

Purpose

The purpose of this policy is to ensure the Shire of Northampton complies with the tendering requirements of the *Local Government Act 1995*.

Policy Measures

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1. Objectives

- i. To provide compliance with the Local Government Act, 1995 and the *Local Government (Functions and General) Regulations, 1996*.
- ii. To deliver a best practice approach and procedures to tendering for the Shire of Northampton.
- iii. To ensure consistency for all tendering activities.

To the extent that this Policy is silent, Corporate Policy 2.3 – Purchasing Policy applies.

2. Approval for procurement

Prior to any formal action occurring:

- a. Council, or if delegated, the Chief Executive Officer must issue approval reflecting a conscious decision to call tenders for that particular procurement / disposal (for the purposes of this provision, relevant purchasing activities as approved by the Annual Budget are considered to be the approval of Council);
- b. The Chief Executive Officer must designate the employee or consultant responsible for the preparation of the tender specifications; and
- c. the responsible employee or Chief Executive Officer must ensure that the anticipated expenditure is approved either as part of the adopted budget or by a resolution of the Council carried by an absolute majority. Tenders should not be called if it is believed insufficient funds are available to cover the expenditure.

3. Probity officer

In order to foster a tendering environment which is consistent, and independent, the Chief Executive Officer is the probity officer responsible for all tenders. The Chief Executive Officer may delegate this function to an employee. The probity officer is responsible for:

- a. The maintenance of the tender register;
- b. Issuing of tender numbers;
- c. Review of the tender documentation for completeness (note the probity officer is not responsible to review tender specifications);
- d. Management of tender closing including ensuring tenders submitted electronically or by facsimile prior to the closing date/time are secured;
- e. Management of tender opening;
- f. Acknowledgement of tenders received;
- g. Acknowledgement of tenders awarded, unsuccessful; and
- h. Contract documentation.

4. Tender register

A tender register must be kept detailing certain information pertaining to the tender process. The register may be inspected by any member of the public.

The tender register is to include the following:

- a. Summary of tender procedures followed;
- b. Notification of the approval to proceed to tender;
- c. Copy of the tender advertisement;

- d. List of tenders received;
- e. Identification of the Council minute number approving the successful tenderer;
- f. Amount awarded to the successful tenderer.

Tender submissions are not to be kept on the tender register file. Submissions should be placed on the records file for that particular tender.

5. Exemptions

Public tenders do not have to be invited where:

- a. It is obtained from expenditure authorised in an emergency [Reg 11(2)(a)];
- b. Goods or services are obtained through WALGA Purchasing Service [Reg 11(2)(b)];
- c. Public tenders were invited within last 6 months but no tender was submitted that met tender specifications [Reg 11(2)(c)];
- d. The contract is entered into by auction after being expressly authorised by a resolution from Council [Reg 11(2)(d)];
- e. Goods or Services are supplied by State, Federal, another local government or a regional local government [Reg 11(2)(e)];
- f. The Shire of Northampton has good reason to believe that because of the nature of goods / service it is unlikely there will be more than one potential supplier [Reg 11(2)(f)]. Note: Every endeavour to find alternative sources must be made and documentation supporting this determination is to be approved by the Chief Executive Officer and is required to be placed on the tender register file. The application of this exemption should only occur in limited cases as usually there is more than one supplier capable of providing most goods or services; and
- g. The contract is for petrol, oil or other liquid or gas used for internal combustion engines [Reg 11(2)(g)].

6. Calling for tenders

If the value of goods or services to be procured is anticipated to be \$250,000 (ex GST) or more then tenders must be called.

In determining the anticipated value of the procurement, the expected payments over the life of the contract (including any option periods) is to be value by which the tender threshold is measured against.

The source of funding for the tender of goods or services is irrelevant.

Corporate Policy
2.4
Tendering Policy

The Shire of Northampton may wish to call tenders for goods or services whose value is anticipated to be less than \$250,000. In these circumstances, the provision of this policy is to apply to such tenders.

Anti-avoidance - Procurement shall not be broken up into two or more contracts of a similar nature for the purpose of splitting the value of the contracts below the tender threshold level of \$250,000.

7. Tender Criteria

Before tenders are publicly invited, the criteria for determining which tender should be accepted must be decided, documented and must be included in the tender documentation.

Tender criteria should be generic in nature and should clearly address both qualitative and price aspects. Weighting as to importance of each criteria and basis of evaluation should also be included.

The following simple yet effective assessment matrix is to be applied to each stated criteria in the tender documentation.

Essential tender criteria must be established that is applicable to all tenders and which is required to be met. Tenders that are not compliant will be identified as non-conforming and may only be included for tender assessment at the discretion of the Chief Executive Officer.

Qualitative Criteria (example total of 60%)

Criteria	Priority	Weighting	Evaluation basis	Assessed rating	Total Qualitative Score
A	High	30%	Specify for each criteria	Refer below for each criteria	Weighting x Assessed rating for each
B	Medium	20%			
C	Low	10%			
Total		60%			Sum A-C

Price Consideration (example total of 40%)

Criteria	Priority	Weighting	Evaluation basis	Assessed rating	Total Price Score
Tendered sum	High	40%	Specify	Refer below	Weighting x Assessed rating

Total Score

Criteria		Weighting	Total Score
A	Qualitative	60%	Total qualitative score
B	Price	40%	Total price score
Total		100%	Sum A+B

Assessed Rating Factor

0	Does not address assessed requirement
0.1	Fails to meet the assessed criteria (ie 25% above average price; well below average in ability to complete works etc).
0.2	Assessed between descriptor.
0.3	Below the average (ie 15% above average price; below average in ability to complete works etc).
0.4	Assessed between descriptor.
0.5	Average (ie within 10% of average price, an average statement / meeting of criteria etc).
0.6	Assessed between descriptor.
0.7	Above the average (ie 15% below average price; above average in ability to complete works etc).
0.8	Assessed between descriptor.
0.9	Assessed between descriptor.
1.0	Fully meets assessed requirement (i.e.: more than 25% cheaper than the average price, exceptionally high level of evidence of experience etc)

The tender with the highest overall total score, may be deemed the most advantageous tender unless other extenuating circumstances exist. If two or more tenders receive the same overall total score, then the lowest price shall be selected and recommended to Council.

An evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase. An evaluation panel must contain a minimum of 2 people.

8. Advertising of Tenders

All tenders shall be advertised as follows:

- a. Statewide Public Notice in the local government tenders section of "The West Australian" newspaper in either Saturday's or Wednesday's edition;
- b. on the Shire of Northampton's web page;
- c. Locally in the Geraldton Guardian and/or Mid West Times only where staff are aware that goods and services can be obtained within the region;

If considered worthwhile and cost effective, tenders may, at the discretion of the Chief Executive Officer, also be advertised in either:

- a. Other public internet tender publications; or

- b. In the tender section of the other publications.

All tenders must remain open for at least 14 full days after the date the tender is first advertised.

As illustrated below, tender advertisements shall clearly state:

- a. the tender number;
- b. a brief description of the goods or services required;
- c. particulars identifying a person from who more detailed tender information may be obtained;
- d. information as to where and how tenders may be submitted;
- e. the date and time of closure of tenders; and
- f. the Chief Executive Officers name.

<SHIRE OF NORTHAMPTON BANNER> Tender <u>XX/ XX</u>
The Shire of Northampton is seeking tenders for the supply and delivery of _____ & trade in or outright purchase of _____
Details of the tender are available from the Shire of Northampton by phoning 08 99341202 or from the Shire's web site www.northampton.wa.gov.au
Specification or trade details can be obtained from XXXXXX on 08 XXXX XXXX. Further detailed information please contact XXXXXXXX on 08 XXX XXXX.
Late tenders will not be accepted. The lowest or any tender will not necessarily be accepted. Tenderers canvassing staff will be disqualified.
Tenders should be marked "Tender <u>XX /XX</u> " _____ " and delivered to the tender box, Shire of Northampton, 199 Hampton Road, Northampton or posted to PO Box 61 Northampton WA 6535 or emailed at XXXX@northampton.wa.gov.au
Tenders close at Time Day Year.
XXXX Chief Executive Officer

The Chief Executive Officer is to approve all proposed tender advertisements prior to their placement. The costs of advertising the tender, together with all direct costs of the tender process, are to be allocated against the job to which the tender relates.

9. Tender Documentation

The tender documentation should provide detailed information regarding the tender including, specifications and other conditions for the supply of goods or services, the requirements for submission and the assessment criteria.

Tender documentation will contain the following components:

Cover	Summary sheet
Section 1	Principals Request
Section 2	Conditions of Tender
Section 3	Specifications and Special Conditions of Contract
Section 4	Tenderers Offer
Section 5	Price Schedule
Section 6	General Conditions of Contract (relevant to procurement)

Specifications and Special Conditions of Contract are to be prepared by the responsible officer designated in clause 2.

Tender documentation Specifications and Special Conditions of Contract is to be approved by the Chief Executive Officer for the responsible employee and tender documentation completeness is to be approved by the Probity Officer prior to advertisement.

It is essential that details are recorded of all potential tenderers who obtained a copy of the tender documentation from any Shire of Northampton source. This is essential if clarifications, addendums or further communication is required prior to the close of tenders, so that all potential tenderers have equal access to this information in order for the Shire of Northampton not to compromise due process.

Tenderers who wish to discuss the tender with the responsible officer may clarify information supplied however canvassing other than what is exempted by this policy shall not be permitted.

10. Addendum to tender documentation

If there is additional information which could be perceived to be substantial in nature, then this information must be sent to all potential tenderers who have received tender documents by way of an addendum to the tender documents. At no point may an officer disclose any information to a tenderer that would prejudice that or other tenderers.

11. Tender Closing

The probity officer responsible shall check that all mailed or e-mailed tenders have been placed in the tender box before the specified tender closing time.

The probity officer shall ensure that at the closing time on the specified day, that the tender box is closed, removed from public access and shall remain locked and under the custody of the probity officer until tender opening.

A tender that is not received (in full) by the advertised tender deadline shall be rejected.

12. Tender Opening

Tender opening shall normally be 30 minutes after the tender deadline to confirm all tenders received by the deadline have been collected (ie a tender e-mailed just prior to the deadline will need to be printed and placed in the tender box). No tenders are to be removed from the tender box prior to the stated opening.

Tenders are to be opened in accordance with the nominated time and place. Members of the public have a right to attend the opening of the tenders.

Tenders are to be opened in the presence of the probity officer and at least one other nominated person (being either Shire employee or Shire appointed third party such as a consultant).

Upon opening, tenders must be read out loud stating the company or person tendering. Unless otherwise stated in the tender advertisement or the request for tender documentation in order to protect “commercial in confidence”, the disclosure of price information shall occur at tender opening.

Immediately after opening, the tenderers offer form and price schedule shall be date stamped and initialled by at least two officers present at the opening. The probity officer shall then record each tender submission into the Tender Register.

After opening:

- a. the probity officer shall keep a copy of the tenderers offer and price schedule;
- b. The original tender submissions shall be placed on the relevant tender file; and
- c. The responsible officer shall be entitled to keep a copy of the tenderers submissions for the purposes of evaluation.

13. No tenders received

Where tenders have been invited however no compliant submissions have been received, Council may choose to either, readvertise without amendment, readvertise following a restructure or amend to the tender or alternatively, proceed to direct procurement from any selected supplier subject to the following:

- a. the provision of Council Policy 2.3 – Purchasing policy are applied (other than for the anticipated sum);
- b. the specifications for the goods or services remains unchanged; and
- c. the procurement is arranged within 6 months of the closing date of the lapsed tender.

14. Tender Assessment

The assessment process is not easy, is often subject to challenge requiring that great care be exercised.

Rejected tenders are not required to be evaluated.

Tenders that have not been rejected shall be assessed by the tender evaluation panel by means of written evaluation against the predetermined criteria to determine which tender is the most advantageous.

Non-conforming tenders may be included in the assessment process at the discretion of the Chief Executive Officer.

It should be noted that there is a degree of subjectivity in the assessment process (when assessing on more than price) and that officers should, wherever possible, be clear in their documentation supporting the basis of their assessment.

Any applicable Regional Price Preference applicable under Corporate Policy 2.5 Regional Price Preference is to be applied at the time tenders are assessed.

15. Canvassing

Canvassing in relation to this policy is defined as where a tenderer or their representative undertakes to discuss any part of their submitted tender, another submitted tender or the tender request generally with a Councillor or employee for the purposes of trying to influence the decision making process in the award of that tender.

Canvassing of Shire employees is forbidden. The employee shall immediately report any attempt (other than appropriate canvassing as stated below) to influence a tender decision, through canvassing by a tenderer or their representative, to the Chief Executive Officer. If the Chief Executive Officer determines that the canvassing was an obvious and significant attempt to influence the tender process, that tender may be immediately excluded by the total discretion the Chief Executive Officer.

The appropriate method of canvassing by tenderers is via the following mechanisms:

- a) Addressing Councillors during the Deputations / Public Question time during the Council meeting where the tender is presented to Council for determination; or
- b) A submission in writing that will be provided to all present Councillors on the day of the Council meeting where the tender is presented to Council for determination.

Employees seeking clarification or further information from a tenderer is not considered to be canvassing.

16. Presentation to Council

An agenda item by the designated officer shall be submitted to Council at the earliest possible Council meeting.

The agenda item shall contain a summary of the tender evaluation including:

- a. Background on tender, including budget allocation and/or Council resolution to go to tender.
- b. Comments including when tenders were called, advertised, closed etc.
- c. Assessment criteria specified and a schedule containing for each tenderer:
 - i. Assessment of each criteria including price considerations;
 - ii. Total rating (according to assessment criteria); and
 - iii. Statement of conformance, and if not conforming, give details as to why it was non-conforming.
- d. Comment then to include the highest conforming tender, statement as to the recommended tenderer and reason why that was the successful one (particularly if not lowest price).
- e. Statutory, Financial, Policy and Sustainability implications to be addressed as needed.
- f. Recommendation as to the tender submission considered most advantageous to the Shire of Northampton.

The probity officer shall record the details and total value of the awarded tender in the Tender Register.

17. Notification to Successful and Unsuccessful Tenderers

The probity officer shall notify each tenderer in writing of the outcome of the tender following the Council resolution. Notification shall include:

- a. The name of the successful tenderer; and
- b. The total value of consideration of the winning tender.

18. Contract documentation

The probity officer shall arrange for contract relating to the tender to be drawn up and signed by both parties.

19. Minor variations

The Shire of Northampton may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the tendered goods or services including any “minor variations” required, subject to such minor variations not altering the nature of the goods or services procured, nor materially altering the specifications or structure provided for by the initial tender.

For the purposes of guidance, a variation which would result in an increase in the total consideration of 10% or greater would not be considered minor, whereas a variation of up to 5% would be considered minor. Variations between 5% and 10% would need to be considered on their individual merits.

20. Panels of Pre-qualified Suppliers

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of pre-qualified Suppliers may be created where the majority of the following factors apply:

- The Shire of Northampton determines that a range of similar goods and services are required to be purchased on a continuing basis;
- There are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of ‘value for money’;
- The purchase activity under the intended Panel is assessed as being of a low to medium risk;
- The Panel is streamline and will improve procurement processes; and
- The Shire of Northampton has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

Establishing a Panel

Should the Shire of Northampton determine that a panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a minimum of one (1) year and for a maximum length of time deemed appropriate by the Shire.

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

Where a panel is to be established, the Shire will endeavour to appoint at least two (2) suppliers to each category, on the basis that best value for money is demonstrated.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the Shire must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and when establishing the Panel.

Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Shire of Northampton intends to:

- a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 9.4; and/or
- b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; and/or
- c) Purchase goods and services on a rotational basis from each pre-qualified supplier and endeavour to provide an even amount of work amongst pre-qualified suppliers.

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- i. Each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; and/or
- ii. Service requests that are not possible to obtain a fixed price may be rotated between pre-qualified supplier(s) to obtain the most advantageous result for the Shire of Northampton which may take into account the existing familiarity with a suppliers previous work on a specific Shire of Northampton asset; and/or
- iii. Should the list of panel members be exhausted with no panel member accepting the offer to provide goods/services under the Panel, the Shire of Northampton may then invite suppliers that are not on the panel to provide goods/services in line with the purchasing thresholds as listed in the policy 2.3 Purchasing Policy.

In every instance, a contract must not be formed with a pre-qualified suppliers for an item of work beyond 12 months, which includes options to extend the contract.

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

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire of Northampton's electronic records system.

21. Records management

All records associated with the tender process must be recorded and retained in accordance with the Shire of Northampton's Records Policy and the State Records Act.

The following documentation should be held on the relevant tender file in central records:

- a. Tender documentation;
- b. Tender submissions;
- c. Internal documentation including evaluations;
- d. Enquiry and response documentation;
- e. Notification and award documentation;
- f. Contract documentation; and
- g. Panel documentation.

Administration

This policy will be administered by the Office of the CEO.

Adoption and Date Due for Revision

ADOPTED 20 JUNE 2024
REVIEWED N/A

NEXT DUE FOR REVIEW 20 JUNE 2029

The Administration of this Policy is by Office of the CEO.
