

Policy Title: Purchasing Policy

Contents

1. Emergency Purchases	5
2. Inviting Tenders Though not required to do so	5
3. Procurement Exemptions	6
4. Unique Goods or Services	7
5. Anti-Avoidance	7
6. Contract Renewals, Extensions and Variations	7
7. Panels of Pre-Qualified Suppliers.....	7
8. Sustainable Procurement.....	8
9. Record Keeping	8
10. Policy Non-Compliance	8

Policy Statement

The Mindarie Regional Council (the MRC) is committed to applying the objectives, principles and practices outlined in this Policy, to all purchasing activity and to ensuring alignment with the MRC's strategic and operational objectives.

Objectives

The MRC's purchasing activities will:

- (a) ensure that the procurement process achieves the best value for money for the MRC;
- (b) ensure best practice policies and procedures are followed in relation to procurement;
- (c) ensure efficient and consistent procurement processes are implemented and maintained;
- (d) use consistent, efficient and accountable procurement practices,
- (e) ensure openness, fairness and equity to all potential suppliers;
- (f) commit to probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- (g) Enhance organisational environmental sustainability.

Scope

This Policy applies to all employees, appointed representatives or agents ('Officers') involved in the procurement of goods and services for the MRC.

Definitions

ADE	means Australian Disability Enterprise
Agreement	means an understanding or arrangement between parties (whether written or verbal) to act in a specific manner when engaging in trade. The Agreement must be properly executed, lawful and current. Agreements must be established using a compliant approach to market (see Item 5 – Purchase Thresholds) and approved by an Officer with sufficient Financial Authority.
Contract	means an Agreement which creates legally enforceable obligations between parties. A purchase order is a form of Contract.
ELO	means MRC Record Keeping system
Open Market	means Officers are free to select suppliers from any source to participate in procurement activity. There is no obligation to issue a statewide public notice under Open Market conditions. The City may restrict which suppliers are invited to respond to such requests.
Public Tender	means a Tender, Expression of Interest or Panel Request which must be conducted in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i> . Public Tenders require statewide public notice to be lodged. Suppliers may not be restricted from responding to the Tender request.
Purchase Threshold	means the actual or estimated value of a commercial commitment (e.g. Agreement, Contract, or purchase order) over the full term and/or quantity of supply, including all options to extend time or increase volume.

Risk Assessment	means determining the general risk profile of a particular procurement activity giving due consideration to the type of goods or service, nature of the supply market, contracting complexity, Agreement value, party type or quantity, community impact, probity concerns or public perception.
CUA	means the State Government Common User Arrangement.
Under Agreement	means that the MRC is purchasing goods and services through the formation of Contracts (e.g. issuing Purchase Orders), under established Agreements.
Value for Money (VFM)	means the total benefit derived from a good or a service when compared to its total financial cost, assessed over the term of the Agreement, Contract, or expected lifespan of the asset.
WALGA	means the Western Australian Local Government Association.
WALGA PSP	means a WALGA Preferred Supplier under the WALGA preferred supplier program

Principles

MRC's procurement activities will be conducted in a manner which maintains compliance with legislative requirements and upholds the following:

- (a) **Value for Money:** The financial cost of procuring the good or service is not the only factor in determining VFM. Factors such as fit for purpose, quality, delivery on time, after sales service, warranty, research and development support, reputation, inclusivity, and sustainability may be important criteria in making procurement decisions
- (b) **Thinking commercially:** Approaching procurement in a way that makes efficient and effective use of MRC resources to maximise direct and indirect value created. This can be achieved through smart inventory management, productive negotiation, proactive supplier management, flexible contracting and consideration for the total cost of ownership (including initial purchase price, operating costs, maintenance cost, cost of change, disposal, exchange rates, rise & fall, interest payments and outgoings, etc.).
- (c) **Sustainability:** The MRC endorses procurement practices which seek to improve the lives of minority, marginalised or at-risk groups through equitable participation in procurement opportunities. Procurement decisions should strive to achieve the most positive economic, environmental, and social impacts possible over the life cycle of a good or service, while minimising adverse impacts.
- (d) **Mitigating Risk:** The MRC will engage suppliers on commercial terms favourable to the MRC with the aim of reducing risk. Goods and services will be preferred from suppliers who agree to and can demonstrate appropriate levels of indemnity, insurance, health and safety, compliance, financial stability, service delivery, confidentiality and conformance with applicable laws.

Legislative Requirements

All procurement activities will comply with the following:

- (a) *Local Government Act 1995 ('Act')*
- (b) *Part 4 of the Local Government (Functions and General) Regulations 1996, ('Regulations')*
- (c) *Competition and Consumer Act 2010 (Cth)*
- (d) *State Records Act 2000*

Purchasing Thresholds

The Purchase Value Threshold relates to the actual or expected value of a contract over the full contract period or the extent to which the MRC will continue to purchase a particular category of goods, services or work and the total value of that purchase.

The following thresholds apply where the total value (excluding GST) of the full contract period for the purchasing of goods and/or services is, or is expected to be.

Purchase Value Threshold <i>(ex GST)</i>	Purchasing Open Market	Pre-Qualified Suppliers WALGA PSP, CUA, Supply Nation or an ADE
Up to \$5,000	Direct procurement from suppliers requiring one (1) verbal or written quotation from a suitable supplier.	Obtain a minimum of one (1) quotation is required.
	When a verbal quote is received the Officer must provide a written record of the quote details.	
\$5,000 up to \$20,000	Seek a minimum of two (2) written quotations from suitable suppliers.	Obtain a minimum of one (1) written quotation is required.
	A basic scope of work/specification, evaluation criteria and risk assessment should be documented by MRC Officers.	
\$20,000 up to \$70,000	Seek a minimum of three (3) written quotations from suitable suppliers.	Seek a minimum of two (2) written quotations.
	The procurement request will include a basic scope of work/specification, evaluation criteria and risk assessment should be documented by MRC Officers.	
\$70,000 up to \$250,000	Seek a minimum of three (3) written responses from suppliers by invitation using the MRC's Request for Quotation documentation.	Seek a minimum of three (3) written quotations.
	A suitable scope of work/specification, evaluation criteria and risk assessment are required to be documented and recorded prior to engaging the market. The process must be conducted in conjunction with the Projects and Procurement business unit.	
Over \$250,000	Conduct a public tender process in accordance with Part 4, Divisions 2 and 3 of the Regulations, and this Policy.	Seek a minimum of three (3) written quotations from Applicable exemptions under (Part 4, Div 2, Reg 11(2)).
	The process must be conducted in conjunction with the Projects and Procurement business unit.	The above processes must be conducted in conjunction with the Projects and Procurement business unit
Emergency Purchases	Where goods or services are required for an emergency response and are within scope of an existing contract, the emergency supply must be obtained from the existing contract using relevant unallocated budgeted funds.	

Purchase Value Threshold (<i>ex GST</i>)	Purchasing Open Market	Pre-Qualified Suppliers WALGA PSP, CUA, Supply Nation or an ADE
(Within Budget) Refer to Clause 1	<p>If there is no existing Panel or contract, then preference should be given to WALGA PSP, CUA, Supply Nation or an Australian Disability Enterprise to fulfil the requirement, 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 <u>OR</u> compliance with this Purchasing Policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply.</p> <p>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 procurement decision must be evidenced.</p>	
Emergency Purchases (No budget allocation available) Refer for Clause 1	<p>Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the Local Government Act 1995, the Chair 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>	

1. 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 Functions and General Regulation 11(2)(a); OR
- (c) A State of Emergency declared under the Emergency Management Act 2005 and therefore, Functions and General 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.

2. Inviting Tenders Though not required to do so

The MRC may determine to invite Public Tenders, despite the estimated Purchase Value being less than the \$250,000 prescribed tender threshold, but only 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 MRC's tendering procedures.

3. Procurement Exemptions

Specific types of procurement may qualify for exceptions in accordance with this Policy or the Regulations, Part 4, Division 2, clause 11(2). Authority to undertake tender exempt procurement is found in Delegation Register and the use of these exemptions is subject to this Policy.

Category	Details
On Contract Spend	<p>Goods or services are procured Under Agreement do not require quotes to be obtained prior to purchase where:</p> <ul style="list-style-type: none"> - The purchase is within the general Scope of Work; and/or - There is an agreed price. <p>Where ad-hoc goods or services are procured, or where new items are required Under Agreement, the Officer should:</p> <ul style="list-style-type: none"> - Ensure the purchase is reasonably within the general scope of work; and <p>Obtain a quote from the supplier which may be permanently added to the Agreement by way of variation (or similar).</p>
Public Tender Exempt	Tenders over \$250,000 (ex GST) <u>do not</u> have to be publicly invited where qualified for exemption under Part 4, Division 2, reg 11(2) of the Regulations.
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 Local Government Act 1995 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>
Unique Goods or Services Justification	Officers must obtain a minimum of one quote and complete a Unique Goods or Service Justification to be approved by CEO. Officers must complete a Unique Goods or Services Justification application that must be approved prior to a contract being entered into, or a purchase order raised.
External Recruitment (Fixed term/ Permanent)	Officers must obtain a minimum of one quote from a WALGA PSP or CUA when seeking support for external recruitment services. This exemption <u>does not</u> give Officers 'Authority to Recruit' and does not apply to labour hire services.
Advance Payments	Advance payments for accommodation, travel, seminars, training or conferences.
Utility Services	Provision of utility services (where the relevant utility or nominated contractor is the only accredited provider of such services).

Category	Details
OEM or Warranty	Procurement from an original equipment manufacturer and where warranty provisions may be void.

4. Unique Goods or Services

Due to the unique nature of the goods or services required or for any other reasonable reason, it is unlikely that there is more than one potential supplier a supplier may be engaged in lieu of obtaining the usual number of quotations or conducting a tender process nominated in the Purchase Thresholds. Officers must complete a Unique Goods or Services Justification application that must be approved prior to a contract being entered into, or a purchase order raised.

For purchasing activity with a consideration exceeding the tender threshold, a unique goods or service exemption must be approved by Council resolution. Below the tender threshold, the CEO is responsible for approving all Unique Goods or Services Justification applications (refer to the MRC's Delegation Register). Supplier awards resulting from approved Unique Goods or Services Justification applications are subject to individual Financial Authority

5. Anti-Avoidance

The MRC will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, so that the effect is 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.

6. Contract Renewals, Extensions and Variations

Where a contract has been entered into as the result of a publicly invited tender process, then *Functions and General Regulation 21A* 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.
- (c) The revised value (if applicable) of the contract as a result of the variation can be incorporated into approved MRC budgets

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

7. Panels of Pre-Qualified Suppliers

In accordance with *Functions and General Regulations 24AC*, a Panel of Pre-qualified Suppliers may be created where the MRC determines that there is or will be a continuing need for the goods or services to be supplied by pre-qualified suppliers.

Should the MRC determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 of the *Functions and General Regulations*.

8. Sustainable Procurement

The MRC may consider sustainable procurement as part of its evaluation criteria with other VFM criteria (and appropriately weighted) to ensure respondents contribute to the economic, social and environmental outcomes for the benefit all.

9. Record Keeping

All procurement activities, communications and transactions, including verbal quotations and evaluations must be evidenced and retained as MRC records in accordance with the *State Records Act 2000* and the MRC's policies and procedures including the MRC Record Keeping Plan.

10. Policy Non-Compliance

Failure to comply with the requirements of this Policy will 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. While an investigation is being undertaken, engagement in procurement activity may be suspended. Where a breach is substantiated it may be treated as:

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

Legislation	<i>Local Government Act 1995 (WA)</i> <i>Part 4 of the Local Government (Functions and General) Regulations 1996</i> <i>State Records Act 2000 (WA)</i> <i>Competition and Consumer Act 2010 (Cth)</i>
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