

# Council Policy

## POL-C-116 Procurement

### 1. Purpose

The purpose of POL-C-116 Procurement (Policy) is to:

- a) Provide policy and guidance to all City of Swan (City) workers to allow consistency and robust control over City procurement activities.
- b) Deliver a best practice approach and procedures to ensure the procurement lifecycle for the City is aligned to the City's strategic objectives for all operational areas.
- c) Provide guidance on ethical behaviour and ensure probity, transparency, effective competition and the avoidance of conflicts of interest and bias in all City planning, procurement and contracting activities.
- d) Ensure compliance with the **Local Government Act 1995 (WA)** and the Local Government (Functions and General) Regulations 1996 (WA).

### 2. Scope

This Policy covers all activities undertaken by the City's staff.

### 3. Terms and definitions

In this Policy the terms below have the following meanings.

Term	Definition
<b>Value for money</b>	Best available outcome for money spent
<b>Procurement lifecycle</b>	The planning, procurement and contract management stages of a goods and service purchase.
<b>Sustainable Procurement</b>	The procurement of goods and services that are produced and provided in a manner that delivers greater environmental, social and local economic outcomes than competing products and services.
<b>Social Procurement</b>	The City's ability to use its buying power to generate social value above the value of the goods or services being procured.
<b>Contract Management Framework</b>	The City's suite of contract management processes, contract documentation and system approvals.
<b>Contract Variation</b>	An alteration or change to the original contract

### 4. Policy statement

The City is committed to setting up efficient, effective, economical and sustainable procedures in all procurement activities. This Policy:

- a) Provides the City with an efficient process for the procurement of goods and services.
- b) Ensures that all procurement transactions are carried out in a fair and equitable manner.
- c) Strengthens integrity and confidence in the procurement system.
- d) Ensures that the City receives value for money in its procurement.

- e) Ensures that the City considers the environmental impact of the procurement process throughout the life cycle of goods and services.
- f) Ensures the City considers recycled construction and demolition products in civil and construction projects, including but not limited to recycled road base and drainage rock.
- g) Ensures the City is compliant with all statutory and regulatory obligations.
- h) Promotes effective governance, accountability and definition of City officers' roles and responsibilities.
- i) Upholds community and industry respect for the City's procurement practices.

## 5. Policy Criteria

### 5.1 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 procurement specification is more important than obtaining the lowest price, particularly considering end user requirements, quality standards, sustainability, life cycle costing, and service benchmarks.

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

- a) All relevant whole of life costs and benefits, whole of life cycle costs (for goods) and whole of contract life costs (for services) including 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.
- 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.
- c) 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.

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced conforming offer.

### 5.2 Risk Management

The City is committed to ensuring a risk management assessment of procurement activities that takes into consideration the following:

- a) 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).
- b) Where the tender has been assessed as high/extreme risk by City officers, the Chief Executive Officer (CEO) may choose to submit the tender to Council for consideration and authorisation.
- c) A centre-led procurement model balances central control which delivers oversight and separation of roles to the procurement process whilst allowing for localised flexibility proportional to spend and risk.

### 5.3 Sustainable procurement

“Sustainable Procurement” is defined as the procurement of goods and services that have less environmental, social and local economic impact than competing products and services.

The City is committed to sustainable procurement and, where appropriate, shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise

negative environmental, social and local economic impacts. Consideration shall be given to the inclusion of environmental evaluation criteria in the evaluation process and this shall be published as part of the quotation or tender process.

Sustainable considerations must be balanced against value for money outcomes in accordance with the City's sustainability objectives.

Practically, sustainable procurement means the City endeavours to identify and procure products and services that:

- a) Are necessary;
- b) Demonstrate environmental best practice in energy efficiency/and or consumption which can be demonstrated through suitable rating systems and eco-labelling;
- c) Demonstrate environmental best practice in water efficiency;
- d) Are environmentally sound in manufacture, use and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage;
- e) Can be refurbished, reused, recycled or reclaimed shall be given priority and those that are designed for ease of recycling, remanufacture or otherwise to minimise waste;
- f) Ensure recycled products are procured competitively from licenced waste processing facilities; and
- g) Encourage the development of competitive local business within its boundary, where economic benefits can be demonstrated.

## 5.4 Local economic benefit

The City will, as much as practicable, ensure procurement is undertaken with consideration given to local economic benefit. For the purposes of this, local is defined as being within the bounds of the City of Swan. The City will:

- a) Where appropriate, consider buying practices, procedures and specifications that support the local economy and do not unfairly disadvantage local businesses;
- b) Consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- c) 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;
- d) Avoid bias in the design and specifications for Requests for Quotation and Tenders. Requests are structured to encourage local businesses to bid; and
- e) Provide adequate and consistent information to potential suppliers.

The City maintains a register of local suppliers interested in receiving quotations for forthcoming projects. Suppliers have the ability to register their interest on the City's website.

## 5.5 Social procurement

The City will support the purchasing of requirements from socially sustainable suppliers such as Australian Disability Enterprises and Aboriginal businesses.

- a) Aboriginal businesses

Local Government (Functions and General) Regulations 1996 (WA) regulation 11(2)(h) 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.

Where possible, the City will first consider undertaking a quotation process with other suppliers (which may include other registered Aboriginal Businesses as noted in regulation 11(2)(h)) to determine overall value for money for the City.

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

b) Australian disability enterprises

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

Where possible, the City will first consider undertaking a quotation process with other suppliers (which may include other Australia Disability Enterprises) to determine overall value for money for the City.

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

**5.6 Procurement**

**5.6.1 Anti- avoidance**

In accordance with Local Government (Functions and General) Regulations 1996 (WA) regulation 12(1), procurement activities for the same goods or services should be aggregated into a single procurement activity to achieve the best value for money and efficiencies for the City. Multiple procurement activities, for the same goods or services, must not be conducted, with the intent of separating the procurement over two or more purchase orders or contracts, so that the effect is to avoid a procurement threshold outlined in section 8.2.

**5.6.2 Procurement thresholds**

The following thresholds apply where the total value (excluding GST) of the full contract period for the procurement of goods and/or services (including any option(s) to extend) is, or is expected to be:

<b>Value of procurement (All values ex-GST)</b>	<b>Applicable process</b>
Purchases with a value less than \$10,000 (Award: Relevant officer approval required)	Goods and services of a low risk and occasional nature may be purchased without the need for multiple quotations. A single written or verbal quotation must be obtained and this may be in any form including an invitation to treat.
\$10,000 to less than \$50,000 (Award: Manager approval required)	Seek a minimum of two (2) written quotations and obtain a minimum of one quotation.
\$50,000 to less than \$250,000 (Award: Executive Director approval required)	Seek a minimum of three (3) written requests for quotations (minimum three) and obtain a minimum of one quotation.  Quotations above \$150,000 must be sought in conjunction with the City’s Contracts and Procurement Team.
\$250,000 and above	Conduct a public tender or EOI process.  OR

**Value of procurement  
(All values ex-GST)**

**Applicable process**

(Award: Executive Director, Chief Executive Officer or full Council approval required)	Seek a minimum of three (3) written quotations from the pre-qualified panel members of WALGA, unless otherwise determined to be an exempt procurement under 8.4. of this Policy.  OR  Follow the relevant Common Use Agreement CUA buying guidelines.
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**Note:** Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$250,000 threshold (excluding GST). The decision to follow this process will be made by the Executive Director, and/or the Chief Executive Officer.

If a decision is made to seek tenders for contracts of less than \$250,000, the same procedure must be followed as for all Requests for Tenders, Expressions of Interest, Request for Proposal, and other public procurement processes.

**5.7 Probity advisors**

To ensure a transparent and fair assessment of the procurement process and to achieve best value for money, an independent person may be appointed to act as a Probity Advisor.

Circumstances by which a Probity Advisor may be engaged include:

- a) A procurement with an expected value of \$2,000,000 or over.
- b) A procurement that is complex or unusual in nature.
- c) A procurement considered politically sensitive or subject to a high degree of public scrutiny.

The decision to appoint a Probity Advisor will be at the complete discretion of the Chief Executive Officer.

**5.8 Procurement exemptions**

Where the City is exempt from publicly inviting tenders when procurement meets any of the requirements outlined under regulation 11(2) of the Local Government (Functions and General) Regulations 1996 (WA) value for money must be demonstrated.

The City may waive the requirement to undertake a competitive quotation where a written justifiable reason is presented and accepted. Evidence of the sole-supply must be recorded and authorised by contracts and procurement and the relevant Executive Director.

**5.9 Using a tender exempt panel of pre-qualified suppliers**

The City will request quotations from pre-qualified suppliers for the supply of goods and services related to the pre-qualified panel. Pre-qualified suppliers will receive consistent information to ensure a fair and transparent process is undertaken.

When engaging suppliers from a pre-qualified panel a written specification will be prepared and distributed in accordance with the process outlined within the Panel Agreement.

Factors which may be considered when distributing work include but are not limited to:

- a) The City's mandatory compliance requirements.
- b) Cost.
- c) Availability.

- d) Capacity.
- e) Project specific requirements.

All written information will be recorded and retained in accordance with Section 11 of the Procurement Policy.

## 5.10 Contract management

### 5.10.1 Contract management

All City contracts will be proactively managed during their lifecycle by the responsible City officer to ensure the City receives value for money and to enforce performance against the contract.

The Contracts and Procurement team are responsible for the administration and maintenance of the City's contract management system, framework, register and dispute process. All goods and service contracts valued \$50,000 (ex GST) and above will be maintained in the Contract register.

The Contracts and Procurement team will perform post contract performance reviews on selected contracts with the intention of continuously improving performance. Reports will be provided to the Executive Management team for consideration.

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

### 5.10.2 Contract variations

In accordance with Local Government (Functions and General) Regulation 21A a contract must not be varied unless:

- a) The variation is necessary for the goods or services to be supplied and does not change the scope of the contract.
- b) The variation is a renewal or extension of the term of the contract where the extension or renewal options were included within the original contract.

Furthermore, a variation to the term of a contract is not permitted, as per Local Government (Functions and General) Regulations 1996 (WA) regulation 11(2)(ja), unless:

- a) The City has an existing contract for the required goods or services, and
- b) The existing contract expires within 3 months, and
- c) The extension is for a term of not more than 12 months from the expiry of the existing contract, and
- d) The contract extension is entered into at a time when there is in force a state of emergency declaration applying to the City.

## 5.11 Records management

- a) All records associated with a procurement process must be recorded and retained as official City records.
- b) For a tender, quotation or direct purchase process this includes:
  - i. All tender/quotation documentation;
  - ii. Internal documentation;
  - iii. Evaluation documentation;
  - iv. All correspondence including enquiry and response documentation;
  - v. Notification and award documentation

- c) For a contract management process this includes:
  - i. Contract documentation, including claims, correspondence and file notes;
  - ii. Relevant internal documentation;
  - iii. All communications with the contractor or relevant third parties.

Record retention shall be in accordance with the minimum requirements of the **State Records Act 2000 (WA)**, and the City’s management practice Records Management.

## Document control

Document approvals:			
Version #	Council adoption		
1.	March 21, 2007		
2.	September 2, 2009		
3.	March 2, 2011		
4.	September 10, 2014		
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Document responsibilities			
<b>Custodian:</b>	Executive Manager Governance	<b>Custodian Unit:</b>	Governance
Document management:			
<b>Risk rating:</b>	High	<b>Review frequency:</b>	1 Year
<b>Next review:</b>	2025	<b>ECM Ref:</b>	5627462
Compliance requirements:			
<b>Legislation:</b>	Local Government Act 1995 (WA) Local Government Act (Functions and General) Regulations 1996 (WA) State Records Act 2000 (WA) Local Government Act 1995 – Section 9.49A(4) – Execution of documents		
<b>Industry:</b>			
<b>Organisational:</b>	Code of Conduct PRO-GO-001 Direct purchase of goods and services process applies PRO-GO-002 Calling for public tenders process applies PRO-GO-005 Written quotation process (A) applies PRO-GO-006 Formal written quotation (RFQ) process (B) applies PRO-GO-009 Waiving of requirements to seek quotations or call for public tenders PRO-GO-013 Panel arrangement quotation A PRO-GO-014 Panel arrangement quotation B PRO-GO-015 Panel arrangement PRO-GO-016 Contract Management Framework Delegation 41 – Appointment of Authorised Persons to Executive Documents Guideline – Execution of City Documents Manage Conflicts of Interest (PRO-GO-083) process		
<b>Strategic Community Plan:</b>	G2 Sustainable and optimal use of City resources N1 Sustainable natural environment		