All pre-qualified suppliers on a panel of pre-qualified suppliers will be invited to quote for the supply of the goods or services that the pre-qualified suppliers will be expected to supply.

All regular communications between the City and the pre-qualified suppliers shall be in writing to ensure clarity and consistency. All written communication in respect of quotations received and procurements made from the pre-qualified suppliers shall be recorded and retained in the City’s records.

When sourcing work from the panel the City will assess the supplier based on the following criteria, price, availability, demonstrated understanding of the project, and any specialist requirements.

The City may elect to select a supplier not on the panel, subject to normal quotation and tendering requirements of the Local Government (Functions and General) Regulations 1996.

In accordance with Division 3 (24AJ) of the Local Government (Functions and General) Regulations 1996 any individual contract with a pre-qualified supplier who is part of a panel will be for a term not exceeding 12 months and will not contain an option for renewing or extending the term beyond the 12 month period.

1. **Quotation Exemptions**

In any of the following instances, competitive quotations are not required, regardless of the value of the procurement:

* An emergency situation as defined by the *Local Government Act 1995;*
* The procurement is under auction which has been authorised by Council;
* The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
* The supply of goods or services is 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
* Within last six months the market testing was done for procuring the same type of goods and services and the quotations obtained are still valid (i.e. price per unit, total value and the level of service has not changed), then the direct procurement is allowed; or
* Any of the other exclusions under Regulation 11 (2)(e) to (h) of Local Government (Functions & General) Regulations 1996.

1. **Tender Exemptions**

Part 4, Division 2, regulation 11 (2) of the *Local Government (Functions & General) Regulations 1996* specifies the requirements for when a Local Government does not have to publicly invite tenders for purchases above $250,000. Accordingly, the determination can be made to procure goods and services which is expected to be more, or worth more, than $250,000 (exc. GST) without performing a competitive Tender process. Where a tender-exempt supply arrangement is used, the City’s Purchasing Policy and procedures under the tender threshold still apply i.e. these exemptions to tender do not exempt the purchaser from gaining the required number of quotations under the policy. For procurements from State Government Common Use Arrangements (CUA), the City is to follow the buying rules for that CUA.

The Regulation may change from time-to-time; hence reference is to be made to the Regulation prior to considering procurement that are likely to exceed $250,000 excluding GST.

When deciding to conduct a public tender or utilise a Tender Exempt arrangement, consideration and comparison should be made, where reasonable and practical, on the cost and benefits of both processes. The chosen procurement method shall be approved by the CEO.

1. **Variation to Tender Contracts**

Regulation 20 & 21(A) of Local Government (Functions & General) Regulations 1996 stipulates the requirements for the variation to Tender Contracts prior to and post of awarding the contract. These requirements need to be addressed before any Tender Contract variation can be made.

For the purpose of clarity a ‘minor variation’ as detailed in Regulation 20(1) shall not exceed the lower of 5% of the total contract value or $50,000 excluding GST.

1. **Variations to Non-Tender Contracts**

The City may make minor amendments to a contract only in the following instances:

* After the quotations have been received but before a contract is entered into; or
* After the contract has been entered into but before it has been completed.

Minor variation means a variation that the City is satisfied is minor having regard to the total goods or services that suppliers were invited to supply.

For the purpose of clarity a ‘*minor variation’* for Non-Tender contracts shall not exceed the lower of 5% of the total contract value or $25,000 excluding GST

Any major variation to the contract must be fully costed and supported with detailed reasons for the amendment request.

Variations deemed essential for the delivery of the contract requirements may be authorised by the City Officer with the appropriate level of delegation in accordance with the City’s Purchasing Authorities and Certification of Invoices.

1. **Variation between Authorised Purchase Order and Invoice**

It is not normal to observe variation between the total value of the Purchase Order and Invoice. However, when such instances occur the following needs to be executed:

* The requesting officer needs to provide appropriate explanation for the variance and get it approved by their Manager;
* If the variance is greater than 10% or $1,000, whichever is less, a Purchase Order Amendment is required.

1. **Anti-avoidance**

The City will not conduct multiple purchasing activities or split the value of a purchase to avoid the requirement to go to public tender or to take the value of a purchase below a purchasing threshold specified in this policy. This includes entering into two or more contracts or creating multiple purchase order transactions of a similar nature.

1. **Ethics and Integrity of Employees**

It is the responsibility of all staff involved in procurement of goods or services for the City of Nedlands to ensure that any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

All officers and employees of the City of Nedlands shall observe the highest standards of ethics and integrity in undertaking procurement activity and act in an honest and professional manner that supports the standing of the City of Nedlands.

The City of Nedlands recognises the personal rights of all employees to engage in other activities, but strongly discourages such activities within the boundaries of City of Nedlands that may have the potential to create a perception of a conflict of interest or a conflict with the objectives of this policy or an employee’s contract of employment. Accordingly, employees must disclose to the Chief Executive Officer any activity or interests (including indirect financial interests) that may create a conflict of interest when performing any of their duties including an activity or an interest by a person with whom they have a close association as provided for in section 5.62 of the *Local Government Act 1995*.

1. **Authorisation of Expenditure**

Acceptance of tenders and quotations and the authorisation of expenditure is to comply with the City’s procurement requirements, associated policies and procedures and within the relevant delegation or limit of authority.

All procurement of goods or services other than those goods or services deemed an emergency or those outside of normal business hours are only to be procured after the approval of an appropriate purchase requisition and the creation of a relevant purchase order.

The confirmation of any procurement after the completion of a quotation / tender process must be authorised by an officer to whom authority to incur a liability has been delegated ensuring that sufficient funds have been provided for in the City’s annual budget.

1. **Quote, Tender and Procurement Record Capture:**

All Local Government purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the City’s Information and Records Management Policies and the *State Records Act 2000*.

1. **Purchasing Policy Non-Compliance**

This Purchasing Policy is mandated under the *Local Government Act 1995* and Regulation 11A of the *Local Government (Functions and General) Regulations 1996* and therefore the policy forms part of the legislative framework in which the Local Government is required to conduct business.

Where legislative or policy compliance is not reasonably able to be achieved, records must evidence the rationale and decision-making processes that substantiate the non-compliance.

Purchasing activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the City’s policies and procedures.

If non-compliance with legislation, this Purchasing Policy or the Code of Conduct, is identified it must be reported to the Manager of Finance or Chief Executive Officer.

Where a breach is substantiated, it may be treated as:

1. An opportunity for additional training to be provided;
2. A disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
3. Where the breach is also identified as potential serious misconduct, the matter will be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

**Related documentation**

Procurement of Goods and Services Procedure

General Disposal Authority for Local Government Records

**Related local law and legislation**

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

*State Records Act 2000*

**Related delegation**

*Local Government Act 1995, sections 3.57(1), 3.58(2), 3.58(3).*

*Local Government (Functions and General) Regulations, regulations14(2a), 18(4), 18(5), 20(1) 20(2), 21(1), 21(3), 23(3) and 30(2)(a)(ii).*

**Review History**

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