

Policy Number	Policy Title
CP20	Purchasing

1. PURCHASING

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

1.1 Objective

The Shire's purchasing activities will:

- (a) Achieve best value for money that 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, potential 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 Shire's Policies and procedures.
- (g) Ensure purchasing outcomes contribute to efficiencies (time and resources) for the Shire of Irwin.
- (h) Identify and manage risks arising from purchasing processes and purchasing outcomes in accordance with the Shire's Risk Management framework.
- (i) Ensure records evidence purchasing activities in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan.
- (j) Ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.

1.2 Ethics & Integrity

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

1.3 Value for Money

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

Value for money assessment will consider the balanced assessment of price against non-price factors listed below:

- (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 Shire Policy including Local Economic Benefit.
- (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

1.4.1 Defining the purchasing value

The Shire 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 can 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 Shire will periodically review recent past purchasing activity across its operations to identify categories of supply for which the Shire 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).
- (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.

1.4.2 Table of Purchasing Thresholds

1 Supplier Order of Priority

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

Priority 1:	Existing Prequalified Supplier Panel or other Contract/ Agreements Current contracts, including the Shire's Panel of Prequalified Suppliers or contracted supplier, must be used where the Shire's supply requirements can be met through an existing contract. If the Shire does not have a current contract relevant to the required supply, then a relevant WALGA PSA is to be used.
Priority 2:	Local Suppliers Where the Purchasing Value does not exceed the tender threshold and a relevant local supplier is capable of providing the required supply, the Shire will ensure that wherever possible quotations are obtained from local suppliers; a) permanently located within the Shire's boundaries as a first priority, and b) those permanently located within the Midwest region as the second priority. If the Shire does not have a current contract relevant to the required supply, then a relevant WALGA PSA is to be used.
Priority 3:	Tender Exempt - WALGA Preferred Supplier Arrangement (PSA) Use a relevant WALGA PSA regardless of whether or not the Purchasing Value will exceed the tender threshold. However, if a relevant PSA exists but an alternative supplier is considered to provide best value, then the CEO, or an officer authorised by the CEO, must approve the alternative supplier. Reasons for not using a PSA may include: Local supplier availability (that are not within the PSA); or, Social procurement – preference to use Aboriginal businesses or Disability Enterprises.

	If no relevant WALGA PSA is available, then a relevant State Government Contract may be used. If no relevant State Government Contract is available, then a Tender Exempt [F&G Reg.11(2)] arrangement may be used. Tender Exempt - WA State or Federal Government Contract Arrangement Use a relevant State or Federal Government Contract regardless of whether or not the Purchasing Value will exceed the tender threshold. However, if a relevant State or Federal Government Contract exists, but an alternative supplier is considered to provide best value for money, then the proposed alternative supplier must be approved by the CEO, or an officer authorised by the CEO. If no relevant State of Federal Government Contract is available, then a Tender Exempt [F&G Reg.11(2)] arrangement may be used.
Priority 4:	Other Tender Exempt arrangement [F&G Reg. 11(2)] Regardless of whether or not the Purchasing Value will exceed the tender threshold, the Shire will investigate and seek quotations from tender exempt suppliers and will specifically ensure that wherever possible quotations are obtained from a WA Disability Enterprise and / or an Aboriginal Owned Business that is capable of providing the required supply.
Priority 5:	Other Suppliers Where there is no relevant existing contract or tender exempt arrangement available, purchasing activity from any other supplier is to be in accordance with relevant Purchasing Value Threshold and Purchasing Practice specified in the table below.

2 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 Shire's purchasing activities.

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:

Purchase Value (ex GST)	Purchasing Practice
Up to \$5,000	Direct purchase from supplier. Seek one (1) verbal quotation from a suitable supplier in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1).
\$5,001 - \$35,000	Seek at least one (1) written quotation from a suitable supplier in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1). If purchasing from a WALGA PSA, State or Federal Contract 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 supplier's response to: • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. May include a RFQ and detailed specification as required.
\$35,001 - \$85,000	Seek at least two (2) written quotations from a suitable supplier in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1). If purchasing from a WALGA PSA, State or Federal Contract 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 supplier's response to: • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price. May include a RFQ and detailed specification as required.
\$85,001 - \$250,000	Seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority detailed in clause 1.4.2(1). The purchasing decision is to be based upon assessment of the supplier's response to: • a detailed written specification for the goods, services or works required; and • pre-determined selection criteria that will assess all best and sustainable value considerations. The purchasing decision is to be evidenced using the Evaluation Report template retained in accordance with the Shire's Record Keeping Plan.

Over \$250,000	Conduct a Public Tender undertaken in accordance with the Local Government Act 1995 or other public procurement process such as Expressions of Interests or Request for Proposal; or Tender Exempt arrangements (i.e. WALGA PSA, State or Federal Government Contract or other tender exemption under <i>F&G Reg. 11(2)</i>). The Tender Exempt or Public Tender purchasing decision is to be based on the supplier's response to: • a detailed written specification for the goods, services or works required; and • pre-determined selection criteria that assess all best and sustainable value considerations. The purchasing decision is to be evidenced using the Evaluation Report template retained in accordance with the Shire's Record Keeping Plan.
Emergency purchases (Within Budget)	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. If there is no existing Panel or contract, then clause 1.4.2(1) Supplier Order of Priority will apply wherever practicable. 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. The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Record Keeping Plan.
Emergency Purchases (No budget allocation available)	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 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 to the next ordinary Council Meeting. The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply
LGIS Services Section 9.58(6)(b) Local Government Act	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-based service and is not defined as a purchasing activity subject to this Policy. Should Council resolve to seek quotations from alternative insurance suppliers, compliance with this Policy is required.

1.5 Procurement Practices

All procurement practices shall comply with relevant legislation, regulations and requirements. The following principals, 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.

1.5.1 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.

1.5.2 Inviting Tenders though no need to do so

The Shire 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 Shire's tendering procedures *[F&G Reg. 13]*.

1.5.3 Expressions of Interest

Expressions of Interest (EOI) will be considered as a prerequisite to a tender process *[F&G Reg. 21]* where the required supply evidence one or more of the following criteria:

- (a) Unable to sufficiently scope or specify the requirement.
- (b) There is significant variability for how the requirement may be met.
- (c) There is potential for suppliers to offer unique solutions and / or multiple options for how the purchasing requirement may be obtained, specified, created or delivered.
- (d) Subject to a creative element; or
- (e) Provides a procurement methodology that allows for the assessment of a significant number of potential tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes will be based upon qualitative and other non-price information only.

1.5.4 Unique nature of Supply (Sole Supplier)

An arrangement with a supplier based on the unique nature of the goods or services required or for any other reason, where it is unlikely that there is more than one potential supplier may only be approved where the:

- (a) purchasing value is estimated to be over \$5,000; and
- (b) purchasing requirement has been documented in a detailed specification; and
- (c) specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement: and
- (d) market testing process 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.
- (e) CEO approval is required.

An arrangement of this nature will only be approved for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence only one potential supplier still genuinely exists.

1.5.5 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.

1.5.6 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 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 Shire is required to review the purchasing requirements and commence a new competitive purchasing process in accordance with this Policy.

1.5.7 Minor variations prior to award of Contract

If after the Request has been issued either by public tender, invited quotations or other procurement process, and a successful Respondent has been chosen but before the Shire and the supplier have entered into a contract, a minor variation may be made by the Shire.

A minor variation will not alter the nature of the goods and/or services or works procured, nor will it materially alter the specification or structure provided for by the initial procurement process. It will also ensure that the changed value would be within 10 per cent tolerance of the original value.

It should not be of a nature that changes methodology or approach to a project which may open up the possibility that different suppliers may have responded if they had been aware of the new approach.

If a contract has already been entered into with a supplier, the contract may be varied (subject to approval by the CEO), if necessary, in order for the goods or services to be supplied, and provided

the variation/s do not change the scope of the original contract or increase the contract value beyond 10 per cent of the original value.

A contract may also be varied if it is a renewal or extension of the term of the contract as described in the Regulations.

1.5.8 Probity Experts

Probity experts ensure a transparent and fair procurement process and to achieve best Value for Money. An independent person may be appointed to act as a probity expert. The decision to appoint a probity expert will be at the complete discretion of the Chief Executive Officer.

1.5.9 Notification of Outcome

Each tenderer or respondent to a public procurement process shall be notified. Each unsuccessful respondent shall be offered a debrief on their response to the procurement process.

1.5.10 Contract Management

All Shire Contracts will be managed during their lifecycle by the responsible officer in accordance with good contract management practices.

1.5.11 Waiver of Quotation

Where obtaining quotes are impractical due to significant financial or other adverse impact to the Shire, the CEO or their delegate, at their discretion, may waive the requirements to obtain quotes. The request to waive the quotation requirement as well as the justification for approval (or other) must be in writing. The request for quotation waiver as well as the CEO's (or their delegate's) decision must be saved in accordance with the Shire's Records Management Policy.

1.5.12 Purchase Order Exemptions

Supply of goods or services must not commence until a purchase order has been issued, unless exempt from this requirement. A purchase order is unnecessary in the case of the following:

- a) Insurances;
- b) Payments made through payroll;
- c) Utilities (service and/or consumption charges/fees only);
- d) Goods or services purchased through a purchasing card;
- e) Fees and payments that are statutory, this includes bank fees;
- f) Other statutory damages, infringements and penalties;
- g) Loan repayments;
- h) Freight, postal charges and fuel cards;
- i) Goods purchased from petty cash;
- j) Purchasing card payment requests;
- k) State or Federal Government agencies such as Landgate, Office of State Revenue, Western Australia Planning Commission, Environmental Protection Authority, Department of Commerce, Department Fire and Emergency Services

2. SUSTAINABLE PROCUREMENT

The Shire supports and encourages 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, 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 (e.g. initiatives such as corporate philanthropy).

2.1 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 the Shire first, and secondly, those permanently located within the Midwest region.

The Shire has adopted a Regional Price Preference, Policy- CP01 Localised Purchasing Policy, which will be-applied when undertaking all purchasing activities over \$1,000.

2.2 Socially Sustainable Procurement

The Shire 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 Shire's strategic and operational objectives

A qualitative weighting will be used in the evaluation of Requests for Quotes and Tenders to provide advantages to socially sustainable suppliers in instances where the below tender exemptions are not exercised.

Engaging Aboriginal Businesses & Australian Disability Enterprises

Functions and General Regulation 11(2)(h) provides a tender exemption if the goods or services are supplied by a person on the Aboriginal Business Directory WA published by the Chamber of Commerce and Industry of Western Australia, or Australian Indigenous Minority Supplier Office Limited (trading as Supply Nation) and 11(2)(i) an Australian Disability Enterprise, where the consideration under contract is \$250,000 or less, or worth \$250,000 or less, and the Shire is satisfied that the offer truly represents value for money.

The rationale for making the purchasing decision must be recorded in accordance with the Shire's Record Keeping Plan.

2.3 Environmentally Sustainable Procurement

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

3. PANELS OF PRE-QUALIFIED SUPPLIERS

3.1 Objectives

The Shire will consider creating a Panel of Pre-qualified Suppliers ("Panel") when a range of similar goods and services are required to be purchased on a continuing and regular basis.

Part of the consideration of establishing a panel includes:

- (a) there are numerous potential suppliers in the local and regional procurement related market sector(s) that satisfy the test of 'value for money';
- (b) the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- (c) the Panel will streamline and will improve procurement processes; and
- (d) the Shire has the capability to establish a Panel and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.

3.2 Establishing and Managing a Panel

If the Shire decides that a Panel is to be created, it will establish the panel in accordance with the Regulations.

Panels will be established for one supply requirement, or a number of similar supply requirements under defined categories. This will be undertaken through an invitation procurement process advertised via a state-wide notice.

Panels may be established for a maximum of three (3) years. The length of time of a Local Panel is decided with the approval of the CEO.

Evaluation criteria will be determined and communicated in the application process by which applications will be assessed and accepted.

In each invitation to apply to become a pre-qualified supplier, the Shire will state the expected number of suppliers it intends to put on the panel.

If the Shire deems it needs additional suppliers to be added to a category within the panel, or the panel itself, to satisfy its needs or those of the local community, it will do so with the approval of the CEO.

If a Panel member leaves the Panel, the Shire will consider replacing that organisation with the next ranked supplier that meets/exceeds the requirements in the value for money assessment – subject to that supplier agreeing. The Shire will disclose this approach in the detailed information when establishing the Panel.

A Panel contract arrangement needs to be managed to ensure that the performance of the Panel Contract and the Panel members under the contract are monitored and managed. This will ensure that risks are managed and expected benefits are achieved. A Contract Management Plan should be established that outlines the requirements for the Panel Contract and how it will be managed.

3.3 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 will prescribe one of the following as to whether the Shire intends to:

- (a) seek quotations from each pre-qualified supplier on the Panel with respect to all discreet purchases; 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 the Regulations.

In considering the distribution of work among Panel members, the detailed information will 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 based on 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 *Functions and General Regulation 24AD(5)(f)* when establishing the Panel.
 - i. The Shire will 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.
 - ii. 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.
 - iii. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the purchasing thresholds stated in clause 1.4.2(2) of this Policy.
 - iv. When a ranking system is established, the Panel will 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.

3.4 Purchasing 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 Panel member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

3.5 Communications with Panel members

The Shire will ensure clear, consistent and regular communication with Panel Members. 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 in accordance with the Shire's Record Keeping Plan. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the Shire and Panel members.

4. 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 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 transferal of records to the Shire relevant to the performance of the contract.

5. PURCHASING POLICY NON- COMPLIANCE

The Purchasing Policy is mandated under the Local Government Act 1995 and Regulation 11A of the Local Government (Functions and General) Regulations 1996 and therefore the policy forms part of the legislative framework in which the Local Government is required to conduct business.

Where legislative or policy compliance is not reasonably able to be achieved, records must evidence the rationale and decision-making processes that substantiate the non-compliance.

Council Policy - Leadership

Purchasing activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the Shire's policies and procedures.

If non-compliance with legislation, this Purchasing Policy or the Code of Conduct, is identified it must be reported to the Chief Executive Officer.

A failure to comply with legislation or policy requirements, including compliance with the Code of Conduct when undertaking purchasing activities, 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, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
- (c) where the breach is also identified as potentially serious misconduct, the matter will be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

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Responsible Directorate:	Chief Executive Officer		
Legislation:	s.3.57 of the Local Government Act 1995 Part 4 of the Local Government (Functions and General) Regulations 1996		
Related Policies and/or Procedures:	Delegations CEO01 Tenders for Goods and Services Delegation CEO03 Payments from Municipal or Trust Funds CP01 Localised Purchasing (Regional Price Preference) MP02 Purchase Order Authorisation MP04 Purchasing Record Keeping Plan Code of Conduct Purchasing Procedure Manual		