

3.10 PURCHASING

OBJECTIVE

The objectives of this Policy are to ensure that all purchasing activities:

- demonstrate that best value for money is attained for the Shire;
- are compliant with relevant legislations, including the Act and Regulations;
- are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the Shire;
- mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- are conducted in a consistent and efficient manner across the Shire and that ethical decision making is demonstrated.

POLICY

1. Policy Statement

The Shire of Gingin (the “**Shire**”) is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the *Local Government Act 1995* (the “**Act**”) and Part 4 of the *Local Government (Functions and General) Regulations 1996*, (the “**Regulations**”). Procurement processes and practices to be complied with are defined within this Policy and the Shire’s prescribed procurement procedures.

2. Ethics and Integrity

2.1 Code of Conduct

All officers and employees of the Shire undertaking purchasing activities must have regard for the Code of Conduct requirements and shall observe the highest standards of ethics and integrity. All officers and employees of the Shire must act in an honest and professional manner at all times which supports the standing of the Shire.

2.2 Purchasing Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the 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, and requirements consistent with the Shire’s policies and Code of Conduct;
- purchasing is to be undertaken on a competitive basis where 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 applicable policies, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the Shire by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.
- Employees must evidence their purchasing activities with the issue of purchase orders, and operate within their authorised purchasing limit.

3. Value for Money

3.1 Policy

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the Shire.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

3.2 Application

An assessment of the best value for money outcome for any purchasing process should consider:

- all relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery and 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, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc;
- financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
- the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- providing opportunities for businesses within the Shire's boundaries to be given the opportunity to quote for providing goods and services wherever possible.

4. Purchasing Requirements

4.1 Legislative/Regulatory Requirements

The requirements that must be complied with by the Shire, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the Shire.

4.2 Policy

Purchasing that is **\$250,000 or below in total value** (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under cl. 4.6 of this Purchasing Policy.

Purchasing that **exceeds \$250,000 in total value** (excluding GST) must be put to public tender when it is determined that a regulatory tender exemption, as stated under cl. 4.7 of this Policy, is not applicable.

4.3 Purchases Under \$250,000 Exempt From Requirements of Cl. 4.6

The following circumstances are exempt from the purchasing requirements set out under cl. 4.6, provided that the total value of the purchase does not exceed \$250,000:

- Emergency purchases as defined by cl. 4.11;
- Purchases where there is a sole source of supply;
- Services of WALGA (Western Australian Local Government Association) and LGIS (Local Government Insurance Scheme);
- Services of government entities including (but not limited to) Federal, State and local government entities, and Government Trading Enterprises (GTE's);
- Newspaper advertising (or online equivalent);
- Advance/prior payment of services (eg. accommodation, travel services, entertainment, conferences, seminars, memberships, subscriptions, training courses);
- Provision of utility services;
- Reimbursements; and
- Purchases of urgent or unique nature or where exceptional circumstances arise and it is considered in the best interests of the Shire for an exemption to be granted by the CEO. Council is to be informed of instances where such exemptions are granted.

4.4 Purchasing Value Definition

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

1. Exclusive of Goods and Services Tax (GST);
2. 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 Shire 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. A best practice suggestion is that if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply.
3. Must incorporate any variation to the scope of the purchase and be limited to a 10% tolerance of the original purchasing value.

4.5 Purchasing from Existing Contracts

Where the Shire 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. When planning the purchase, the Shire must consult its Contracts Register in the first instance before seeking to obtain quotes and tenders on its own accord.

4.6 Purchasing Thresholds

The table below prescribes the purchasing process that the Shire must follow, based on the purchase value:

Purchase Threshold	Value	Purchasing Requirement
Over \$500 and up to \$10,000		Purchase directly from a supplier using a Purchasing or Corporate Credit Card issued by the Shire, or obtain at least one (1) oral or written quotation from a suitable supplier.
Over \$10,000 and up to \$30,000		Obtain at least two (2) verbal or written quotations from suppliers following a brief outlining the specified requirement.
Over \$30,000 and up to \$50,000		Obtain at least two (2) written quotations from suppliers following a brief outlining the specified requirement.
Over \$50,000 and up to \$250,000		Obtain at least three (3) written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy. Requests for quotation from a pre-qualified panel of suppliers (whether administered by the Shire through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.
Over \$250,000		Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 4.6 of this Policy, conduct a public Request for Tender process in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i> , this Policy and the Shire's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.

4.7 Tendering Exemptions

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

- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program.
- the purchase is from a regional local government or another local government;
- 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 \$250,000 or less and represents value for money;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is from a pre-qualified supplier under a panel established by the Shire; or
- any of the other exclusions under Regulation 11 of the Regulations apply.

4.8 Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the Shire may consider publicly advertising tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA.

If a decision is made to undertake a public tender for contracts expected to be \$250,000 or less in value, the Shire's tendering procedures must be followed in full.

4.9 Sole Source of Supply

Where the purchasing requirement is over the value of \$10,000 and 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 Shire is satisfied and can evidence that there is only one source of supply for those goods, services or works. The Shire must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply.

Once determined, the justification must be endorsed by the Chief Executive Officer/Executive Manager, prior to a contract being entered into.

From time to time, the Shire may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

4.10 Anti-Avoidance

The Shire 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 consideration of the purchase below a particular purchasing threshold, particularly in relation to tenders and to avoid the need to call a public tender.

4.11 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 purchases required by the Shire in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

4.12 Third Party Transactions

Where a third party holds a fully executed management contract to supply services on behalf of the Shire of Gingin, that third party will be authorised to receive funds for products and services and return funds for products and services (refunds) on the Shire of Gingin's behalf.

All transactions must be carried out in accordance with established procedures, with funds being deposited to the Shire of Gingin's bank account either immediately (for electronic transactions) or as promptly as possible (for cash and cheque transactions).

All transactions will be subject to both internal and external audit.

The third party and their employees are to adhere to the requirements of Shire of Gingin Policy 3.10 Purchasing and any breach of this obligation could result in the management contract default clauses being actioned.

5. Records Management

Records of all purchasing activity must be retained in compliance with the *State Records Act 2000 (WA)*, the Shire's Records Management Policy and associated procurement procedures.

For each procurement activity, such documents may include:

- The procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- Procurement planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;
- Request for quotation/tender documentation;
- Copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- Copies of quotes/tenders received;
- Evaluation documentation, including individual evaluators' notes and clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to respondents notifying of the outcome to award a contract;
- Contract Management Plan which describes how the contract will be managed; and
- Copies of contract(s) with supplier(s) formed from the procurement process.

6. Sustainable Procurement and Corporate Social Responsibility

The Shire is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the Shire shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the Shire's sustainability objectives.

7. Local Economic Benefit

As much as practicable, the Shire 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;
- avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and
- 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 boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy.

The Shire of Gingin has adopted a Regional Price Preference Policy, which will be applied when seeking quotations or calling for tenders.

8. Purchasing from Disability Enterprises

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the Shire is not required to publicly invite tenders if the goods or services are to be supplied from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

Where appropriate, Australian Disability Enterprises may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

9. Purchasing from Aboriginal Businesses

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the Shire is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation on www.abdwa.com.au, where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Where appropriate, Aboriginal businesses may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

10. Panels of Pre-Qualified Suppliers

10.1 Policy Objectives

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers (“Panel”) may be created where most of the following factors apply:

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

The Shire will endeavour to ensure that panels will not be created unless most of the above factors are firmly and quantifiably established.

10.2 Establishing a Panel

Should the Shire determine that the creation of a panel would be beneficial, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the panel.

Panels may be established for a minimum of two (2) years and for a maximum length of time deemed appropriate by the Shire.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a panel is to be established, the Shire will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where fewer than three (3) suppliers are appointed to each category within the panel, the category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the Shire must state the expected number of suppliers it intends to put on the panel.

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.

10.3 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the panel must prescribe whether the Shire intends to:

- i. Obtain quotations from each pre-qualified supplier on the panel with respect to all purchases, in accordance with Clause 10.4; or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the panel, with work awarded in accordance with Clause 11.3(b).

In considering the distribution of work among panel members, the detailed information must also prescribe whether:

- a. Each panel member 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; or
- b. Work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the panel. The Shire is to invite the highest ranked panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked panel member is to be made and so forth until a panel member accepts a Contract. Should the list of panel members invited be exhausted with no panel member accepting the offer to provide goods/services under the panel, the Shire may then invite suppliers that are not pre-qualified under the panel, in accordance with the Purchasing Thresholds stated in cl. 4.6 of this Policy. When a ranking system is established, the panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

10.4 Purchasing from the Panel

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

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 Shire’s electronic records system. A separate file is to be maintained for each quotation process made under each panel that captures all communications between the Shire and Panel members.

10.5 Recordkeeping

Records of all communications with panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a panel, this includes:

- The procurement initiation document such as a procurement business case which justifies the need for a panel to be created;
- Procurement planning and approval documentation which describes how the procurement is to be undertaken to create and manage the panel;
- Request for applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the panel such as award letters;
- Contract Management Plan which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

The Shire is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the contract.

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 Shire.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Local Government Act 1995 – s.3.57</i> <i>Local Government (Functions and General) Regulations 1996 – Part 4</i> <i>State Records Act 2000</i>
Industry Compliance	WALGA Purchasing and Tender Guide WALGA Preferred Supplier Arrangements
Organisational Compliance	Shire of Gingin Code of Conduct Policy 1.44 – Regional Price Preference Delegation 2.7 – Inviting Tenders Delegation 2.8 – Developing Tender Documentation Delegation 2.9 – Accepting or Rejecting Tenders/Quotations Delegation 2.11 – Selecting the Next Most Appropriate Tender

POLICY ADMINISTRATION

Review Cycle	Biennial	Next Review	2024
Department	Corporate and Community Services		

Version	Decision Reference	Synopsis
1.	06/03/2007 - Item 11.2.1	Policy adopted.
2.	19/01/2016 - Item 11.1.1	Policy amended by adopting updated WALGA model.
3.	21/09/2021 - Item 11.1	Policy amended to reflect new tender threshold.
4.	19/10/2021 - Item 13.1	Policy amended to reference Regional Price Preference Policy following adoption of Policy 1.44.
5.	16/08/2022 - Item 11.4	Policy amended - cl. 4.3 (exemptions) added, amendments to purchasing threshold table (cl. 4.6), reference to State Government CUAs deleted, cl. 4.12 Third Party Transactions added