

## Procurement Policy

**Policy Type: Council Policy**

**Policy Owner: Manager Financial Services**

**Policy No. CP- 023**

**Last Review Date: 17 April 2018**

### Policy Objectives

The objectives of this Policy are to ensure that all procurement activities undertaken by the City of Melville (City):

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

### Policy Scope

This Policy applies to all procurement activity undertaken by the City.

### Policy Statement

#### 1. POLICY

The City is committed to delivering best practice in the procurement 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 City’s prescribed procurement procedures.

#### 2. ETHICS & INTEGRITY

##### 2.1. Code of Conduct

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

##### 2.2. 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:

- full accountability shall be taken for all procurement decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all procurement practices shall comply with relevant legislation, regulations, and requirements consistent with the City's policies and Code of Conduct;
- procurement is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently;
- all procurement practices shall ensure that no disadvantage is unfairly apportioned to small businesses and include consideration of reasonable accommodation of their capacity;
- 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 City by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

### **3. VALUE FOR MONEY**

#### **3.1. Policy**

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

As such, procurement 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 procurement process should consider:

- all relevant Total Costs of Ownership (TCO) and benefits 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;
- 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 i.e. 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 procurement of goods and services from suppliers;
- procurement of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and

- providing opportunities for businesses within the City's boundaries to be given the opportunity to quote for providing goods and services wherever possible.

#### **4. PROCUREMENT REQUIREMENTS**

##### **4.1. Legislative / Regulatory Requirements**

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

##### **4.2. Policy**

Procurement that is \$150,000 or below in total value (excluding GST) must be undertaken in compliance with the procurement requirements under the relevant threshold as defined under section 4.5 of this Procurement Policy.

Procurement that exceeds \$150,000 in total value (excluding GST) must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under 4.6 of this Policy, is not deemed to be suitable.

##### **4.3. Procurement Value Definition**

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

1. Exclusive of Goods and Services Tax (GST);
2. Where a contract is in place, the actual or expected value of expenditure over the full contract period, including all options to extend, specific to a particular category of goods, services or works.
3. Where there is no existing contract arrangement, the purchasing value will be the estimated total expenditure for a category of goods, services or works over a minimum three year period.

##### **4.4. Procurement from Existing Contracts**

Where the City 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 City must consult its Contracts Register in the first instance before seeking to obtain quotes and tenders on its own accord.

##### **4.5. Procurement Thresholds**

The table below prescribes the procurement process that the City must follow, based on the purchase value:

Purchase Value Threshold	Procurement Requirement
Up to \$5,000	<p>Purchase directly from a supplier using a Procurement Credit Card issued by the City, or obtain at least one (1) oral or written quotation from a suitable supplier, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or</li> <li>• from the open market.</li> </ul>
Over \$5,000 and up to \$50,000	<p>Obtain at least three (3) written quotations from suppliers, outlining the specified requirement, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul>
Over \$50,000 and up to \$150,000	<p>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 assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>Requests for quotation from a pre-qualified panel of suppliers (whether administered by the City, 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.</p>
Over \$150,000	<p>Where the procurement 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>, (Regulations) this policy and the City's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p>
Emergency	Must be approved by the Mayor or by the Chief Executive Officer under

Purchase Value Threshold	Procurement Requirement
Purchases (Within Budget)	delegation and reported to the next available Council Meeting.
Emergency Purchases (Not included in Budget)	Only applicable where, authorised in advance by the Mayor in accordance with s.6.8 of the <i>Local Government Act 1995</i> and reported to the next available Council Meeting.

#### 4.6. 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 or State Government Common Use Arrangement;
- 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 within six (6) months of no tender being accepted;
- the purchase is from a pre-qualified supplier under a Panel established by the City; or
- any of the other exclusions under *Regulation 11* of the Regulations apply.

#### 4.7. Inviting Tenders Under the Tender Threshold

Where considered appropriate and beneficial, the City 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 procurement 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 \$150,000 or less in value, the City's tendering procedures must be followed in full.

#### 4.8. Expressions of Interest

Expressions of Interest (EOI) are typically considered in situations where the project is of a significant value, or contains significant complexity of project delivery that may solicit responses from a considerable range of industry providers.

In these cases, the City may consider conducting an EOI process, preliminary to any Request for Tender process, where the procurement requirement is:

- Unable to be sufficiently scoped or specified;
- Open to multiple options for how the procurement requirement may be obtained, specified, created or delivered;
- Subject to a creative element; or
- To establish a procurement methodology that allows for an assessment of a significant number of tenders leading to a shortlisting process based on non-price assessment criteria.

All EOI processes are conducted as a public process and, similar rules to a Request for Tender apply. However, the EOI should seek qualitative and other non-price information only i.e. Only indicative price information may be sought from respondents in order to inform establishing appropriate budgets.. All EOI processes should subsequently be followed by a Request for Tender through an invited process of those shortlisted under the EOI.

#### **4.9. Request for Proposal**

As an alternative to a Request for Tender, the City may consider conducting a Request for Proposal where the requirements are less known, or less prescriptive and detailed. In this situation, the Request for Proposal would still be conducted under the same rules as for a Request for Tender but would seek responses from the market that are outcomes based or that outline proponents solutions to meet the requirements of the City.

#### **4.10. Sole Source of Supply**

Where the procurement requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a quotation or tender process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City 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 a relevant delegated authority, prior to a contract being entered into.

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

#### **4.11. Anti-Avoidance**

The City 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 procurement threshold, particularly in relation to Tenders and to avoid the need to call a public Tender.

Using rolling contract extensions at the end of a contract term without properly testing the market or using a tender exempt arrangement, will not be adopted as this would place the City in breach of the Regulations (*Regulation 12*).

The City will conduct regular analysis of procurement activities within supply categories and aggregating expenditure values in order to identify procurement activities which can be more appropriately undertaken within the Procurement Threshold practices detailed in clause 4.5 above.

#### **4.12. 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 City in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

## 5. RECORDS MANAGEMENT

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

For each procurement activity, such documents may include:

- The Procurement initiation document such as a 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 including communications regarding clarifications and addendums to specifications;
- 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 note 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 Plans 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 City is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the City 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 City's sustainability objectives.

To this extent, a qualitative weighting may be afforded in the evaluation of quotes and tenders where suppliers can demonstrate sustainability and/or CSR policies and practices that have been implemented.

## 7. BUY LOCAL POLICY

As much as practicable, the City 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 City, or substantially demonstrate a benefit or contribution to the local economy.

## **8. PROCUREMENT FROM DISABILITY ENTERPRISES**

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the City 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](http://www.ade.org.au). This is contingent on the demonstration of value for money.

Where possible, Australian Disability Enterprises are to 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. PROCUREMENT FROM ABORIGINAL BUSINESSES**

Pursuant to Part 4 of the *Local Government (Functions and General) Regulations 1996*, the City 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](http://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 possible, Aboriginal businesses are to be invited to quote for the supply of 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 City 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 procurement activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and improve procurement processes; and
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

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



## 10.2. Establishing a Panel

Should the City determine that a Panel is beneficial to be created, 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. This will be undertaken through a public invitation process.

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

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 City will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less 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, the City 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, this intention is 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 either prescribe whether the City intends to:

- a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 11.4; or
- b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- c) 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 City 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 City may then invite suppliers that are not pre-qualified under the Panel, in accordance with the

Procurement Thresholds stated in section 4.5 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. Procurement 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 procurement 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 all be captured on the City'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 City 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 may include:

- the procurement initiation document such as a 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 plans which describes how the contract will be managed; and
- copies of framework agreements entered into with pre-qualified suppliers.

The City 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 City.

## 11. NON-COMPLIANCE

Procurement activities are subject to financial and performance audits, which review compliance with legislative requirements and also compliance with the City's policies and procedures.

A failure to comply with the requirements of this policy will be subject to investigation, with findings to be considered in the 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 follows:

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

A non-compliance register will be maintained.

### References that may be applicable to this Policy

Legislative Requirements:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996
Procedures, Process Maps, Work Instructions:	SP-019 Procurement Procedure
Other Plans, Frameworks, Documents Applicable to Policy:	Procurement Framework
Delegated Authority No:	DA-119 Determination of Criteria for Acceptance of Applications DA-118 Consideration and Acceptance/Rejection of Applications DA-026 Determination of Criteria for Acceptance of Tender DA-027 Consideration and Acceptance/Rejection of Tenders DA-028 Minor Contract Variations Pre Award, Selection of Next Successful Tenderer & Contract Variations Post Award DA-029 Expressions of Interest DA-030 Consideration of Expressions of Interest to Supply Goods or Services DA-116 Establishment of Panels of Pre-Qualified Suppliers DA-117 Authority to Sign Documents

ORIGIN/AUTHORITY		Item No.
Ordinary Meeting of Council	17/03/2007	C07/6006
<b>Reviews</b>		
Ordinary Meeting of Council	15/12/2009	C09/5097
Ordinary Meeting of Council	15/11/2011	C11/5199
Ordinary Meeting of Council	10/12/2013	C13/5341
Ordinary Meeting of Council	9/12/2014	C14/6077
Ordinary Meeting of Council	8/12/2015	C15/6089
Ordinary Meeting of Council	17/05/2016	C16/5484
Ordinary Meeting of Council	18/04/2017	C17/5548
Ordinary Meeting of Council	17/04/2018	C18/6158