

Policy Title: Purchasing Policy

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1. Purchasing

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.

1.1 OBJECTIVES

The MRC's purchasing activities will:

- (a) Achieve best value for money procurement outcome, based on a balanced judgement of financial and non-financial factors relevant to the procurement, which 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 purchasing processes and decision-making, including; competitive quotation processes, assessment of best value for money and sustainable procurement outcomes for all purchasing activity, including tender exempt arrangements;
- (d) Apply fair and equitable competitive purchasing 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 MRC's Policies, delegations register and procedures;
- (g) Ensure purchasing outcomes contribute to efficiencies (time and resources) for the MRC.
- (h) Identify and manage risks arising from purchasing processes and purchasing outcomes in accordance with the MRC's Risk Management framework;
- (i) Ensure records evidence purchasing activities in accordance with the *State Records Act 2000* and the MRC's Record Keeping Plan;
- (j) Ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.
- (k) Enhance organisational environmental sustainability.

1.2 ETHICS & INTEGRITY

The MRC's Code of Conduct applies when undertaking purchasing activities and decision making, requiring Council Members and employees to observe the highest standards of ethics and integrity and act in an honest and professional manner at all times.

1.3 VALUE FOR MONEY

The MRC will apply value for money principles in critically assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

1.3.1 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 arising from the supply, operation and maintenance;
- (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 MRC Policy; and
- (g) Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier/s and the goods or services required.

1.4 PURCHASING THRESHOLDS AND PRACTICES

1.4.1. Defining the Purchasing Value

The MRC will apply reasonable and consistent methodologies to assess and determine Purchasing Values, which ensure:

- (a) The appropriate purchasing threshold and practice is applied in all purchasing activities; and
- (b) Wherever possible, purchasing activity for the same category of supply is aggregated into single contract arrangements to achieve best value and efficiency in future purchasing 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.

1. Strategic Purchasing Value Assessments

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

The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the Purchasing Value threshold applicable to future purchasing activity.

2. Individual Purchasing Value Assessments

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

- (a) Exclusive of Goods and Services Tax (GST); and
- (b) The estimated total expenditure for the proposed supply including the value of all contract extension options and where applicable, the total cost of ownership considerations.
- (c) The appropriate length of a contract is to be determined based on market volatility, ongoing nature of supply, historical purchasing evidence and estimated future purchasing requirements.
- (d) Requirements must not be split to avoid purchasing or tendering thresholds [F&G Reg. 12].

The calculated estimated Purchasing Value will determine the applicable threshold and purchasing practice to be undertaken.

Value for Money assessments will be specific to the goods and or services being procured which may include aspects relating to stakeholders, markets, innovation, delivery and reporting.

1.4.2. Table of Purchasing Thresholds and Practices

(1) Purchasing Practice Purchasing Value Thresholds

The Purchasing Value, assessed in accordance with clause 1.4.1, determines the Purchasing Practice to be applied to the MRC 's purchasing activities.

Purchase Value Threshold (ex GST)	Purchasing Practice	Evaluators
Up to \$5,000 (ex GST)	Direct procurement from suppliers requiring one (1) verbal or written quotation from a suitable supplier. The procurement decision is to be evidenced using proforma templates in accordance with the MRC's Record Keeping Plan.	Minimum of one internal evaluator
From \$5,001 and up to \$20,000 (ex GST)	Seek a minimum of two (2) written quotations from suitable suppliers. If purchasing from a WALGA PSA, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained. The purchasing decision is to be based upon assessment of the suppliers response to: <ul style="list-style-type: none"> • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. All evaluations must be documented using proforma templates and retained in accordance with the MRC's Record Keeping Plan.	Minimum of one internal evaluator

Purchase Value Threshold (ex GST)	Purchasing Practice	Evaluators
From \$20,001 and up to \$70,000 (ex GST)	<p>Seek a minimum three (3) written quotations from suitable suppliers, except if purchasing from a WALGA PSA, CUA or other tender exempt arrangement, where a minimum of two (2) written quotation is to be obtained.</p> <p>The procurement decision is to be based upon assessment of the suppliers' responses to:</p> <ul style="list-style-type: none"> • an outline of the specified requirement for the goods; services or works required; and • against the selection criteria and value for Money criteria, not necessarily the lowest quote. <p>The procurement decision is to be evidenced using proforma templates including the Brief Evaluation Report and retained in accordance with the MRC's Record Keeping Plan.</p>	Minimum of two internal evaluators
From \$70,001 and up to \$250,000 (ex GST)	<p>Seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation.</p> <p>The procurement decision is to be based upon assessment of the supplier's response to:</p> <ul style="list-style-type: none"> • a detailed written specification for the goods, services or works required; and • pre-determined selection criteria that assesses all best and sustainable value considerations. <p>Quotations must be sought in conjunction with the Projects and Procurement business unit.</p> <p>The procurement decision is to be evidenced using proforma templates including the Evaluation Report and retained in accordance with the MRC's Record Keeping Plan.</p>	Minimum of three evaluators including Projects and Procurement officer
Over \$250,000 (ex GST)	<p>Tender Exempt arrangements (i.e. WALGA PSA, CUA or other tender exemption under <i>F&G Reg.11(2)</i>) require at least three (3) written responses from suppliers by invitation under a formal Request for Quotation.</p> <p><u>OR</u></p> <p>Public Tender undertaken in accordance with the <i>Local Government Act 1995</i> and relevant MRC Policy and procedures.</p> <p>The Tender Exempt or Public Tender procurement decision is to be based on the suppliers response to:</p> <ul style="list-style-type: none"> • A detailed specification; and • Pre-determined selection criteria that assesses all best and sustainable value considerations. <p>The above processes must be conducted in conjunction with the Projects and Procurement</p>	Minimum of three evaluators including Business Unit Manager and Projects and Procurement officer

Purchase Value Threshold (ex GST)	Purchasing Practice	Evaluators
	business unit and are subject to formal evaluation, review and approvals. All in accordance with the MRC's Recording Keeping Plan.	
Emergency Purchases (Within Budget) Refer to Clause 1.4.3	<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 preference should be given to WALGA PSA and CUA 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. 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 in accordance with the MRC's Record Keeping Plan.</p>	
Emergency Purchases (No budget allocation available) Refer for Clause 1.4.3	<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 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>	
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>	

Quotations may be obtained from either:

- an existing list of suppliers administered by the MRC
- an existing panel of pre-qualified suppliers administered by the MRC
- a pre-qualified supplier on the WALGA Preferred Supplier Program or State Government Common Use arrangements; or
- from the open market.

1.4.3. 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.

1.4.4. 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 [*F&G Reg.13*].

1.4.5. Public Tendering Exemptions

An exemption from publicly inviting tenders may apply in the following instances:

- The purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supplier Program or State Government Common Use Arrangement
- The purchase is from a Regional Local Government or another Local Government.
- The supply of the goods or services is associated with a state of emergency.
- The purchase is from a pre-qualified supplier under a Panel established by the MRC; or
- Any of the other exclusions under Regulation 11 of the Regulations apply.

1.4.6. Other Procurement Exemptions

The following are further exemptions where the MRC is not required to undertake a competitive procurement process and only where the total value of the procurement does not exceed \$250,000 (exclusive of GST):

- Advanced payments (accommodation, travel seminars, training, conferences).
- Annual service / software maintenance / support or licensing fees.
- Legal services (subject to legal preferred supplier panel arrangements).
- Memberships, subscriptions and/or renewals
- Provision of advertising services.
- Provision of temporary personnel under established panel arrangements
- Provision of utility services
- Procurement from an original equipment manufacturer and where warranty provision may be void; and
- Contracts for petrol, oil, or other liquid or gas used for internal combustion engines (regardless of value).

1.4.7. Sole Source of Supply

The procurement of goods, services or works available from only one private sector source of supply (manufacturer, supplier or agency) is permitted without undertaking a competitive process (Public Tender or RFQ processes) provided the MRC is satisfied that there is genuinely only one source of supply for those goods, services or works. Written confirmation to evidence this must be kept on file for audit purposes.

1.4.8. 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.

1.4.9. 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.

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.

1.4.10. 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*.

2. Sustainable Procurement

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

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

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

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

2.1. LOCAL ECONOMIC BENEFIT

The MRC, where possible, will seek to maximise the use of competitive local businesses, when purchasing Goods and/or Services, or contracted on behalf of the Council.

2.2. SOCIALLY SUSTAINABLE PROCUREMENT

The MRC will support the purchasing of requirements from socially sustainable suppliers such as Australian Disability Enterprises and Aboriginal businesses wherever a value for money assessment demonstrates benefit towards achieving the MRC's strategic and operational objectives.

2.3. ENVIRONMENTALLY SUSTAINABLE PROCUREMENT

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

Qualitative weighted selection criteria of 10% will 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.

3. Record Keeping

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

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

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