

FM 4 – Procurement, Budget Management and Supporting Local Business Policy

1 Objectives

The objectives of the Procurement, Budget Management and Supporting Local Business Policy are:

- 1.1 The Shire receives best value for money when purchasing products and services.
- 1.2 The Shire adheres to the State Government's Buy Local Policy, where this is practicable and cost competitive.
- 1.3 The Shire adheres to the Western Australian Competitive Neutrality Policy.
- 1.4 Sustainable economic development is achieved through the maximisation of participation by local businesses in the delivery of goods and services.
- 1.5 Sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment.
- 1.6 Openness, transparency, fairness and equity are apparent throughout the purchasing process, across all suppliers and potential suppliers of the Shire.
- 1.7 Purchasing processes and decision-making are consistent, efficient and promote accountability.
- 1.8 Purchasing activities demonstrate probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest.
- 1.9 Risks associated with purchasing activities are identified and managed in accordance with the Shire's Risk Management Framework and given consideration in determining the most appropriate method for purchasing goods, services and works.
- 1.10 The Shire complies with the Local Government Act 1995, Local Government (Functions and General) Regulations 1996 and the State Records Act 2000.

2 Scope

This policy applies to all Councillors and employees.

3 Definitions

Councillors

Means members of an elected body that make decisions on behalf of a local government through a formal meeting process. Generally, local government Councillors, who include the Mayor or President and Councillors, do not have any authority to act or make decisions as individuals.

Employee

Means a person that's hired to provide a service to a company either on a full-time, part-time or casual basis in exchange for payment. Also known as staff.

Direct Purchase

A purchase obtained from any source (where no conflict of interest exists) without the need to undertake a competitive purchasing process and where the Purchase Value (stipulated as under in the Purchasing Threshold table) is within the Shire's approved annual budget.

Genuine Underspend

Means when funds are not required for the original purpose because of an actual or forecast under expenditure. Forecast under expenditure must be identified by appropriate due diligence and typically be due to circumstances unforeseen at the time the budget was prepared. The use of underspend funds for an alternate purpose must not result in a reduction of the original scope of a project, program or service level.

Local Supplier

Means business owned and/or physically operating within the Shire (this includes businesses which might be national companies but have physical premises that trade within the Shire (e.g. Ampol or BP).

Regional Supplier

Means businesses operating within the boundaries of the Shires of Manjimup, Donnybrook-Balingup, Nannup, and Boyup Brook (this includes businesses which might be national companies but have physical premises that trade within the Shires).

Regulations

Means the Local Government (Functions and General) Regulations 1996.

4 Policy

The Shire of Bridgetown Greenbushes (the Shire) is committed to applying the objectives, principles and practices outlined in this policy to all purchasing activity and ensuring alignment with the Shire's strategic and operational objectives.

The Shire's purchasing activities will comply with the *Local Government Act 1995* (the Act), *Local Government (Functions and General) Regulations 1996* (the Regulations), other relevant legislation and Shire Policies and procedures.

Where practicable, cost-competitive and in accordance with this policy, the Shire will 'buy local.'

The Shire will apply the principles of competitive neutrality to its business activities according to the Western Australian Competitive Neutrality Policy. The Shire will not adversely impact local economic development through its business activities by way of any net competitive advantage because of public sector ownership. However, this should not be at the expense of social welfare and equity, economic development considerations, or the interests of community.

4.1 Ethics and Integrity

The Shire's Codes 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 to always act in an honest and professional manner.

4.2 Value for Money

Value for money will be the overarching principle governing purchasing and is determined through consideration of local provider competitiveness, price, risk, environmental, social, compliance, qualitative and other factors to determine the most advantageous outcome to be achieved for the Shire. The Shire acknowledges that the lowest price may not always provide the best value for money.

An assessment of the best value for money outcome for any purchasing process should consider the following:

- 4.2.1 Providing opportunities for businesses within the Shire's boundaries to quote for providing goods and services and to potentially provide the goods and services.
- 4.2.2 All relevant whole of lifecycle/contract costs and benefits including transaction costs associated with acquisition, delivery and distribution, as well as other costs such as, but not limited to, holding costs, consumables, deployment, maintenance and disposal.
- 4.2.3 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 warranties and guarantees.
- 4.2.4 The supplier's financial viability and capacity to supply without risk of default, including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history.
- 4.2.5 Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier(s) and the goods or services required.
- 4.2.6 The safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers.
- 4.2.7 The environmental, local economic and social benefits arising from the goods, services or works required in accordance with this policy and any other relevant Shire policy including local economic benefit.

4.3 Purchasing Requirements

4.3.1 Supplier Order of Priority

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

Priority 1	Existing Contracts Current contracts must be used where the Shire's supply requirements can be met through such a contract.
Priority 2	Local Suppliers Where the expected contract value does not exceed the tender threshold and a supplier located within the Shire can provide the required goods or services, the Shire will ensure that wherever possible, quotations are obtained from such supplier(s).
Priority 3	Regional Suppliers Where the expected contract value does not exceed the tender threshold and a supplier located within the Southwest region can provide the required goods or services, the Shire will ensure that wherever possible, quotations are obtained from such supplier(s).
Priority 4	Other Suppliers Where no existing contract exists, the Shire will consider other suppliers – including those included in a WALGA Preferred Supplier Arrangement (PSA), WA State Government Common Use Arrangement (CUA), other tender-exempt arrangements, and other suppliers. Purchasing activity will comply with the Purchasing Thresholds specified in the table below.

Employees will also seek to invite quotations from a variety and diverse range of potential suppliers, including new suppliers wherever possible.

4.3.2 Purchasing Thresholds

a. The following purchasing thresholds apply:

Purchase Value (Excl GST)	Purchasing Requirements
Up to \$5,000	Direct purchase from a supplier at the purchaser's discretion.
\$5,001 - \$20,000	Seek and make every effort to obtain at least two written quotations from suitable suppliers in accordance with the Supplier Order of Priority and Note 1 below. The purchasing decision is to be evidenced using the Quotation Evaluation Report Template and retained in accordance with the Shire's Records Keeping Plan.
\$20,001 - \$250,000	Seek and make every effort to obtain at least three written quotations from suitable suppliers by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority and Note 1 below. The purchasing decision is to be based upon an assessment of the response of suppliers to: • A detailed written specification for the goods, services or works required; and • Value for money selection criteria that assess all best and sustainable value considerations The purchasing decision is to be evidenced using the Evaluation Report Template and retained in accordance with the Shire's Records Keeping Plan.
Over \$250,000 (Excl GST)	Tender exempt arrangements, as defined under regulation 11(2) of the Regulations, require Employees to seek at least three (3) written quotes from suitable suppliers under a formal Request for Quotation in accordance with the Supplier Order of Priority, or Conduct a Public Tender in accordance with the Act and Regulations, and relevant Shire policy and procedures. In either case, the purchasing decision is to be based upon an assessment of the response of suppliers to: • A detailed written specification for the goods, services or works required • Pre-determined selection criteria that assesses all best and sustainable value considerations The purchasing decision is to be evidenced using the Formal Evaluation Report Template and retained in accordance with the Shire's Records Management Policy and other Shire procedures and guidelines.

Emergency Purchases² (within budget)	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 that contract, using relevant unallocated budgeted funds. If there is no existing contract, then the Supplier Order of Priority will apply, wherever applicable. However, where due to the urgency of the situation compliance with the provisions in this policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply. The 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. Purchases must be approved in advance by a Shire officer with appropriate delegated authority. The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Records Management Policy and other Shire procedures and guidelines.
Emergency Purchases² (outside budget)	Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the Act, the Shire President must authorise, in writing, the necessary budget adjustment prior to the expense being incurred. The CEO is responsible for ensuring that an authorised emergency expenditure under s.6.8 is reported at the next Ordinary Council Meeting. The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply.
LGIS Services	The suite of LGIS insurances is established in accordance with s.9.58 (6) (b) of the Act and is 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-based service and is not defined as a purchasing activity subject to this policy. Should quotations for insurance services be sought from alternative insurance suppliers, compliance with this policy is required.

- b. Where there is a requirement to seek quotations, at least one must be sought from a local supplier where they can supply the goods or services as part of normal business (i.e. excluding suppliers who might be able to 'get the product in'). At least one quote must be sought from a non-local supplier.
- c. With regards to the Purchase Value:
 - All values are to be calculated exclusive of Goods and Services Tax (GST).
 - All values relate to the total actual or expected cost value of goods or services over the life of the contract, including any options to extend.
 - 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. See the definition of an Emergency Purchase.

In accordance with Department of Local Government circular No.16-2015, repetitive low value contracts for the same service with one or more suppliers that collectively approach or exceed \$250,000 must be tendered (unless exemptions apply – Regulation 11.2 of the *Local Government (Functions and General) Regulations 1996*). No timeframe for the tender threshold has been legislated, however best practice is that if the threshold is reached within three years, then a tender should be invited.

4.3.3 Variance on Budget

Employees may apply a 10% variance rule on budget items (overspend by 10%) so far as:

- a. This does not breach other sections of this policy.
- b. The overspend is offset by genuine underspend in one or more other line items such that there is nil effect on the budget financial position.
- c. Using the underspend funds is reasonable in terms of service or project type (e.g. a project, program or service previously authorised by Council).
- d. Employees do not have the authority to use underspend from any budget but their own, without the express permission of the CEO.

This 10% variance does not apply to budget items that cost less than \$10,000. In these instances, a \$1000 variance overspend is allowed so far as 1-4 above applies.

The CEO or Executive Managers may approve a variance greater than 10% in the following circumstances:

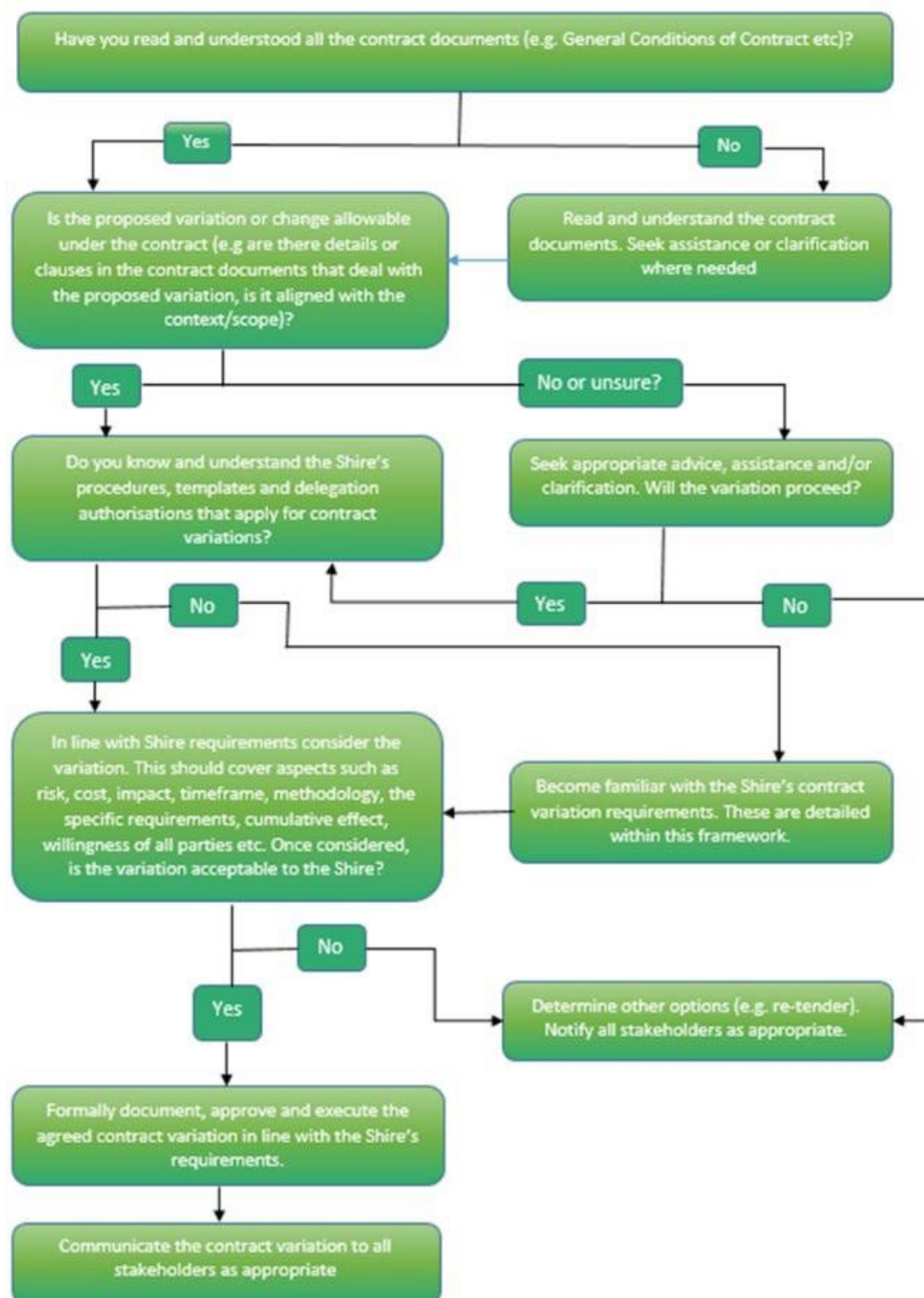
- a. The variance is under \$10,000 and can be offset by genuine underspend identified within the same budget sub-program, such that there is nil effect on the budget financial position.
- b. The over expenditure is for a line item being part of a program of like works (e.g. annual road sealing program) and the variance can be offset by genuine underspend on one or more items in the same program, such that the total program cost complies with 1-4 above.
- c. The over expenditure is for a line item budgeted, wholly or partly, for the purpose of revenue generation and will be offset by that revenue, such that there is nil adverse effect on the budget financial position.

Variances outside of these parameters must obtain Council approval. Employees will be accountable for a breach of these provisions, which will potentially result in disciplinary action.

4.3.4 Variation to a Contract

In addition to consideration of the provisions outlined for variation on a budget, an Employee making a variation to a contract must follow the process.

Contract Variation Flowchart



4.3.5 Purchase Orders

Purchase orders must be raised for all goods and services and prior to any invoice being received and goods or services supplied unless:

- a. Authorised in an emergency under section 6.8(1)(c) of the Act;
- b. A State of Emergency has been declared and purchases are to be for goods or services directly required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency relates, subject to purchases being approved by the CEO;
- c. The purchase is through petty cash; or
- d. The CEO approves otherwise for a justifiable and unforeseen reason.

4.3.6 Emergency Purchases

An emergency purchase is defined as the supply of goods, services or works 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 s6.8 of the Act and r11(2)(a) of the Regulations; or
- c. A State of Emergency declared under the *Emergency Management Act 2005* and therefore r11(2)(aa), (2)(ja) and (3) of the Regulations apply to vary the application of this policy.

Time constraints are not a justification for an emergency purchase. Every effort must be made to anticipate purchases in advance and to allow sufficient time for planning and scoping proposed purchases and to then obtain quotes and tenders, whichever may apply.

4.3.7 Inviting Tenders Under the Tender Threshold

Where an assessment determines that the use of a public tender process will enhance value for money outcomes, the Shire may consider calling Public Tenders despite the estimated contract value being less than the prescribed \$250,000 tender threshold.

In such cases, the tender process must comply with the legislative requirements for public tenders as outlined in the Regulations, and with the Shire's tendering procedures.

4.3.8 Other Purchasing Exemptions

Notwithstanding that the principles of ethics and integrity as outlined in this policy apply at all times, in addition to the regulatory Tender exemptions for purchasing as set out in Regulation 11(2) of the Regulations, certain circumstances may arise where it is not reasonably practicable to adhere to the purchasing thresholds outlined.

All purchases must be provided for in the budget, as adopted by Council. However, the following budgeted purchases are specifically exempt from the requirement to undertake a competitive purchasing process, where the Purchase Value is within the Shire's approved annual budget.

- a. Fixed Charges (e.g. state-wide advertising, postal services, memberships and subscriptions, industry-based training, vehicle registrations, property transaction fees);
- b. Purchasing of specialist legal services or specialty consultancy services as required and determined by the Chief Executive Officer;
- c. Reactive building maintenance purchases (under \$20,000);
- d. Advance/Prior Payment of Services (accommodation, travel services, conferences, seminars);
- e. Annual service/software maintenance/support fees (under \$200,000);

- f. Purchases of consumables, defined as items which can be consumed and liable to be used up or depleted over a brief period;
- g. Employee reimbursements (TAFE, training course fees, accommodation/meal costs, telephone and internet);
- h. Purchase of land;
- i. Procurement of performing arts, defined as forms of creative activity that are performed in front of an audience, such as drama, music or dance;
- j. Provision of utility services (where only sole provider);
- k. Purchases from Original Equipment Manufacturer (OEM's), or a sole agent thereof, where warranty provisions may otherwise be void;
- l. Provision of contributions to natural resource management and other community groups in accordance with agreements to assist with their administrative and operating costs; and
- m. Where the Chief Executive Officer, in justifiable circumstances, has waived the need to seek the required number of quotations prior to any purchase for a justifiable unforeseen reason.

4.3.9 Sole Source of Supply

In the circumstances of Sole Source providers, for purchases where the total contract value does not exceed \$250,000 the procurement of goods and/or services available from only one private sector source of supply, (that is the manufacturer, supplier, or agency) is permitted without the need to call competitive quotations subject to:

- a. The purchasing requirement being documented in a detailed specification;
- b. The specification having been extensively market evaluated and only one potential supplier has been identified as being capable of meeting the specified purchase requirement;
- c. A market testing process being undertaken, 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;
- d. The application of provision 'sole source of supply' must only occur in limited cases. Procurement experience indicates that more than one supplier can provide the requirements;
- e. Written application to and approval by the Chief Executive Officer;
- f. An arrangement of this nature only being approved for a period not exceeding one year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists; and
- g. Purchases where the total contract value exceeds \$250,000 being approved by Council.

4.3.10 Anti Avoidance

The Shire 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.

4.3.11 Contract Renewals, Extensions and Variations

Where a contract has been entered into as the result of a publicly invited tender process, r. 21A of the Regulations applies.

For any other contract, the 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 original 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 purchasing requirements and commence a new competitive purchasing process in accordance with this policy.

4.3.12 Expression of Interest

The Shire may consider conducting an Expression of Interest (EOI) process as a prerequisite to a public tender process where the required supply evidence one or more of the following criteria:

- a. The Shire is unable to sufficiently scope or specify the full requirement;
- b. There is significant variability into how the requirement may be met;
- c. There is potential for suppliers to offer unique solutions and/or multiple options for how the requirement may be obtained, specified, created or delivered;
- d. It is subject to a creative element; or
- e. There are a considerable number of potential tenderers, for which an EOI process would allow for shortlisting based on non-price assessment.

All EOI processes are to be conducted in line with the Regulations and Shire procedures and guidelines and will be based upon qualitative and other non-price information only.

4.4 Sustainable Procurement

The Shire 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 Shire 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 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 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.

4.4.1 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 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 developing 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.

To this extent, a weighted qualitative criterion will be included in the selection criteria for Requests for Quotation and Tenders where suppliers are located within the boundaries of the Shire or demonstrate a benefit or contribution to the local economy.

4.4.2 Price Preference

A price preference will apply to local suppliers as follows:

4.5 Quotations

The following price preference will be given to local suppliers submitting quotes:

- 10% on Shire purchases of a value up to \$5,000.
- An amount of \$500 or 5% (whichever is the greater) on purchases between \$5,001 and \$25,000.
- An amount of \$1,250 or 2.5% (whichever is the greater) on purchases between \$25,001 and \$249,999.

4.6 Tenders

A price preference of 5% up to a maximum of \$50,000 will be given to all local suppliers submitting conforming tenders unless Council resolves otherwise.

4.6.1 Purchasing From Environmentally and Socially Sustainable Businesses

The Shire is committed to sustainable procurement and will consider minimisation of environmental and negative social impacts as part of the selection process.

The Shire will endeavor to identify and procure products and services that:

- a. Demonstrate environmental best practice in energy and water efficiency and/or consumption; and/or
- b. Are obtained from suppliers who demonstrate carbon-efficiency and sustainability initiatives in their operations; and/or
- c. Are environmentally sound in manufacture, use and disposal; and/or
- d. Are made using the minimum number of raw materials from a non-sustainable resource, that are free of toxic or polluting materials, and which consume minimal energy during the production stage; and/or
- e. Can be refurbished, reused, recycled, or reclaimed, and have been designed for ease of recycling, re-manufacture or otherwise to minimise waste.

Sustainability factors must be considered in the overall value for money assessment of purchases of goods and services, in accordance with the Shire's sustainability objectives.

Adherence to this purchasing requirement will be demonstrated through tender submissions, the Expressions of Interest, suitable rating systems, supplier marketing material and eco-labelling).

4.7 Records Management

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 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 transfer of records to the Shire relevant to the performance of the contract.

4.8 Purchasing Non-Compliance

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

A failure to comply with legislation and the requirements of this policy 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 subject to the provisions within the Local Government Officers' (Western Australia) Award 2021, the Municipal Employees (Western Australia) Award 2021, the Administration Staff Employee Collective Agreement 2023 and the Outside Works Staff Enterprise Bargaining Agreement 2023;
- c. A disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*;
- d. Misconduct which is subject to reporting requirements in accordance with the *Corruption, Crime and Misconduct Act 2003*.

5 Accountabilities & Responsibilities

5.1.1 Council is accountable for:

- Ensuring the organisation has in place a lawful, transparent, and accountable policy framework, supported by a suite of compliant and appropriate policies and procedures.
- Endorsing (or not) each organisational policy document in a timely and effective manner.
- Delegating implementation of each policy document to the CEO.

5.1.2 The CEO is accountable for ensuring the development, implementation, monitoring and review of this policy document, in accord with governing legislation and Council directives.

5.1.3 The Executive Management Team and Managers is responsible for:

- Ensuring that all employees under their direction comply with this policy document.
- Enacting process to redress non-compliance with this policy document.

5.1.4 All employees are individually responsible for complying with this policy document.

6 Risk Management

If this policy FM 4 – Procurement, Budget Management and Supporting Local Business Policy is not in place the risks include (but are not limited to):

6.1.1 Non-compliance with legislation;

6.1.2 Purchasing bias and poor outcomes in terms of value for money;

6.1.3 Operational inefficiencies impacting service delivery;

7 Legislation, Policy & Other Related Documents

Statutory Power (Acts, Regulations, Local Laws, Town Plan Scheme etc.)	<i>Local Government Act 1995</i> <i>State Records Act 2000</i> <i>Emergency Management Act 2005</i> <i>Environmental Protection Act 1986</i> <i>Biodiversity Conservation Act 2016</i> <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>Biodiversity Conservation Regulations 2018</i>
Shire Policies	RM 1 – Risk Management IM 2 - Records Management
Related Documents	Code of Conduct for Employees
Related Procedure	Procurement Procedures

8 Administration

Original Adoption Date	28 March 2002
Last Reviewed	14 December 2023
Last Updated	25 June 2024
Scheduled Reviewed Date	25 June 2027