



Council Policy

Procurement Policy



Table of Contents

1. Objectives	3
2. Policy Statement	4
3. Purchasing Thresholds.....	5
4. Governance and Assurance.....	5
5. Risk Management	6
6. Value for Money	6
7. Obtaining Quotations	6
8. Election to go to Tender below Legislated Threshold.....	6
9. Selection Criteria and Weightings	7
10. Other Procurement Processes.....	7
11. Notification of Outcome	7
12. Procurement Exceptions and Exemptions.....	7
13. Statutory Exemptions from a Public Tender Process	9
14. Exemption from Raising a Purchase Order	9
15. Anti – Avoidance	9
16. Sole Source of Supply	10
17. Emergency Purchases	10
18. Probity/Probity Experts.....	10
19. Contract Management	11
20. Contract Variations	11
21. Engagement of Contracted Suppliers.....	11
22. Novation of Contracts.....	11
23. Sustainable Procurement.....	12
a) Support of Local Suppliers	12
b) Purchasing from Aboriginal Business	12
c) Purchasing From Disability Enterprises	12
d) Environmental Sustainability	12
24. Panels of Pre-Qualified Suppliers (PPS).....	12
25. Standing Offer Arrangements.....	13



26. Purchase Cards	14
27. Records Management	14
28. Consequences	15
29. Review	15
30. Definitions and Abbreviations	15



Procurement Policy

1. Objectives

The City of Fremantle (the City) is committed to procuring Goods and/or Services, and/or Works in compliance with this Policy. The purpose of this Policy is to ensure:

- a) compliance with all relevant legislation including the:
 - i. WA Local Government Act 1995,
 - ii. WA Local Government (Functions and General) Regulations 1996 (the Regulations),
 - iii. WA Local Government (Administration) Regulations 1996,
 - iv. WA Local Government (Financial Management) Regulations 1996,
 - v. WA Local Government (Audit) Regulations 1996,
 - vi. WA State Records Act 2000,
 - vii. WA Work Health and Safety Act 2020,
 - viii. WA Work Health and Safety Regulations 2022, and
 - ix. Competition and Consumer Act 2010 (Cth);
- b) compliance with all relevant City policies, delegations and standards;
- c) the best Value for Money (VfM) is attained for the City, while acknowledging the importance of strategic procurement;
- d) probity and integrity, including –
 - a. the avoidance of bias, of perceived, potential and actual conflicts of interest; processes that promote openness, transparency, fairness and equity to all Respondents, and
 - b. that confidentiality protocols are established and complied with to protect commercial-in-confidence information with release of information where appropriately approved;
- e) that records are created and maintained to evidence purchasing activities in accordance with the State Records Act 2000 and the City's internal Records Management Policy;
- f) that risks are identified, assessed and managed as outlined in the City's Risk Management Policy and related documents;
- g) providing optimal administrative efficiency by pursuing best practice procurement; and
- h) that sustainable benefits such as environmental, social and local economic factors are considered in the overall VfM assessment.

2. Policy Statement

Purchasing activity is to comply with all relevant legislation including the Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 (the Regulations), as well as with the City's Register of Delegated Authority.

All processes associated with the procurement of goods and services will be carried out in a manner that is fully accountable, transparent, free from any perceived or actual bias or conflicts of interest, compliant with relevant legislation and fully documented in accordance with audit requirements.

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

- a) all procurement of goods and services must prior to purchase:
 - a. have an expenditure estimate included in the annual budget; or
 - b. have a suitable alternative source of funds made available via a budget amendment or allocation, subject to written approval from the CEO or relevant Director to do so.
- b) full accountability shall be taken for all procurement decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- c) all procurement practices shall comply with best procurement practices, relevant legislation, regulations, and requirements consistent with the City's Policies and Code of Conduct;
- d) procurement is to be undertaken where all Respondents are treated impartially, honestly and consistently;
- e) all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- f) all procurement processes and practices carried out for the City shall consider environmental, social and governance requirements and take into account their impact on the broader community;
- g) any actual, potential or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- h) any information provided to the City by a Respondent shall be treated as commercial – in confidence and should not be released unless authorised by the supplier or relevant legislation.

This policy is to be read and implemented in accordance with the requirements of the Procurement Procedures and Guidelines.

The Procurement Procedures and Guidelines provides further and comprehensive details, practices and the operational requirements associated with implementation of this policy.

3. Purchasing Thresholds

The application of these minimum threshold levels shall be carried out in conjunction with the supply order of priority requirements outlined in the Procurement Procedures and Guidelines.

The following table establishes the guidelines for the procurement of goods and services depending upon the Estimated Contract Value (ECV) for the Contract over the full Contract period* (including options to extend):

Table 1 – Purchasing Thresholds

Estimated Contract Value	Policy Instruction
\$0 to \$1,500	Seek at least one verbal Quote from a nominated supplier
\$1,501 to \$15,000	Seek at least one written Quote from a nominated supplier.
\$15,001 to \$50,000	Seek at least two written Quotations from suitable suppliers
\$50,001 to \$250,000	Seek at least three written Quotations from suitable suppliers. Price and the specification of goods and services are to be requested. The procurement decision will be based on VfM and qualitative considerations.
Above \$250,000	A public Tender process is required to be conducted through the ePortal platform and by any other means outlined in the regulations; or seek at least four (4) Quotations from an appropriate exempt arrangement.

*The "Contract period" can mean "a one-off purchase" or "a pre-defined period".

Note that unless exempted, Direct Sourcing only applies to purchasing up to an ECV of \$15,000 (excluding GST) as per the stated purchasing thresholds.

4. Governance and Assurance

The Major Procurements Advisory Panel (MPA) is a governance assurance function, that sits within the remit of the Executive Leadership Team.

For higher risk, higher value, complex, sensitive or contentious procurement processes, a Formal Review Committee mechanism via the MPA will be included to provide further governance and assurance.



Further details on when and how the MPA Panel is to provide an assurance role, are provided in the Procurement Procedures and Guidelines.

5. Risk Management

All significant procurement processes that have a specific budget line item with an ECV above \$1M (excluding GST) must (unless exempted) be informed by the appropriate level of procurement planning, which is to be determined at the discretion of the MPA panel.

The Request documentation should also have regard for procurement risks in the procurement process and associated controls, including relevant updates to insurance provisions, which are then vetted through the evaluation process.

Please refer to the City's Procurement Procedures and Guidelines for further details.

6. Value for Money

The City will apply value for money principles when assessing purchasing decisions.

Value for money is determined when the consideration of price, and non-price factors (including risk and sustainability measures) are assessed in accordance with the City's Tender Evaluation Criteria to determine the most advantageous outcome to be achieved for the City.

The procurement that is determined to be both the most cost effective and has been assessed by the evaluation panel as being able to meet the requirements set out in the respective request / specification, will be recommended for acceptance.

The VfM consideration will be applied for all threshold levels of purchase.

7. Obtaining Quotations

Written Quotations will be obtained in accordance with the steps outlined in the Procurement Procedures and Guidelines.

Where Quotations are sought from alternate suppliers for purchases below \$250,000, but suppliers decline to respond, officers are required to document the outcome of the Request. Where officers are unable to obtain the desired number of Quotations and are able to demonstrate that they took reasonable steps to ensure compliance with this Policy, the procurement decision is to be based on the Quotation(s) received and documented.

A similar process must be followed for other public procurement processes such as a Request for Tender, Expressions of Interest or Request for Proposal.

8. Election to go to Tender below Legislated Threshold

If a decision is made to seek public Tenders for Contracts of less than or equal to \$250,000, a Request for Tender process entailing all of the procedures for a Tender, in accordance with the Act and the associated Regulations, must be followed in full.

9. Selection Criteria and Weightings

Establishing criteria for evaluation, including the requirements for the evaluation panel must be undertaken in accordance with the Procurement Procedures and Guidelines.

Price consideration will not be weighted as part of the evaluation process. Price will be considered separate to non-price selection criteria and a VfM assessment will take a balanced view between price and non-price considerations (as per the approach to VfM outlined in Section 6 of this policy).

Sustainability (as outlined in Section 23 of this Policy) will be included as a mandatory qualitative assessment element for all procurement processes with an ECV above \$50,000 (excluding GST).

10. Other Procurement Processes

Other procurement processes include Expressions of Interest and Request for Proposal. In both cases, similar rules to a Request for Tender apply and they should be conducted in accordance with this policy and the requirements outlined in the Procurement Procedures and Guidelines.

11. Notification of Outcome

Each Respondent to a public procurement process shall be notified in accordance with the procedures outlined in the Procurement Procedures and Guidelines.

Each unsuccessful Respondent shall be offered a debrief on their response to the procurement process.

12. Procurement Exceptions and Exemptions

The City acknowledges that there are circumstances whereby the seeking of Quotes up to and including the \$250,000 (excluding GST) purchasing threshold is not always possible or practical. A list of exemptions is outlined in the below table. This will be reviewed annually and / or on the acceptance of any new Contracts. The use of these exemptions must be approved by relevant Director or CEO and be reported to Council via the Audit and Risk Committee.

Table 2 – Procurement Exemptions

Exemption Type	Accepted Reason for Exemption
Purchases from Original Equipment Manufacturers (OEM)	When products or services required for an existing piece of plant, equipment, machinery or product can only be obtained from the OEM of that plant, equipment, machinery or product OR; if failure to procure the product or service required for an existing piece of

	<p>plant, equipment, machinery from the OEM will result in the voiding of a warranty or contractual agreement.</p> <p>An OEM exemption does NOT include purchases from a third-party distributor or reseller of that plant, equipment, machinery or product irrespective of that third-party distributor or reseller being the only supplier that provides the product or service within WA or Australia. This should be considered under a sole source of supply exemption.</p>
Specialist Legal or Consultant Advice	Where advice and/or expertise required is highly specialised and only available from one supplier with a particular specialisation for example, consultants with considerable intellectual property relevant to the requirement.
Sole Source of Supply	Where goods or services not exceeding \$50,000 (excluding GST) are available from only one private sector source of supply, (that is the manufacturer, supplier or agency) and there is reasonable evidence that there is genuinely only one source of supply. Every endeavour to find alternative sources must be made and documented. Where the requirement exceeds \$50,000 and up to and including \$250,000, sole source of supply requires MPA endorsement and CEO approval. Where the requirement exceeds \$250,000, sole source of supply requires Council approval.
Fixed or Statutory Cost	For purchases where a product or service is fixed or pre-determined in nature due to statutory requirements, and multiple comparable Quotes cannot be obtained (e.g. utilities, Government, state-wide advertising, postal services, memberships and subscriptions, taxis / cab charges / ride sharing / and specialised industry-based training)
Software License Renewal	For purchases where a software license renewal is required for a system or piece of software that has already been implemented and or used within the organisation, and the system or software was originally procured via the appropriate procurement process.

13. Statutory Exemptions from a Public Tender Process

Regulation 11(2) specifies the criteria when public Tenders do not have to be invited. The following list outlines the key circumstances where the City is exempted from publicly calling Tenders for purchases over \$250,000 (excluding GST):

- a) WA Local Government Association (WALGA) Preferred Supplier Arrangements.
- b) goods and services or works obtained through State, Commonwealth or other Local Government arrangement;
- c) supplier is part of a pre-qualified panel established under Division 3 of the Regulations;
- d) goods and services or works as a result of an emergency or a COVID-19 declaration;
- e) where there is a genuine sole source of supply;
- f) where the goods to be supplied are petrol or oil (lubricant); or any other liquid, or gas, used for internal combustion engines;
- g) goods, services or works supplied through an Australian Disability Enterprise or through a registered Aboriginal Business
- h) the Contract is for a renewal or extension of an existing Contract;
- i) the Contract is formed by the novation of a Contract to which sub regulation (1) applies;
- j) for LGIS services; or
- k) any of the other exclusions under Regulation 11(2) of the Regulations apply.

An exemption from undertaking a public procurement process does not remove an employee's obligation to comply with this Policy and to seek Quotations in accordance with the requirements outlined in this Policy and in the Procurement Procedures and Guidelines.

14. Exemption from Raising a Purchase Order

The City acknowledges that there are circumstances whereby it is not administratively efficient, nor effective, to raise a purchase order. All purchases that are exempted from the raising of a purchase order are subject to written approval from the CEO or relevant Director. A list of exemptions to the raising of a purchase order is outlined in the City's Procurement Procedures and Guidelines.

The list of exemptions will be periodically reviewed (and no later than annually) by the Chief Executive Officer, or their delegate.

15. Anti – Avoidance

Orders for the purchase of goods and services are not to be split into lesser-valued individual components so as to circumvent the guidelines associated with the purchasing thresholds



established in this Policy. Where feasible, orders should be aggregated upwards to provide a Contract for the supply of goods and services on an annual or perennial basis.

16. Sole Source of Supply

Where goods or services do not exceed \$50,000, the procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations or public procurement process provided that there must only be one genuine source of supply. Every endeavour to find alternative sources within Australia must be made and documented. The application of provision "sole source of supply" should only occur in limited cases, subject to written approval from the CEO or relevant Director to do so.

17. Emergency Purchases

Emergency purchases as per the Regulations, are defined as the supply of goods or services associated with:

- 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
- 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 (1)(c) of the Local Government Act 1995 and Function and General Regulation 11(2)(a); or
- A State of Emergency declared under the Emergency Management Act 2005 and Local Government (Functions and General) Regulations 1996, Regulation 11(2)(aa), (ja) (iii), (3) and (4) apply to vary the application of this policy.

Emergency Purchases are to include safety hazards / exposure to risk requiring immediate attention and are to be approved by the Chief Executive Officer. They are not intended to be long term arrangements.

An emergency purchase does not include purchases not appropriately planned for, or due to time constraints.

18. Probity/Probity Experts

In accordance with the Principles outlined in the Policy statement and the requirements articulated in the Procurement Procedures Manual, all persons involved in a procurement process will have regard for probity as it relates to Confidentiality and Conflict of Interest.

The decision to appoint a probity expert will be at the complete discretion of the Chief Executive Officer.

Probity experts ensure a transparent and fair procurement process and best value for money. An independent person may be appointed to act as a probity expert as outlined in the Procurement Procedures and Guidelines.

19. Contract Management

All City Contracts, including supplier grievances will be managed during their lifecycle by the Responsible Officer in accordance with contract management practices, principles and procedures outlined in the Procurement Procedures and Guidelines.

20. Contract Variations

In general, Agreements and Contracts may be varied where:

- a) The variation is lawful and in accordance with the Agreement/Contract;
- b) The supplier is in good standing with the City;
- c) The revised value of the Agreement or Contract as a result of the variation does not exceed the Financial Authority of the Officer approving the variation; and
- d) The revised value (if applicable) of the Agreement or Contract as a result of the variation can be incorporated into approved City budgets and/or the City's Long-term Financial Plans.

In addition to the points noted above, Agreements or Contracts which were entered into by the City as a result of a public tender are further restricted by the Regulations.

Further details are included in the Procedures and Guidelines.

21. Engagement of Contracted Suppliers

Employees will ensure that no commitment to purchase goods and/or services is given to a supplier without an appropriately approved purchase order as part of the engagement process unless exempted under this Policy.

22. Novation of Contracts

The City has the ability to novate Agreements or Contracts, as required, where the resulting 'new' Agreement or Contract would not qualify for public tender per the Regulations. However, the City is not obliged to agree to an assignment or novation and must consider the particular details, risks and contractual obligations of such requests. Generally, the City may not novate Agreements or Contracts where the resulting 'new' contract would ordinarily qualify for a public tender under Part 4, Division 2, Reg 11(1) of the Regulations.

Before acceptance of a contract novation the City should ensure that it undertakes its due diligence on any party that is assuming the rights and benefits in a Contract of the party that is exiting the Contract.

Accepting a novated Contract must be at the absolute discretion of the City.

The Regulations have recognised that a novated Contract is to be treated as continuation of an existing Contract. Therefore, the normal purchasing threshold values under Section 4 of this Purchasing Policy do not apply to contract novation.

Further information about contract novation and the process for transitioning a contract novation is outlined in the Procurement Procedures and Guidelines.

23. Sustainable Procurement

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

Tender specifications will include a requirement for organisations to comply with the principles of 'No Business in Abuse' and include sustainable specifications within the request.

A qualitative weighting will be used (as per Section 6 of this Policy) in the evaluation of Offers to provide advantages to suppliers that satisfy this requirement.

a) Support of Local Suppliers

Before entering into a Contract for the purchase of goods and services, the City shall give preference to a Local Supplier, where their Offer is deemed to satisfy the City's requirements and be competitive in accordance with the Regulations, and the Procurement Procedures and Guidelines.

Employees will use the local market for their procurement requirements, to encourage economic growth and local business partnerships where it is practical and reasonable to do so.

b) Purchasing from Aboriginal Business

The City will support the purchasing of goods and services from Aboriginal businesses. This will be in accordance with the requirements outlined in the Procurement Procedures and Guidelines.

c) Purchasing From Disability Enterprises

The City will support the purchasing of goods and services from Australian Disability Enterprises. This will be in accordance with the requirements outlined in the Procurement Procedures and Guidelines.

d) Environmental Sustainability

The City will adopt an approach to procurement that supports sound environmental considerations in its purchasing activities as outlined in the Procurement Procedures and Guidelines. Where practical, it is the City's preference to purchase goods with minimal or no single use plastic in its content or packaging.

24. Panels of Pre-Qualified Suppliers (PPS)

Under Section 24AB of the Regulations, a Local Government entity may establish a Panel to supply particular goods or services to the Local Government in accordance with the requirements set out in Section 24AC of the Regulations.



The City may 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.

The City may enter into an Agreement with a Supplier for the provision of goods or services under a Panel in accordance with Regulation 24AJ and subject to the following conditions:

- i. The Contract established under the Panel Agreement may only be for a maximum twelve (12) months term; and
- ii. Is prohibited from having any extension of term provisions included in the Contract

The Panel will be established in accordance with Part 4, Division 3 of the Regulations and requirements outlined in the Procurement Procedures Manual.

In establishing and using a Panel, the City must:

- a) clearly articulate the goods or services to be provided by the Panel;
- b) provide instructions to Panel members regarding how the Panel will work, including advice on how Quotes will be requested, work awarded and supplier changes managed;
- c) regularly performance manage and proactively engage Panel members;
- d) register all Agreements in the City's procurement system; and
- e) not enter into Contract with a Panel member (i.e. Purchase Order) for a scope of work which covers a period of more than 12 months or which contains options to extend past 12 months (Division 3, reg 24AJ(2) of the Regulations). For clarity, the Panel itself (supplier Agreements) can exist for a term longer than 12 months.

Panels must be structured in a way that encourages effective competitive tension amongst Panel members ensuring the City sustains commercial value from the arrangement.

Individual Panel purchasing rules take precedence over the requirements for the Purchasing Thresholds outlined in Section 3, of this Policy.

25. Standing Offer Arrangements

A Standing Offer is a type of Contract or Agreement that allows for purchases to be made under it during its term of operation and sets out the terms and conditions on which purchases will occur. This includes Standing Offers with a single supplier, or multiple suppliers and Pre-qualified Panel Arrangements.

The application of a Standing Offer Arrangement is outlined in more detail in the Procurement Procedures and Guidelines.

26. Purchase Cards

Use of Purchase Cards

Purchase cards are to be used in accordance with the requirements of this policy and the relevant guidelines within the Procurement Procedures Manual. The use of purchase cards is to be limited to purchases where:

- The total value of the purchase does not exceed \$1,000; and
- The establishment of a supplier agreement (or account with the supplier) is not possible or practical due to purchases with the supplier being a one off or likely to be very infrequent; or
- The only purchasing option available is via use of a purchase card

Purchases requiring the use of a purchase card that exceed \$1,000 will require the approval of the relevant Director.

Issuing of Purchase Cards

Where operationally appropriate, the City will seek to minimise the number of purchase cards that are issued across the organisation. Issuing of purchase cards will be subject to cardholders demonstrating the ability to meet the requirements of this policy and the relevant guidelines within the Procurement Procedures Manual. Purchase cards will only be issued as per the criteria outlined in the Procurement Procedures and Guidelines. Issuing of purchase cards requires the approval of the Director Corporate Services or CEO.

Appropriateness of purchase card usage

Purchase card holders are to have regard for what is generally considered to be appropriate and reasonable when making food, beverage, alcohol and hospitality related purchases. These purchases should only be for the purpose of carrying out official activities of the City, and should adhere to value for money principles outlined in this policy and relevant guidelines within the Procurement Procedures Manual.

Cancellation or revocation of purchase cards

Purchase cards are to be cancelled or revoked as per the criteria outlined in the Procurement Procedures and Guidelines.

27. Records Management

All procurement records and key decisions, from business case development to contract award, are to be kept in a single file in accordance with the City's Records Management Policy, and the State Records Act 2000.

24. Declaration of Gifts and Benefits

Any gift or benefit received from a past, current or prospective supplier is to be declared in accordance with the City's code of conduct. The declaration of a gift or benefit may result in the exclusion of the associated officer from any procurement process associated



with that supplier, with the decision being at the complete discretion of the relevant Director or Chief Executive Officer.

28. Consequences

This Policy represents the formal position and expected procurement standards of the City. It is mandated under the Act and Regulations and non-compliance therefore represents a breach of the Act and Regulations.

Elected Members and Employees are obligated under the Council's Code of Conduct to give full effect to the lawful policies, decisions and practices of the City. Failure to comply with this policy may lead to disciplinary action.

29. Review

This Policy is to be reviewed no later than every two years.

30. Definitions and Abbreviations

Agreement – is a form of Contract that is a legally binding arrangement with agreed terms and conditions. The Agreement must be properly executed, lawful and current. It is typically applied in a Standing Offer Arrangement including panel arrangements.

Contract - means the agreement between the Principal and the successful Respondent(s), the terms and condition of which are contained in the Contract documents outlining the creation of mutual obligations that are enforceable by law. It is generally the outcome of a procurement process. A purchase order is a form of Contract.

Direct Sourcing – the procurement of goods and/or services by placing an order with the supplier of choice, without seeking other bids. An annual assessment of the market may need to be undertaken.

Emergency – an unanticipated and unbudgeted purchase without which exposes the City to an immediate risk or liability of high priority.

Estimated Contract Value (ECV) – The total value of the Contract, including any extension options

Local Supplier – is defined in the Policy as being a supplier with an office, or workshop or retail presence in the following locations: Beaconsfield, Fremantle, Hilton, North Fremantle, O'Connor, Samson, South Fremantle, and White Gum Valley.

Note: The South West Local Government Group (SWLG) consists of the Cities of Fremantle, Melville, Cockburn, Kwinana, and Rockingham, and the town of East Fremantle. This Policy requires the businesses to have been operating out of the local premises for a continuous period of not less than six (6) months.

Offer – has the same meaning as a written statement from a Respondent in response to a Request issued by the City.



Purchasing Threshold - means the determination of the actual or estimated contract value of a commercial commitment (e.g. Agreement, Contract, or purchase order) over the full term and/or quantity of supply, including all extension options or volume increase. The City's Purchasing Thresholds are outlined in Section 3 of this Policy.

Quotation – means a written statement from a Respondent setting out the cost, technical specifications, and description for the supply of goods and/or services.

Request – has the same meaning as Quotation, Tender, Expression or Interest, or Request for Proposal document issued by the City.

Respondent - A prospective supplier that responds to all forms of procurement requests including Quotations or Tenders. May also be referred to as a Tenderer.

Responsible Officer – is the person responsible for the delivery of the project, good or service that is subject of the purchase.

Risk Assessment - means determining the general risk profile of a particular procurement activity giving due consideration to the type of goods or service, nature of the supply market, contracting complexity, Agreement value, party type or quantity, community impact, probity concerns or public perception.

Sole source of supply – where it has been clearly established that only one supplier can supply the requirement within Australia. Usually these are unique products that cannot be found anywhere but only through one supplier or manufacturer.

Tender – means a Tender required under Regulation 11 of the *WA Local Government (Functions and General) Regulations 1996* or other Tender Procedure as determined by Council.

TenderLink - is the current online electronic Tender system (ePortal) that is used for issuing all City Tenders.

Term of Contract – Period of Contract or Agreement.

Value for Money (VfM) - means the total benefit derived from a good or a service including non-cost factors when compared to its total financial cost, assessed over the term of the Agreement, Contract, or expected lifespan of the asset. Cost and non-cost factors are considered on balance, and a value judgement is made about the best outcome.

Non-cost factors may include the following:

- fitness for purpose;
- level of industry participation;
- technical and financial issues;
- supplier capability;
- sustainability;
- risk exposure;
- availability of maintenance, service and support;
- compliance with specifications;



- compliance with terms and conditions of contract; and
- ease of inspection, communication and delivery.



Responsibility and review information	
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