



Shire of **Ngaanyatjaraku**
ON A JOURNEY

Council Policy

Policy 2.1 – Procurement

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Council Policy 2.1 – Procurement

Procurement

Introduction

The Shire of Ngaanyatjarraku (the Shire) is committed to applying the objectives, principles and practices outlined in this Policy to all procurement activity and to ensuring alignment with the Shire’s strategic and operational objectives.

Purpose

To ensure all purchasing and procurement on behalf of the Shire is done through a consistent approach to market that is fair, transparent and equitable while mitigating risk to the Shire and achieving the best value for money.

Objectives

The Shire’s procurement activities will:

- a) Achieve best value for money that considers sustainable benefits, such as; environmental, social and local economic factors;
- b) Foster economic development by maximising participation of local businesses in the delivery of goods and services;
- c) Use consistent, efficient and accountable processes and decision-making, including; competitive quotation processes, assessment of best value for money and sustainable procurement outcomes for all procurement activity, including tender exempt arrangements;
- d) Apply fair and equitable competitive procurement processes that engage potential suppliers impartially, honestly and consistently;
- e) Commit to probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- f) Comply with the *Local Government Act 1995*, *Local Government (Functions and General) Regulations 1996*, other relevant legislation, Codes of Practice, Standards and the Shire’s Policies and procedures;
- g) Ensure procurement outcomes contribute to efficiencies (time and resources) for the Shire of Ngaanyatjarraku;
- h) Identify and manage risks arising from procurement processes and outcomes in accordance with the Shire’s Risk Management framework;
- i) Ensure records evidence procurement activities in accordance with the *State Records Act 2000* and the Shire’s Record Keeping Plan;
- j) Ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.

Scope

The Policy applies to all purchasing and procurement activities undertaken by and on behalf of the Shire.

Policy Statement

Ethics and Integrity

Code of Conduct

The Shire's Code of Conduct applies to all procurement activities and decision making, requiring all officers to observe the highest standards of ethics and integrity and act in an honest and professional manner at all times.

Procurement Principles

The following principles, standards and behaviours must be observed and enforced through all stages of the procurement process to ensure the fair and equitable treatment of all parties:

- a) Accountability shall be taken for all procurement decisions, to ensure the efficient, effective and proper expenditure of public monies (achieving value for money), in accordance with the Shire's adopted budget.
- b) Procurement shall be undertaken on a competitive basis to ensure that all potential suppliers are treated impartially, honestly and consistently.
- c) All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation.
- d) 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.

Value for Money

Value for money is achieved through the critical assessment of price, risk, timeliness, environmental, social, economic and qualitative factors to determine the most advantageous supply outcome that contributes to the Shire achieving its strategic and operational objectives. The Shire will apply value for money principles when assessing procurement decisions and acknowledges that the lowest price may not always be the most advantageous.

Assessing Value for Money

Value for money assessment will consider:

- a) All relevant Total Costs of Ownership (TCO) and benefits including; transaction costs associated with acquisition, delivery, distribution, and other costs such as, but not limited to; holding costs, consumables, deployment, training, maintenance and disposal;
- b) 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. This includes but is not limited to an assessment of compliances, the supplier's resource availability, capacity and capability, value-adds offered, warranties, guarantees, repair and replacement policies and response times, ease of inspection and maintenance, ease of after sales service, ease of communications, etc.;
- c) The supplier's financial viability and capacity to supply without the risk of default, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history;
- d) A strong element of competition by obtaining a sufficient number of competitive quotations consistent with this Policy, where practicable;
- e) The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk when considering procuring goods and/or services from suppliers;
- f) The environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policy including Local Economic Benefit; and
- g) Analysis and management of risks and opportunities that may be associated with the procurement activity, potential supplier/s and the goods or services required.

The level of assessment undertaken is commensurate with the value, complexity, risk and sensitivity of the goods or services being procured.

Sustainable Procurement

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

The Shire will apply Sustainable Procurement criteria as part of the value for money assessment to ensure that wherever possible suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes.

Sustainable Procurement can be demonstrated as being internally focused (i.e. operational environmental efficiencies or employment opportunities and benefits relating to special needs), or externally focused (i.e. initiatives such as corporate philanthropy).

Requests for Quotation and Tenders may include a request for Suppliers to provide information regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

Local Economic Benefit

The Shire promotes economic development through the encouragement of competitive participation in the delivery of goods and services by local suppliers permanently located within its District first, and secondly, those permanently located within its broader region. As much as practicable, the Shire will:

- a) consider buying practices, procedures and specifications that encourage the inclusion of local businesses and the employment of local residents;
- b) consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- c) ensure that procurement plans, and analysis is undertaken prior to develop Requests to understand local business capability and local content availability where components of goods or services may be sourced from within the District for inclusion in selection criteria;
- d) 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;
- e) avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid;
- f) consider the adoption of Key Performance Indicators (KPIs) within contractual documentation that require successful Contractors to increase the number of employees from the District first; and
- g) provide adequate and consistent information to local suppliers.

It is recognised that not all categories can be procured from a local or regional supplier. A qualitative weighting may be afforded in the evaluation of formal quotes and Tenders.

Socially Sustainable Procurement

The Shire supports procurement from socially sustainable suppliers such as Australian Disability Enterprises and Aboriginal businesses wherever a value for money assessment demonstrates benefit towards achieving the Shire's strategic and operational objectives.

A qualitative weighting will be used in the evaluation of Requests for Quotes and Tenders to provide advantages to socially sustainable suppliers in instances where the below tender exemptions are not exercised.

Engaging with Aboriginal Businesses

Regulation 11(2)(h) of the *Local Government (Functions and General) Regulations 1996* provides a tender exemption if the goods or services are supplied by a person on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia, or Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation), where the consideration under contract is \$250,000 or less, or worth \$250,000 or less.

The Shire will first consider undertaking a quotation process with other suppliers (which may include other registered Aboriginal Businesses as noted in *F&G Reg. 11(2)(h)*) to determine overall value for money for the Shire.

Where the Shire makes a determination to contract directly with an Aboriginal Business for any amount up to and including \$250,000 (including GST), it must be satisfied through alternative means that the offer truly represents value for money.

Engaging with Australian Disability Enterprises

Regulation 11(2)(i) of the *Local Government (Functions and General) Regulations 1996* provides a tender exemption if the goods or services are supplied by an Australian Disability Enterprise.

The Shire will first consider undertaking a quotation process with other suppliers (which may include other Australian Disability Enterprises) to determine overall value for money for the Shire.

Where the Shire makes a determination to contract directly with an Australian Disability Enterprise for any amount, including an amount over the Tender threshold of \$250,000 (including GST), it must be satisfied through alternative means that the offer truly represents value for money.

Environmentally Sustainable Procurement

The Shire will support the purchasing of recycled and environmentally sustainable products whenever a value for money assessment demonstrates benefit toward achieving the Shire's strategic and operational objectives.

Qualitative weighted selection criteria may be used in the evaluation of Requests for Quote and Tenders to provide advantages to suppliers which:

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

Procurement Requirements

Anti-Avoidance

In accordance with Regulation 12(1) of the *Local Government (Functions and General) Regulations 1996*, the Shire will not conduct multiple procurement activities with the intent (inadvertent or otherwise) of "splitting" the procurement value, so that the effect is to avoid a procurement 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.

Contract Renewals, Extensions and Variations

Where a contract has been entered into as the result of a publicly invited tender process, then *regulation 21A of the Local Government (Functions and General) Regulations 1996* applies.

For any other contract, 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 where the extension or renewal options were included in the original contract.

Upon expiry of the original contract, and after any options for renewal or extension included in the original contract have been exercised, the Shire is required to review the procurement requirements and commence a new competitive procurement process in accordance with this Policy.

Superannuation

When engaging contractors who are defined as employees under the *Superannuation Guarantee (Administration) Act 1992*, all officers need to be aware of and account for the payment of superannuation, as to avoid the Shire incurring a superannuation guarantee charge.

Defining the Procurement Value

The Shire will apply reasonable and consistent methodologies to assess and determine procurement values, which ensure:

- a) The appropriate procurement threshold and practice is applied in all procurement activities; and
- b) Wherever possible, procurement activity for the same category of supply is aggregated into single contract arrangements to achieve best value and efficiency in future procurement activities, where the requirements are able to be provided by a single supplier.

A category of supply can be defined as groupings of similar goods or services with common supply and demand drivers; market characteristics; or suppliers.

Strategic Procurement Value Assessments

To achieve best value for money and efficiency in future procurement activity, the Shire will periodically review recent past procurement activity across its operations to identify categories of supply for which the Shire will have continuing need and which can be aggregated into single contract arrangements. .

The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the procurement value threshold applicable.

Individual Procurement Value Assessments

In any case, where there is no relevant current contract, each procurement activity is to assess the procurement value based upon the following considerations:

- a) All values are exclusive of Goods and Services Tax (GST); and
- b) The amount is the actual or expected value of the contract over the full contract period, including all extension options; or the extent to which it could be reasonably expected that the Shire will continue to procure a particular category of goods, services or works and what total value is or could be reasonably expected to be procured; and
- c) the value of procurement will be based on the estimated total expenditure for a category of goods or services over the life of the contract or over a minimum 3-year period; and
- d) a category of supply is defined as being a grouping of similar goods or services with common supply and demand drivers, market characteristics or suppliers.

Table of Procurement Thresholds and Practices

Supplier Order of Priority

The Shire will consider and apply, where applicable, the following Supplier Order of Priority:

<p>Priority 1:</p>	<p>Existing Prequalified Supplier Panel or Other Contract Current contracts, including a Panel of Prequalified Suppliers or contracted supplier, must be used where the Shire’s supply requirements can be met through the existing contract.</p> <p>If the Shire does not have a current contract relevant to the required supply, then a relevant WALGA PSP agreement is to be used.</p>
<p>Priority 2:</p>	<p>Local Suppliers Where the procurement value does not exceed the tender threshold and a relevant local supplier is capable of providing the required supply, the Shire will ensure that wherever possible quotations are obtained from local suppliers permanently located within the District as a first priority, and those permanently located within surrounding Districts as the second priority.</p> <p>If no relevant local supplier is available, then a relevant WALGA PSP agreement may be used.</p>
<p>Priority 3:</p>	<p>Tender Exempt - WALGA Preferred Supplier Program Agreement (PSP) Use a relevant WALGA PSP regardless of whether or not the procurement value will exceed the tender threshold.</p> <p>However, if a relevant PSP exists but an alternative supplier is considered to provide best value, then the CEO, or an officer authorised by the CEO, must approve the alternative supplier. Reasons for not using a PSP may include:</p> <ul style="list-style-type: none"> i. Local supplier availability (that are not within the PSP); or, ii. Social procurement – preference to use Aboriginal Business or Disability Enterprise.
<p>Priority 4:</p>	<p>Tender Exempt - WA State Government Common Use Arrangement (CUA) Use a relevant CUA regardless of whether or not the procurement value will exceed the tender threshold. However, if a relevant CUA exists, but an alternative supplier is considered to provide best value for money, then the proposed alternative supplier must be approved by the CEO, or an officer authorised by the CEO.</p> <p>If no relevant CUA is available, then a Tender Exempt <i>[F&G Reg. 11(2)]</i> arrangement may be used.</p>
<p>Priority 5:</p>	<p>Other Tender Exempt arrangement <i>[F&G Reg. 11(2)]</i> Regardless of whether or not the procurement value will exceed the tender threshold, the Shire will investigate and seek quotations from tender exempt suppliers, and will specifically ensure that wherever possible quotations are obtained from a WA Disability Enterprise and / or an Aboriginal Owned Business that are capable of providing the required supply.</p>
<p>Priority 6:</p>	<p>Other Suppliers Where there is no relevant existing contract or tender exempt arrangement available, procurement activity from any other supplier is to be in accordance with relevant Procurement Value Threshold and Purchasing Practice specified in the table below.</p>

Procurement Value Thresholds

The procurement value, assessed in accordance with Defining the Procurement Value, determines the Procurement Practice to be applied to the Shire's procurement activities.

Procurement Value Threshold (excl GST)	Procurement Practice
Up to \$5,000	<p>Obtain at least one (1) verbal or written quotation from a suitable supplier in accordance with the Supplier Order of Priority detailed above.</p> <p>The purchasing decision is to be evidenced in accordance with the Shire's Record Keeping Plan.</p>
From \$5,001 and up to \$20,000	<p>Seek at least two (2) written quotations in accordance with the Supplier Order of Priority detailed above.</p> <p>If purchasing from a WALGA PSP, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained.</p> <p>The quotation is to be attached to the requisition and the purchasing decision is to be evidenced in accordance with the Shire's Record Keeping Plan.</p>
From \$20,001 and up to \$100,000	<p>Seek at least three (3) written quotations in accordance with the Supplier Order of Priority detailed above.</p> <p>If purchasing from a WALGA PSP, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained.</p> <p>The purchasing decision is to be evidenced using the Brief Evaluation Report Template and attached to the requisition for retention in accordance with the Shire's Record Keeping Plan.</p>
From \$100,001 and up to \$250,000	<p>Seek at least three (3) written responses by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority detailed above.</p> <p>If purchasing from a WALGA PSP, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained.</p> <p>The procurement decision is to be evidenced using the Evaluation Report Template retained on the relevant RFQ File in accordance with the Shire's Record Keeping Plan.</p>
Over \$250,001	<p>Tender Exempt arrangements (i.e. WALGA PSP, CUA or other tender exemption under <i>F&G Reg.11(2)</i>) seek at least three (3) written responses by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority detailed above.</p> <p>OR</p> <p>Public Tender undertaken in accordance with the <i>Local Government Act 1995</i> and relevant Shire Policy and procedures.</p> <p>The purchasing decision is to be evidenced using the Evaluation Report Template and retained on the relevant RFQ/RFT File in accordance with the Shire's Record Keeping Plan.</p>

Procurement Value Threshold (excl GST)	Procurement Practice
Emergency Purchases (Within Budget)	<p>Where goods or services are required for an emergency response and are within scope of an established Panel of Pre-qualified Supplier or existing contract, the emergency supply must be obtained from the Panel or existing contract using relevant unallocated budgeted funds.</p> <p>If there is no existing Panel or contract, then Supplier Order of Priority will apply wherever practicable.</p> <p>However, where due to the urgency of the situation; a contracted or tender exempt supplier is unable to provide the emergency supply OR compliance with this Purchasing Policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply. However, an emergency supply is only to be obtained to the extent necessary to facilitate the urgent emergency response and must be subject to due consideration of best value and sustainable practice.</p> <p>The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Record Keeping Plan.</p>
Emergency Purchases (No budget allocation available)	<p>Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the <i>Local Government Act 1995</i>, the Shire President must authorise, in writing, the necessary budget adjustment prior to the expense being incurred.</p> <p>The CEO is responsible for ensuring that an authorised emergency expenditure under s.6.8 is reported to the next Ordinary Council Meeting.</p> <p>The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply.</p>
LGIS Services Section 9.58(6)(b) Local Government Act	<p>The suite of LGIS insurances are established in accordance with s.9.58(6)(b) of the <i>Local Government Act 1995</i> and are provided as part of a mutual, where WALGA Member Local Governments are the owners of LGIS. Therefore, obtaining LGIS insurance services is available as a member-base service and is not defined as a purchasing activity subject to this Policy.</p> <p>Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this Policy is required.</p>



Other Purchasing Exemptions

In addition to the regulatory Tender exemptions for purchasing as set out in Regulation 11(2) of the *Local Government Act (Functions and General) Regulations 1996*, the following are further exemptions where the Shire is not required to undertake a competitive purchasing process;

- a) Advance / prior payment of services (for example: accommodation, travel services, entertainment, conferences, seminars, training courses);
- b) Annual memberships / subscriptions;
- c) Annual service / software licensing and maintenance / support fees;
- d) Employment of temporary staff through temporary personnel service agencies (CEO approval required for any contract exceeding or extended beyond three (3) months);
- e) Insurance excess;
- f) Motor vehicle fuel, licensing and registration;
- g) Postage;
- h) Purchases from Original Equipment Manufacture (OEM's) and where warranty provisions may be voided;
- i) Purchasing as required and determined by the CEO providing the approval is provided in writing prior to the purchase and attached to the requisition.

Emergency Purchases

Emergency purchases are defined as the supply of goods or services associated with:

- a) A local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; or
- b) A local emergency and the expenditure is required (with no relevant available budget allocation) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets in accordance with s.6.8 of the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996*, regulation 11(2)(a); or
- c) A State of Emergency declared under the Emergency Management Act 2005 and therefore, *Local Government (Functions and General) Regulations 1996*, regulations 11(2)(aa), (ja) and (3) apply to vary the application of this policy.

Time constraints, administrative omissions and errors do not qualify for definition as an emergency purchase. Instead, every effort must be made to research and anticipate purchasing requirements in advance and to allow sufficient time for planning and scoping proposed purchases and to then obtain quotes or tenders, as applicable.

Inviting Tenders Though Not Required to do so

The Shire may determine to invite Public Tenders, despite the estimated procurement value being less than the \$250,000 prescribed tender threshold where an assessment determines that the purchasing requirement cannot be met through a tender exempt arrangement and the use of a public tender process will enhance; value for money, efficiency, risk mitigation and sustainable procurement benefits.

In such cases, the tender process must comply with the legislative requirements and the Shire's tendering procedures [F&G Reg. 13].

Expressions of Interest

Expressions of Interest (EOI) will be considered as a prerequisite to a tender process [F&G Reg. 21] where the required supply evidence's one or more of the following criteria:

- a) Unable to sufficiently scope or specify the requirement;
- b) There is significant variability for how the requirement may be met;
- c) There is potential for suppliers to offer unique solutions and / or multiple options for how the purchasing requirement may be obtained, specified, created or delivered;
- d) Subject to a creative element; or
- e) Provides a procurement methodology that allows for the assessment of a significant number of potential tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes will be based upon qualitative and other non-price information only.

Unique Nature of Supply (Sole Supplier)

An arrangement with a supplier based on the unique nature of the goods or services required or for any other reason, where it is unlikely that there is more than one potential supplier may only be approved where the:

- a) purchasing value is estimated to be over \$5,000; and
- b) purchasing requirement has been documented in a detailed specification; and
- c) specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and
- d) market testing process and outcomes of supplier assessments have been evidenced in records, inclusive of a rationale for why the supply is determined as unique and why quotations / tenders cannot be sourced through more than one potential supplier.

An arrangement of this nature will only be approved for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists.

Panels of Pre-Qualified Suppliers

The Shire may consider creating a Panel of Pre-qualified Suppliers (Panel) when a range of similar goods and services are required to be purchased on a continuing and regular basis and it is advantageous to use multiple suppliers. Prior to establishing a Panel, the regulations require a

policy to be prepared in accordance with the regulations (see Policy 2.3). The regulations also set out the process to establish a Panel.

Procurement Policy Non-Compliance

The Procurement 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 Shire is required to conduct business.

Procurement activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the Shire's policies and procedures.

If non-compliance with legislation, this Procurement Policy or the Codes of Conduct, is identified it must be reported to the CEO.

A failure to comply with legislation or policy requirements, including compliance with the Code of Conduct when undertaking procurement activities, may be subject to investigation, with findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

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

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

Record Keeping

All procurement activity, communications and transactions must be evidenced and retained as local government records in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan.

In addition, the Shire must consider and will include in each contract for the provision of works or services, the contractor's obligations for creating, maintaining and where necessary the transferal of records to the Shire relevant to the performance of the contract.

Policy History

Amendments to this Policy

Amendments to this policy require a simple majority decision of Council.

History

Policy adopted: unknown

Policy reviewed: 24 June 2020

Policy amended: 25 August 2021

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Previous Policy

Policy 2.6

