

Policy Number	Policy Title
<b>CP20</b>	<b>Purchasing – Amended for a declared State of Emergency</b>

## OBJECTIVE

- To provide compliance with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.
- To deliver value for money using a best practice approach and established procedures.
- To ensure consistency for all purchasing activities, and to provide consideration for environmental impacts across the lifecycle of goods and services.

## POLICY

The Shire of Irwin is committed to providing an efficient, economic and sustainable procurement process to achieve the best possible outcome.

Due to the declared state of emergency under the *Emergency Management Act 2005*. His Excellency the Governor, in Executive Council has approved regulation amendments to the *Local Government (Function and General) Regulations 1996* 11(1), (2)(aa), (h) (ja) and (3), these amendments apply to vary the application of this policy.

## PURCHASING PRACTICE

### Amendments for a declared State of Emergency

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Following are the amendments made to the Regulations in response to the declared state of emergency. For full understanding, ensure you are familiar with all the Regulations pertaining to procurement.

Regulation 11. *When tenders have to be publicly invited*

(1A) *In this regulation — state of emergency declaration has the meaning given in the Emergency Management Act 2005 section 3.*

(1) The tender threshold has been increased to \$250,000.

(2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*

*(aa) the supply of the goods or services is associated with a state of emergency;*

*(h) the following apply —*

*(i) the goods or services are to be supplied by —*

*(I) a person registered on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia Limited ABN 96 929 977 985; or*

*(II) Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) ABN 50 134 720 362;*

The local government has discretion to renew or extend a contract that expires when a state of emergency declaration is in force.

(2)(ja) *the contract is a renewal or extension of the term of a contract (the original contract) where—*

*(i) the original contract is to expire within 3 months; and*

*(ii) the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and*

*(iii) the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government;*

*(3) For the purposes of subregulation (2)(aa) a supply of goods or services is associated with a state of emergency if —*

*(a) the contract for the supply is entered into while there is in force a state of emergency declaration applying to the district, or part of the district, of the local government; and*

*(b) the local government considers that the goods or services are 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 declaration relates.*

Purchases \$150,000 to \$249,000 are also required to comply with the following:

- Obtain at least three (3) written quotations
- RFQ, detailed specification and evaluation is required
- Public Tender option at the CEO's discretion
- All other requirements in this policy and associated policies and procedures need to be considered.

\* \* \*

This policy and practice:

- Provides a more effective way of purchasing goods and services.
- Ensures that purchasing transactions are carried out in a fair and equitable manner.
- Strengthens integrity and confidence in the purchasing system.
- Ensures that the Shire of Irwin receives value for money in its purchasing.
- Ensures the consideration of the environmental impact of the procurement process across the life cycle of goods and services.
- Ensures compliance with all regulatory obligations.
- Promotes effective governance and definition of roles and responsibilities.
- Ensures the Shire of Irwin's purchasing practices upholds respect from the public and industry by confirming probity.

## **ETHICS & INTEGRITY**

All employees of the Shire of Irwin are required to observe the highest standards of ethics and integrity in undertaking purchasing activities and act in an honest and professional manner that supports the standing of the Shire of Irwin.

The following principles, standards and behaviours are to be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability is required be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all purchasing practices are required to comply with relevant legislation, regulations, and requirements consistent with the Shire of Irwin policies, procedures and code of conduct;
- purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- all processes, evaluations and decisions are required be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and

- information provided to the Shire of Irwin by a supplier is required to be treated as commercial-in-confidence and should not be released unless the disclosure is authorised by the supplier or required by relevant legislation.

## VALUE FOR MONEY

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire of Irwin. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, risk factors, sustainability, life cycle costing, and service benchmarks.

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

- all relevant 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;
- 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;
- capacity of supplier to supply goods/services within a required timeframe;
- 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);
- 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
- evaluation of risk when considering purchasing goods and services from suppliers.

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

## SUSTAINABLE PROCUREMENT

Sustainable Procurement is defined as the procurement of goods and services that have a positive economic, environmental and social outcome, and fewer negative environmental and social impacts than competing products and services.

The Shire of Irwin is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to minimise environmental and negative social impacts.

Practically, sustainable procurement means the Shire of Irwin is required to endeavour at all times to identify and procure products and services that:

- have been determined as necessary;
- demonstrate environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling;
- demonstrate environmental best practice in water efficiency;
- 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;
- products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste;
- for motor vehicles – select vehicles that provide best value for money based on vehicle type and within the designated price range; and

- for new buildings and refurbishments – where available use renewable energy and technologies.

Sustainable considerations is to be balanced against value for money outcomes in accordance with the Shire of Irwin’s sustainability objectives.

**PURCHASING THRESHOLDS**

In determining the purchasing value, the following considerations are to be taken into account:

- All values are exclusive of the Goods and Services Tax (GST).
- The actual or expected value of the contract over the full contract period (including options to extend).

Amount of Purchase	Model Policy
Up to \$5,000	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least one (1) verbal or written quotation. May include a RFQ and detailed specification as required.
\$5,001 - \$29,999	Corporate credit card may be used as per MP01 Corporate Credit Card. Obtain at least two (2) verbal or written quotations. May include a RFQ and detailed specification as required.
\$30,000 – \$49,999	Obtain at least two (2) written quotations. Recommend completion of a RFQ, detailed specification and evaluation.
\$50,000 - <del>\$249,999</del>	Obtain at least three (3) written quotations. RFQ, detailed specification and evaluation is required. Public Tender options at the CEO’s discretion.
<del>\$250,000</del> and above	Conduct a public request for tender process or purchase through a tender-exempt arrangement.
Emergency purchases <i>(not included in the budget)</i>	Only applicable where authorised in advance by the President in accordance with s.6.8 of the Local Government Act 1995 and reported to the next ordinary Council meeting.
WALGA Preferred Supplier Program (PSP)	The purchasing thresholds apply. For values over \$150,000 (tender exempt) three (3) written quotations are required. RFQ, detailed specification and evaluation is required.
WALGA Services <i>(excluding Preferred Supplier Program)</i>	For the purchasing of WALGA Services, a minimum of two (2) written quotations is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.
LGIS Services	For the purchasing of LGIS Services, a minimum of one (1) written quotation is to be obtained and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.

A Local Government may purchase from:

- pre-qualified panel of suppliers which includes WALGA Preferred Supplier Program (PSP)
- State Government
- The Commonwealth or any of its agencies
- Common Use Arrangements
- A local government or a regional local government
- The open market.
- Registered Aboriginal Businesses
- Australian Disability Enterprises

## TENDERS

Tenders are to be publicly invited according to the requirements of Division 2 of the *Local Government (Functions and General) Regulations 1996* before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless subregulation (2) states otherwise.

Refer to Division 2 of the *Local Government (Function and General) Regulations 1996* for all legislative Tender requirements. The Shire of Irwin's Purchasing Procedure also contains Tender procedures.

### Tender Exemption

An exemption, **which may be subject to the Act and Regulations**, from the requirement to publicly invite tenders may apply when the purchase is:

- the supply of the goods or services is to be obtained from expenditure authorised in an emergency under s.6.8(1)(c);
- **the supply of the goods or services is associated with a state of emergency;**
- obtained from a pre-qualified supplier under the WALGA Preferred Supplier Arrangement or other suppliers that are accessible under another tender exempt arrangement;
- is obtained through the government of the State or the Commonwealth or any of its agencies or from a Regional Local Government or another Local Government;
- the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier;
- acquired from a person/organisation registered on the WA Aboriginal Business Directory, as published by the **Chamber of Commerce and Industry of Western Australia, or Australian Indigenous Minority Supplier Officer Limited (trading as Supply Nation)**, where the consideration under contract is worth \$250,000 or less (exc GST) and represents value for money;
- acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is authorised under auction by Council under delegated authority;
- within 6 months of no tender being accepted;
- where the contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- the goods or services are to be supplied in respect of an area of land that has been incorporated in a district; or
- The contract is a renewal or extension of the term of a contract (the original contract).

### Tenders under the **\$250,000** threshold

After an assessment has been undertaken to determine that there is benefit from conducting a publicly accountable and more rigorous process, the Shire may invite a public tender for an estimated Purchase Value being less than **\$250,000**. The tendering process is to be followed in accordance with the *Local Government (Functions and General) Regulations 1996* and the Purchasing Procedure Manual.

## OTHER PROCESSES

### Supporting Local Industry

The Shire of Irwin has a role in the economic development of the local community. Refer to the Council Policy - CP01 Localised Purchasing (Regional Price Preference) to ensure that local suppliers have every opportunity to provide goods and services to the Shire.

### Emergency purchases

An emergency purchase is defined as an unanticipated purchase which is required in response to an emergency situation as provided for in the *Local Government Act 1995* s.6.8(1).

An 'emergency' is considered an event or situation that is sudden or unexpected and poses an immediate risk to health, life, property and/or the environment.

In such instances quotes and tenders are not required to be obtained prior to the purchase being undertaken. All emergency purchases are required to be authorised in advance by the Shire President.

### State of Emergency Declaration

During a declared State of Emergency under the *Emergency Management Act 2005*, amendments may be made to legislation to accommodate the emergency that has occurred, is occurring or is imminent.

### Sole Source of Supply

Where procurement of goods and/or services is of a unique nature that can only be supplied from one supplier and the purchasing threshold requirements are unable to be met.

To determine a genuine sole source of supply;

- market testing needs to be completed
- identify only one potential regional supplier as being capable of meeting the specified purchase requirement; and
- values greater than \$5,000 are to be approved by the CEO.

### Anti Avoidance

The Shire is not permitted to enter into two (2) or more contracts in circumstances such that the desire to avoid the requirements of the purchasing thresholds.

Including using rolling contract extensions beyond the contract extension provisions contained in an original contract. Or bundling contracts to have purchases recognised as capital expenditure.

## CONTRACTS

Contracts include Service Agreements (which include Standing Orders) and Purchase Orders.

The Shire is to ensure that any goods, services or works required that are within the scope of an existing contract are to be purchased under that contract.

### Service Agreement

Service agreements relate to entering into an ongoing agreement with a supplier to deliver goods or services required by Council on a continual basis throughout the financial year.

Before entering into a Service Agreement (including purchase orders) market testing is required and value for money is to be determined using the purchasing thresholds. A service agreement may be approved with regards to the following:

- The Market needs to be retested every two (2) years to ensure probity
- If a conflict of interest exists refer to Management Policy – MP04 Purchasing.

## RECORDS MANAGEMENT

All records associated with a Tender process or any procurement process are to be recorded and retained in compliance with the *State Records Act 2000 (WA)* and the Shire of Irwin's Record Keeping Plan.

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<b>Date of Review:</b>		<b>Review Frequency:</b>	biennial
<b>Responsible Directorate:</b>	Chief Executive Officer		

## Council Policy - Leadership

<b>Legislation:</b>	Local Government Act 1995 Local Government (Functions and General) Regulations 1996
<b>Related Policies and/or Procedures:</b>	Delegations CEO01 Tenders for Goods and Services Delegation CEO03 Payments from Municipal or Trust Funds CP01 Localised Purchasing (Regional Price Preference) CP24 Recordkeeping MP01 Corporate Credit Card MP02 Purchase Order Authorisation MP04 Purchasing Code of Conduct Purchasing Procedure Manual