



21 May 2020

NOTICE OF MEETING

Dear Committee Member,

The next Audit and Risk Committee meeting will be held at 5.30 pm on Tuesday, 26 May 2020 via Webex Video Conference.

The attached agenda is presented for your consideration.

Yours sincerely

Jonathan Throssell
CHIEF EXECUTIVE OFFICER

Please Note

If an Elected Member has a query regarding a report item or requires additional information in relation to a report item, please contact the senior employee (noted in the report) prior to the meeting.



AGENDA
AUDIT AND RISK COMMITTEE MEETING
26 MAY 2020

ATTENTION/DISCLAIMER

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the Shire of Mundaring unless specific delegation of authority has been granted by Council. No person should rely on or act on the basis of any advice or information provided by a Member or Employee, or on the content of any discussion occurring, during the course of the Committee Meeting.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or Employee, or the content of any discussion occurring during the course of the Committee Meeting.

CONTENTS

1.0	OPENING PROCEDURES	4
1.1	ANNOUNCEMENT OF VISITORS.....	4
1.2	ATTENDANCE/APOLOGIES.....	4
2.0	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	4
3.0	DECLARATION OF INTEREST	4
3.1	DECLARATION OF FINANCIAL INTEREST AND PROXIMITY INTERESTS	4
3.2	DECLARATION OF INTEREST AFFECTING IMPARTIALITY	4
4.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
5.0	PUBLIC QUESTION TIME	4
6.0	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	5
7.0	PRESENTATIONS	5
7.1	DEPUTATIONS	5
7.2	PETITIONS.....	5
7.3	PRESENTATIONS.....	6
8.0	REPORTS OF EMPLOYEES	7
8.1	DRAFT INTERNAL AUDIT PLAN 2019/21 TO 2023/24	7
8.2	AUDIT AND RISK COMMITTEE ACTION ITEMS - STATUS REPORT.....	20
8.3	WA AUDITOR GENERAL'S REPORT - AUDIT RESULTS REPORT - ANNUAL 2018-19 FINANCIAL AUDITS OF LOCAL GOVERNMENT ENTITIES	23
8.4	WA AUDITOR GENERAL'S REPORT - LOCAL GOVERNMENT CONTRACT EXTENSIONS AND VARIATIONS.....	30
8.5	UPDATE TO POLICY AS-04 - PURCHASING POLICY.....	55
8.6	REVIEW OF COUNCIL POLICY HR-01 EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING	73
8.7	INTERIM AUDIT RESULTS FOR THE YEAR ENDING 30 JUNE 2020	88
9.0	URGENT BUSINESS (LATE REPORTS)	97
10.0	CLOSING PROCEDURES	97
10.1	DATE, TIME AND PLACE OF THE NEXT MEETING.....	97
10.2	CLOSURE OF THE MEETING	97

**AUDIT AND RISK COMMITTEE MEETING
VIA WEBEX VIDEO CONFERENCE – 5.30 PM**

1.0 OPENING PROCEDURES

Acknowledgement of Country

Shire of Mundaring respectfully acknowledges the Whadjuk people of the Noongar Nation, who are the traditional custodians of this land. We wish to acknowledge Elders past, present and emerging and respect their continuing culture and the contribution they make to the region.

1.1 Announcement of Visitors

1.2 Attendance/Apologies

Staff	Andrea Douglas	Minute Secretary
Apologies	Danielle Courtin	Governance Co-ordinator

Guests

2.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

3.0 DECLARATION OF INTEREST

3.1 Declaration of Financial Interest and Proximity Interests

Elected Members must disclose the nature of their interest in matters to be discussed at the meeting (*Part 5 Division 6 of the Local Government Act 1995*).

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (*Sections 5.70 and 5.71 of the Local Government Act 1995*).

3.2 Declaration of Interest Affecting Impartiality

An Elected Member or an employee who has an interest in a matter to be discussed at the meeting must disclose that interest (*Shire of Mundaring Code of Conduct, Local Government (Admin) Reg. 34C*).

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.0 PUBLIC QUESTION TIME

Procedures for asking and responding to questions are determined by the Presiding Person and in accordance with the Shire's Meeting Procedures Local Law 2015. Questions must relate to a function of the Committee.

6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

RECOMMENDATION

That the Minutes of the Audit and Risk Committee Meeting held 18 February 2020 be confirmed.

7.0 PRESENTATIONS

7.1 Deputations

- (1) Members of the public may, during the deputations segment of the order of business and with the consent of the Presiding Member, make a public statement on any matter that appears on the agenda for that meeting provided that –
 - a) the deputation is limited to a maximum of 3 minutes, unless otherwise determined by the Presiding member;
 - b) the deputation is not offensive or defamatory in nature, providing that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement in a manner that is not offensive or defamatory; and
 - c) no discussion or questions relating to the deputation are permitted, unless otherwise determined by the Presiding Member.
- (2) Fifteen minutes is to be allocated for deputations.
- (3) Once all statements have been made, nothing prevents the unused part of the deputation time period from being used for other matters.
- (4) If the 15 minute period set aside for deputations is reached, Council may resolve by resolution that statement time be extended for no more than two 15 minute extensions.

7.2 Petitions

- (1) A petition is to –
 - a) be addressed to the President;
 - b) be made by electors of the district;
 - c) state the request on each page of the petition;
 - d) contain the legible names, addresses and signatures of the electors making the request;
 - e) contain a summary of the reasons for the request;
 - f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
 - g) not contain offensive or insulting language.
- (2) On the presentation of a petition –
 - a) the member presenting it or the CEO is confined to reading the petition; and
 - b) the only motion that is in order is that the petition be received and that it be referred to the CEO for action.
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless –
 - a) The matter is the subject of a report included in the agenda; and

b) The Council has considered the issues raised in the petition.

7.3 Presentations

8.0 REPORTS OF EMPLOYEES

8.1 Draft Internal Audit Plan 2019/21 to 2023/24

File Code	GV.AUD 1
Author	Garry Bird, Director Corporate Services
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Nil
Attachments	1. Internal Audit Plan March 2020 ↓

SUMMARY

Internal audits support good governance by providing a means of identifying areas of non-compliance with, and potential organisational improvement in, the Shire's procedures and policies.

A Draft Internal Audit Plan for the period 2019/21 to 2023/24 (**Attachment 1**) has been prepared for the Committee's consideration. The areas identified within the Plan have been identified on the basis they pose significant risk to the operations of the Shire.

BACKGROUND

The Shire budgets \$60,000 per annum to undertake internal audits.

Since the introduction of the internal audit program, two audits have been undertaken to date; being

1. Procurement; and
2. Light Fleet Management

There are statutory obligations to undertake specified audits (or reviews) which are due to be undertaken in the 2021/22 year.

An annual Compliance Audit Return is also required to be undertaken which is done in-house by the Governance Coordinator, with an independent review every three years.

STATUTORY / LEGAL IMPLICATIONS

Local Government (Financial Management) Regulations 1996 - Regulation 5

Local Government (Audit) Regulations 1996 – Regulations 14 and 17

POLICY IMPLICATIONS

Council Policy OR 19 "Internal Audit Charter"; relates.

It is noted that Council Policy OR 19 – "Internal Audit Charter" - is overdue for review. The review process has commenced and will be presented to the August 2020 Audit and Risk Committee meeting.

FINANCIAL IMPLICATIONS

The Shire currently budgets \$60,000 per annum to engage independent contractors to undertake internal audits. The Plan has been prepared with this funding amount in mind.

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.3 – Risks are well managed

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: That areas of high risk within the organisation are not subject to independent assessment.		
Likelihood	Consequence	Rating
Likely	Moderate	High
Action / Strategy		
Undertake independent, internal audits to support management and organisation procedures with the aim of identifying areas of non-compliance and potential organisational improvement.		

EXTERNAL CONSULTATION

Nil

COMMENT

The audits proposed in the Draft Plan have been recommended on the basis they all pose significant risk to the operations of the Shire.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee notes:

1. the Internal Audit Plan for the period 2019-20 to 2023-24; and
2. a review of Council Policy OR 19 "Internal Audit Charter" will be undertaken and presented to the August 2020 Audit and Risk Committee meeting.



SHIRE OF MUNDARING
INTERNAL
AUDIT PLAN

2019/20 TO 2023/24



SUMMARY

THE PLAN WILL ENSURE INTERNAL AUDITS ADDRESS THE AREAS OF GREATEST RISK TO THE SHIRE

Shire of Mundaring has allocated the sum of \$60,000 per annum to undertake internal audits.

This plan has been prepared to ensure the internal audits address areas of greatest risk to the Shire and ensure the Shire meets its statutory obligations for various audits that are prescribed under the *Local Government Act 1995 (the Act)* and accompanying Regulations.

Internal Audits do not include the annual financial management audit prescribed by the Section 7.12b of the Act, which are considered a separate process with its own specific statutory requirements.

BACKGROUND

Internal audits evaluate a company's internal controls, including its corporate governance and accounting processes. They ensure compliance with laws and regulations and help to maintain accurate and timely financial reporting and data collection.

The internal audit provides an independent and objective review and advisory service to:

- provide assurance to Council and the CEO that the Shire's financial and operational controls are designed to manage the organisation's risks and achieve its objectives, are operating in an efficient, effective and ethical manner; and
- assist management in improving and monitoring the Shire's risk management, internal control and legislative compliance functions.

Internal audits will be performed by independent external contractors (unless otherwise stated) and appointed through a transparent Expressions of Interest process.

Internal auditors report functionally to Council through the Audit and Risk Committee and are accountable to the CEO for the efficient and effective operation of the internal audit function.



STATUTORY REQUIREMENTS

The Local Government Act 1995 and accompanying regulations require the conduct of several audits/ reviews as follows;

Local Government Act 1995

Section 7.12AB Conducting a financial audit

The auditor must audit the accounts and annual financial report of a local government at least once in respect of each financial year.

7.12AJ. Conducting a performance audit

(1) The Auditor General Act section 18 applies in relation to a local government as if — (a) the local government were an agency; and (*etc.*)

7.12AL. Audits of accounts of related entities and certain subsidiary bodies

The Auditor General Act sections 16 and 17 apply in relation to a local government as if —

- (a) the local government were an agency; and
- (b) the council of the local government were its accountable authority.

Local Government (Financial Management) Regulations 1996

5. CEO's duties as to financial management

(2) The CEO is to —

- (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.

Local Government (Audit) Regulations 1996



STATUTORY REQUIREMENTS

14. Compliance audits by local governments

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

17. CEO to review certain systems and procedures

- (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
 - (a) risk management; and
 - (b) internal control; and
 - (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.
- (3) The CEO is to report to the audit committee the results of that review.



POLICY REQUIREMENTS

The Internal Audit Policy Charter relates (see attached).

Reporting Requirements

The Audit and Risk Committee will be kept informed of progress towards completing the scheduled audits by a “standing Item” on the Committee Agenda.

Completed audits will be presented to the Committee with an accompanying officer's report which will respond to the findings of the audit.

INTERNAL AUDIT PLAN

The following internal audits are proposed to be undertaken in the period 2019/20 to 2023/24:



INTERNAL AUDIT PLAN |

Date	Description	Scope	Budget
2019/20	Closed Circuit Television	Review of existing camera systems and develop specifications and procedures for new installations and upgrades	\$15,300
	Compliance Audit Return	As per Regulation 15	Internal
Total			\$15,300

Date	Description	Scope	Budget
2020/21	Contract Management	Review management of contracts, including variations and extensions	\$15,000
	Cybersecurity	Independent testing of cyber security controls	\$10,000
	Infringements	Review infringement management including issuing, management and payment (Fines Enforcement Registry, Court Orders)	20,0000
	Information and Communications Technology Systems	Review of internal ICT systems for efficiency and cost	\$40,000
	Development and Building Approvals	Review application processes and adherence to statutory timeframes	\$20,000
	Compliance Audit Return	As per Regulation 15 of the Audit Regulations	Internal
Total			\$105,000

INTERNAL AUDIT PLAN |

Date	Description	Scope	Budget
2021/22	Financial Management Review	As per 5 (2) of Financial Management Regulations	\$20,000
	Internal Controls	As per Regulation 17 of the Audit regulations	\$7,500
	Legislative Compliance	As per Regulation 17 of the Audit regulations	\$7,500
	Risk Management	As per Regulation 17 of the Audit Regulations	\$7,500
	Compliance Audit Return	As per Regulation 15 of the Audit Regulations	\$5,000
	Cybersecurity	Independent testing of cyber security controls	\$10,000
Total			\$57,500

Date	Description	Scope	Budget
2022/23	Asset Management	Review of asset management systems	\$25,000
	Recruitment and Selection	Review of recruitment and selection policies and adherence to by staff. Includes use of contract labour.	\$15,000
	Community Grants	Review of community grants application processes, including variations and acquittal of projects	\$10,000
	Service Level Agreements	Review of service Level Agreements with external organisations for cost effectiveness and adherence to agreements	\$10,000
	Compliance Audit Return	As per Regulation 15 of the Audit Regulations	Internal
Total			\$60,000

INTERNAL AUDIT PLAN |

Date	Description	Scope	Budget
2023/24	Complaints Management System	Review complaints management system and staff adherence to	\$20,000
	Procurement	Review procurement practices.	30,000
	Compliance Audit Return	As per Regulation 15 of the Audit Regulations	Internal
	Cybersecurity	Independent testing of cyber security controls	\$10,000
Total			\$60,000

The Compliance Audit Return is to be completed by an independent party every third year to allow for external review of the matters prescribed in the return.

A Procurement Audit is to be undertaken every five years to reflect the level of risk associated with these activities.

Other Audits may also be scheduled at regular intervals (i.e. cybersecurity controls) to reflect the level of risk and the dynamic environment in which these risks present themselves to the organisation.

A detailed scope for each of the audits will be prepared when preparing the Request for quotation to provide the services.

Internal Audit Plan History

The following internal audits have been undertaken by the Shire;

INTERNAL PROCUREMENT AUDIT (Deloitte)

DATE: March 2016

SCOPE

- Review organisational structures, business processes and systems in procurement to prevent/minimise opportunities for misconduct.
- Review systems, controls and practices to identify incidences of noncompliance with legislation and procurement procedures.
- Review reporting and management practices for identified or suspected non-compliance and misconduct.

OUTCOME - DARC2.07.16

Finding 1 - Limited guidance provided in the tender processes (Risk – Critical)

Finding 2 - Insufficient guidance to ensure consistent use of purchase orders across the organisation (Risk – Critical)

Finding 3 - Lack of robust conflict of interest process for employees involved in procurement activities (Risk – Important)

Finding 4 - Expense policy document has not been developed (Risk – Important)

Finding 5 - A robust contract management system is not in place (Risk – Important)

Finding 6 - Financial Delegations of Authority have not been clearly communicated or applied consistently (Risk – Important)

Finding 7 - System controls with Online Requisitioning System (OLR) are insufficient to support the purchasing system (Risk – Important)

Finding 8 - Purchasing card spend is not appropriately controlled (Risk – Important)

Finding 9 - Limited review of system changes as audit logs are not reviewed (Risk – Moderate)

Finding 10- Vendor master data file maintenance (Risk - Moderate)

Finding 11 - Petty cash policy not in place (Risk - Minor)

INTERNAL LIGHT FLEET AUDIT (KPMG)

DATE: December 2017

SCOPE

- Review the utilisation, purchase and operating costs of Shire of Mundaring light fleet vehicles (including utility vehicles) inclusive of commuting and private use costs.
- Review and consider Shire of Mundaring's fleet policies, in light of industry best practice approaches and identify similarities and opportunities for improvement.
- Examine fleet performance against readily available industry comparators and benchmarks; and
- Develop and provide recommendations for improving the performance of the fleet.

OUTCOME - ARC5.08.18

KPMG Recommendation 1 - Select and trial logbooks or an integrated Fleet Management System to collect evidence based data required to effectively assess, manage and optimise the fleet.

KPMG Recommendation 2 - Consider reducing fleet size by not purchasing all planned vehicles in FY18 and FY19. In particular, these could come from reallocation of vehicles with low utilisation in the Recreation & Leisure and Community Safety & Emergency Management departments or Operations and Rangers callout vehicles.

KPMG Recommendation 3 - To enable future fleet reductions, ensure vehicles are pooled consistently to optimise utilisation opportunities within and across service teams.

KPMG Recommendation 4 - Refresh Policies and Procedures to include procurement guidelines, call out definitions and ensure adherence to requirements.

KPMG Recommendation 5 - Consider vehicle leasing including Novated Leasing

KPMG Recommendation 6 - Standardise the vehicle specifications and fleet composition of vehicles predominantly for private use.

KPMG Recommendation 7 - Review HR Policies and future employment entitlements regarding provision of vehicles for private and commuting use.

8.2 Audit and Risk Committee Action Items - Status Report

File Code	GV.MTG.6.1
Author	Garry Bird, Director Corporate Services
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Nil
Attachments	Nil

SUMMARY

An update on the status of Audit and Risk Committee action items is provided for the consideration of committee members.

BACKGROUND

The following matters have previously been considered by the Audit and Risk Committee, with follow up actions required.

MEETING REFERENCE	RESPONSIBLE OFFICER	ACTION	STATUS - 30 April 2020
19.2.2019 Item 8.4 Internal Procurement Audit	Director Corporate Services	Create a Contracts and Tender Register	Up to date Contracts and Tender Register now available.
19.2.2019 Item 8.3 Internal Light Fleet Audit	Director Infrastructure Services and Director Corporate Services	Respond to 7 recommendations provided by KPMG regarding fleet management improvements.	Logbook data has been obtained (completed 31 January 2020) and currently being analysed by fleet management staff. Report to be presented to August 2020 Audit and Risk Committee Meeting. (Delay due to requirement to focus on COVID 19 planning and response).

3.12.2019 Item 8.3 Auditor General's Report – Fraud Prevention in Local Government	Director Corporate Services	Draft Fraud Prevention Plan to be presented to the August 2020 Audit and Risk Committee meeting.	Draft in progress
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STATUTORY / LEGAL IMPLICATIONS

There are statutory or legal implications for some of the action items above. Please refer to the minutes of the meeting at which the matter was considered for further information.

POLICY IMPLICATIONS

There are policy implications for some of the action items above. Please refer to the minutes of the meeting at which the matter was considered for further information.

FINANCIAL IMPLICATIONS

There are financial implications for some of the action items above. Please refer to the minutes of the meeting at which the matter was considered for further information.

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.3 – Risks are well managed

SUSTAINABILITY IMPLICATIONS

There are sustainability implications for some of the action items above. Please refer to the minutes of the meeting at which the matter was considered for further information.

RISK IMPLICATIONS

Risk: That action items from the Committee are not completed and expose Council to the risks being addressed by the item.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
That staff update the Committee regularly on progress towards completing the required actions.		

EXTERNAL CONSULTATION

Nil

COMMENT

Refer to above for status update.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee receives the *Audit and Risk Committee Action Items Status Report* as at 30 April 2020 and notes the actions undertaken.

8.3 WA Auditor General's Report - Audit Results Report - Annual 2018-19 Financial Audits of Local Government Entities

File Code	OR.IGR 2
Author	Garry Bird, Director Corporate Services
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Nil
Attachments	Nil

SUMMARY

The Western Australian Auditor General released the *Audit Results Report – Annual 2018-19 Financial Audits of State Government Entities* (“the Report”) in 11 March 2020.

The Report includes:

1. Results of the audit of all local government entities who had their audit undertaken by the Office of the Auditor General and their compliance with applicable legislation for the financial year ending 30 June 2019; and
2. Issues identified during these annual audits that were considered significant enough to bring to the attention of Parliament.

The Report contained eleven recommendations which have been considered by staff and assessed against the relevant policies and procedures used by staff. This assessment is provided for the consideration of Committee Members.

BACKGROUND

The eleven recommendations contained within the Report were as follows:

1. *Local government entities should ensure they maintain the integrity of their financial control environment by:*
 - a. *periodically reviewing and updating all financial, asset, human resources, governance, information systems and other management policies and procedures, and communicating these to staff*
 - b. *conducting ongoing reviews and improvement of internal control systems in response to regular risk assessments*
 - c. *regularly monitoring compliance with relevant legislation*
 - d. *promptly addressing control weaknesses brought to their attention by our audits, and other audit and review mechanisms.*
2. *Entities should ensure that reports from their valuers clearly explain key aspects of the valuations, and that management has a comprehensive understanding of the reports.*
3. *Management should annually review the estimated useful lives of assets used for calculating depreciation, if necessary in consultation with their valuers or other experts. In addition, for greater consistency across entities, the Department of Local Government, Sport and Cultural Industries (DLGSC) should review its guidance regarding potential*

ranges for useful lives of assets, and entities should consider the guidance when doing their annual reviews.

4. Entities who have not yet done so, should implement the recommendations of our local government position paper number 1 'Accounting for work bonds, building bonds and hire bonds'.

5. DLGSC should consider extending existing declaration processes to include annual related party declarations for councillors and key management personnel that assist compliance with Australian Accounting Standard AASB 124 and that are fit-for-purpose to the local government environment.

6. Local government entities should, where necessary, seek advice in advance of year end if uncertain about appropriate accounting treatments.

7. To improve the quality of financial reports and achieve greater consistency across entities, DLGSC should consider providing an accounting advice helpdesk to the local government sector.

8. DLGSC should re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities'

9. DLGSC should re-assess the potential advantages and disadvantages if smaller local government entities reported some asset classes such as plant and equipment using the cost model, rather than periodically re-valuing those assets.

10. Entities and DLGSC should monitor the progress of the Australian Accounting Standards Board (AASB) and the International Public Sector Accounting Standards Board (IPSASB) public sector fair value projects relating to the valuation of assets.

11. DLGSC should consider facilitating a shared internal audit service for the local government sector, as a service available to small and medium entities who do not have their own internal audit function.

12. To facilitate timely preparation of annual financial reports, and to minimise the additional audit costs associated with Australian Accounting Standards on revenue, income and leases (AASB 15, AASB 1058 and AASB 16), entities should complete preparations for those new standards by 30 June 2020.

STATUTORY / LEGAL IMPLICATIONS

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.3 – Risks are well managed

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: The issues raised in the Auditor General's report are relevant to the Shire of Mundaring but not addressed and result in non-compliance or audit qualification.		
Likelihood	Consequence	Rating
Unlikely	Moderate	Moderate
Action / Strategy		
Staff undertake a self-assessment of the issues raised in the Report from the Auditor General annually and report the findings to the Audit and Risk Committee.		

EXTERNAL CONSULTATION

Nil

COMMENT

The eleven recommendations contained in the Auditor General's Report have been considered by staff and the following comments provided:

Recommendation	Shire practices and controls assessment
1. <i>Local government entities should ensure they maintain the integrity of their financial control environment by:</i>	
a. <i>periodically reviewing and updating all financial, asset, human resources, governance, information systems and other management policies and procedures, and communicating these to staff</i>	All policies and procedures are reviewed on a regular basis to ensure currency, compliance with legislation and reflect best practice. Upon being reviewed, policy and procedural changes are communicated to all staff via the staff intranet. All policies and procedures in their entirety are available to staff via the intranet.
b. <i>conducting ongoing reviews and improvement of internal control systems in response to regular risk assessments</i>	Regulation 17 of the <i>Local Government (Audit) Regulations 1996</i> requires the CEO to review, at least once every three financial years, the local government's systems and procedures relating to risk management, internal control and legislative compliance. The Shire undertakes this reviews as required, with the last review being undertaken in November 2018. The Shire, under the auspices of the Audit and Risk Committee, has an internal audit plan in place,

<p>c. <i>regularly monitoring compliance with relevant legislation</i></p>	<p>The compliance programs of the Shire are a strong indication of the Shire’s commitment towards meeting legislative requirements. The Shire’s practices and controls regarding monitoring compliance include:</p> <ul style="list-style-type: none"> • A dedicated Governance service to provide guidance on legislative requirements and monitor compliance with legislation and regulations; • A Council endorsed Governance Framework which examines the principles and practices of good governance at Shire of Mundaring and clearly defines the respective roles, responsibilities and relationships of Council, the Chief Executive Officer and employees; • The Shire continues to complete the annual Compliance Audit Return (CAR) and submits it to the Department of Local Government and Communities by the required deadline. The CAR focuses on key areas of legislation and the Shire has consistently demonstrated a high level of compliance. The CAR is considered by the Audit and Risk Committee prior to adoption by Council; • The Shire has policies and procedures in place that provide direction as to how to receive, retain and treat complaints, including employee complaints; • Access to legal advice for specific compliance and legal matters. This includes paid professional advice and membership to professional bodies that provide regular legal updates regarding legislative changes • Regular liaison between Shire staff and the Shire’s auditors; • Established processes for elected member and staff inductions and ongoing training; • Annual audit process that includes a review of compliance in terms of financial management and relevant legislation (Part 6 of the <i>Local Government Act 1995</i> and <i>Local Government (Financial Management) Regulations 1996</i>); • The recruitment and retention of appropriately experienced, trained and qualified staff; • Staff have easy on-line access to all relevant legislation, Government Gazettes
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	<p>and relevant Standards; and</p> <ul style="list-style-type: none"> Established staff/industry network channels for the sharing of knowledge, eg. Governance Network and Finance Professionals Network.
<p>d. <i>promptly addressing control weaknesses brought to their attention by our audits, and other audit and review mechanisms.</i></p>	<p>Undertaken in a timely and transparent manner via reports to the Audit and Risk Committee.</p>
<p>2. <i>Entities should ensure that reports from their valuers clearly explain key aspects of the valuations, and that management has a comprehensive understanding of the reports</i></p>	<p>Supported and this is the Shire's current practice in terms of having a process in place whereby a draft report from the valuer is reviewed before the final report is issued by the valuer and accepted by the Shire.</p>
<p>3. <i>Management should annually review the estimated useful lives of assets used for calculating depreciation, if necessary in consultation with their valuers or other experts. In addition, for greater consistency across entities, the Department of Local Government, Sport and Cultural Industries (DLGSC) should review its guidance regarding potential ranges for useful lives of assets, and entities should consider the guidance when doing their annual reviews.</i></p>	<p>The Shire reviews the estimated useful lives annually as part of its year end reporting processes. Staff supports the Auditor General's position that the DLGSC should review its guidance regarding potential ranges for useful lives of assets, and entities should consider the guidance when doing their annual reviews.</p>
<p>4. <i>Entities who have not yet done so, should implement the recommendations of our local government position paper number 1 'Accounting for work bonds, building bonds and hire bonds'.</i></p>	<p>The Shire has implemented the recommendations of the OAG position paper number 1. This was reflected in the Shire's Annual Financial Report for the year ended 30 June 2019.</p>
<p>5. <i>DLGSC should consider extending existing declaration processes to include annual related party declarations for councillors and key management personnel that assist compliance with Australian Accounting Standard AASB 124 and that are fit-for-purpose to the local government environment.</i></p>	<p>Supported.</p>
<p>6. <i>Local government entities should, where necessary, seek advice in advance of year end if uncertain about appropriate accounting treatments.</i></p>	<p>Noted and supported. In the event staff are unsure they would seek professional advice, most likely from the Auditor in the first instance.</p>

7. <i>To improve the quality of financial reports and achieve greater consistency across entities, DLGSC should consider providing an accounting advice helpdesk to the local government sector.</i>	Supported. This would be a great resource for all local authorities but especially the smaller, rural councils who may lack such expertise.
8. <i>DLGSC should re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities'</i>	Supported.
9. <i>DLGSC should re-assess the potential advantages and disadvantages if smaller local government entities reported some asset classes such as plant and equipment using the cost model, rather than periodically re-valuing those assets.</i>	Supported.
10. <i>Entities and DLGSC should monitor the progress of the Australian Accounting Standards Board (AASB) and the International Public Sector Accounting Standards Board (IPSASB) public sector fair value projects relating to the valuation of assets.</i>	Noted and supported. Finance staff actively participate in professional development forums where such changes are brought to staff attention and discussed in terms of their implementation and audit standards.
11. <i>DLGSC should consider facilitating a shared internal audit service for the local government sector, as a service available to small and medium entities who do not have their own internal audit function.</i>	Supported. The Shire has its own Internal Audit Plan which uses independent, third part contractors (for the most part) and as such may not need such a service but others without these resources would benefit.
12. <i>To facilitate timely preparation of annual financial reports, and to minimise the additional audit costs associated with Australian Accounting Standards on revenue, income and leases (AASB 15, AASB 1058 and AASB 16), entities should complete preparations for those new standards by 30 June 2020.</i>	Noted and planning in place to comply for the reporting period ending 30 June 2020.

Where directly relevant to the Shires current practices, staff are satisfied that the existing processes etc. would satisfy the recommendations contained in the Report.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee notes the Shire's self-assessment of the eleven recommendations provided by the Western Australian Auditor General in its report entitled *Audit Results Report – Annual 2018-19 Financial Audits of State Government Entities*.

8.4 WA Auditor General's Report - Local Government Contract Extensions and Variations

File Code	GV.OPP 1
Author	Danielle Courtin, Governance Coordinator
Senior Employee	Garry Bird, Director Corporate Services
Disclosure of Any Interest	Nil
Attachments	1. OAG Report - Local Government Contract Extensions and Variations ↓

SUMMARY

On 4 May 2020 the Office of the Auditor General (OAG) submitted its focus area audit report to Parliament entitled “*Local Government Contract Extensions and Variations*” (**Attachment 1**). The report assessed whether seven local governments and one regional local government have robust contract management processes and comprehensive policies around contract extensions and variations. Shire of Mundaring was not included in this OAG Audit.

BACKGROUND

On 28 October 2017, the *Local Government Amendment (Auditing) Act 2017* was proclaimed, giving the OAG the mandate to audit Western Australia’s 139 local governments and 9 regional councils. The Act allows the OAG to conduct performance and focus area audits of local government entities from 28 October 2017.

These OAG’s audits underpin their annual financial audit: through the more detailed testing during performance and focus area audits, the OAG flags areas for improvement and then puts a greater focus on those in the financial audit.

The report of a focus area audit is written specifically for Parliament and in such a way that it is relevant for all local governments. Each audited local government receives a separate report about their individual performance, but the OAG expects all local governments to address the recommendations of the formal report to Parliament.

STATUTORY / LEGAL IMPLICATIONS

The *Local Government (Functions and General) Regulations 1996* in Part 4 deal with the provision of goods and services and include specific requirements relating to contract extensions and variations.

POLICY IMPLICATIONS

To comply with the first recommendation from the OAG, a policy and/or procedure should be drafted to comprehensively guide staff on recording of contract information and management of contract extensions and variations.

FINANCIAL IMPLICATIONS

Should Council wish revisit its earlier decision not to support the business case which would have provided the CEO with the resources required to engage a Contract

Management Officer, estimated funding of \$94,000 per annum would be required (salary, superannuation and other on-costs).

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.3 – Risks are well managed

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: The Shire does not have effective policies and processes in place to ensure that contracting is effective, meets the standards expected by the community and provides value for money for the ratepayer.		
Likelihood	Consequence	Rating
Likely	Major	High
Action / Strategy		
Council ensures that sufficient resources are made available to improve contract management practices, allowing the CEO to appoint a dedicated Contract Management Officer, whose duties would include -		
<ul style="list-style-type: none"> • drafting a Contract Management Policy and associated procedures; • maintaining an up to date Contracts Register; • continuous monitoring and review of contract management practices, including the processes for contract extensions and variations. 		

Risk: Poor contract management practices increase the risk of fraud and corruption.		
Likelihood	Consequence	Rating
Possible	Major	High
Action / Strategy		
Council ensures that sufficient resources are made available to improve contract management practices, allowing the CEO to appoint a dedicated Contract Management Officer, whose duties would include -		
<ul style="list-style-type: none"> • drafting a Contract Management Policy and associated procedures; • maintaining an up to date Contracts Register • continuous monitoring and review of contract management practices, including the processes for contract extensions and variations. 		

EXTERNAL CONSULTATION

Nil

COMMENT

The specific lines of inquiry for this audit were:

1. Do local governments have adequate policies and procedures for managing contract extensions and variations?
2. Do local governments have complete and accurate summaries of their contracts?
3. Are local governments adequately –
 - Controlling contract extensions, including the review of contractor performance, before extending contracts?
 - Controlling contract variations and determining if a variation significantly changes the original scope of the contract?
 - Complying with management approved delegations before a contract is extended or varies?

The OAG concluded that:

- 5 local governments had insufficient documentation to demonstrate that extensions or variations were given due consideration;
- 3 local governments did not have evidence of contractor performance reviews before extensions were granted;
- At 3 local governments some variations were not approved by delegated officers;
- Most local governments need to enhance their policies with comprehensive guidance; and
- All local governments' contract registers lacked key information essential to effective monitoring of contractual obligations.

The table below outlines the recommendations of the OAG report and assesses the Shire's documented practices and controls against those recommendations.

It must be noted that procurement, including contract management, at Shire of Mundaring is decentralised: there is not one staff position that oversees these processes, rather various officers are tasked with procurement and contract tasks in their line of duty. As a consequence gaps and inconsistencies exist in terms of the oversight of controls and practices related to contract management.

This lack of robust contract management systems and processes was also identified as an area for improvement in the Shire's 2016 Internal Audit of Procurement systems and controls.

Recommendation	Shire practices and controls assessment
1a. Ensure policies and procedures include comprehensive guidance to staff on recording of contract information and management of	The Shire's Purchasing Policy AS-04 is silent on contract management, extensions and variations, but in clause 6 sets out clear

<p>contract extensions and variations, so that better practices are consistently applied across the organisation.</p>	<p>purchasing limits for managers, directors and the CEO.</p> <p>The Shire's Tender Guidelines briefly mention contract management but don't provide any guidance. They state that "<i>contract management guidelines will be drafted as a separate project</i>".</p> <p>Contract management guidelines have not been drafted as yet due to a lack of staff resources.</p> <p>The business case for a dedicated Contract Management Officer was not approved by Council during its 2019/20 budget deliberations.</p>
<p>1b. Establish specific delegated authorisation limits for the approval of contract extensions and variations.</p>	<p>Purchasing Policy AS-04 clause 6 establishes the approved purchasing limits to execute contracts:</p> <p>Managers: up to \$75,000 plus GST Directors: up to \$150,000 plus GST CEO: up to \$325,000 plus GST (subject to approval by Council – see separate report to this Committee meeting re changes to the Purchasing Policy).</p> <p>While this clause does not specify extensions and variations to contracts, generally and in practice all staff rely on these limits for approval of extensions and variations. See also response to 1g.</p>
<p>1c. Ensure contract summaries include all key information relating to contracts. The level of information should be based on assessment of the significance, number and complexity of contractual arrangements.</p>	<p>The Shire's contracts register does not contain contract summaries, but lists -</p> <ul style="list-style-type: none"> • The InfoHub file number; • The purpose of the contract; • The name of the contractor(s); • Commencement and expiry dates; • Possible extensions; • Extensions exercised; • Expiry after extensions; • Variations accepted; • Estimated annual budget (ie contract value); and • Actual contract spend.
<p>1d. Ensure that records of key decisions</p>	<p>Recordkeeping for contract extensions and</p>

are retained in accordance with recordkeeping plans and are readily available.	variations is satisfactory and in accordance with the OAG's requirements and recommendation.
1e. Improve review processes relating to contract extensions, including timely and documented reviews of contractor performance before exercising contract extension options.	Contractor performance is not well documented and our records provide ad hoc, inconsistent evidence of documented contractor performance review before extending a contract.
1f. Ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications. The cumulative impact of variations on a contract should also be reviewed and an assessment made of whether a separate procurement process should be undertaken.	Contract variations for major contracts (Mundaring Arena, Boya Library) are well documented and include reasons, costings, timing and scoping implications.
1g. Ensure that all contract extensions and variations are approved in accordance with approved delegations, to ensure that all contracting decisions are subject to appropriate levels of scrutiny.	<p>While variations are mostly approved within the authorised purchasing limits, there is evidence that the cumulative cost of variations for specific contracts is not taken into account and regularly exceeds the authorised purchasing limits.</p> <p>A sample review of one contract against the OAG criteria, shows that there were 20 variations, all approved by a Manager, the sum of which exceeded the approved limit of authority for Managers (\$75,000) by more than 60%.</p> <p>This may require clarification when a Contract Management policy and guidelines are drafted.</p>
2. Review policies and procedures against the principles in Appendix A (Better Practice Principles).	These principles will be taken into account when a policy is drafted.

Proposed action plan addressing the matters with room for improvement:

Issue	Proposed action	By when
No Contract Management policy or guidelines	Option 1: draft policy and guidelines with existing staff resources.	Option 1: 30 June 2021

	Option 2: employ an experienced Contract Management Officer to draft policy and guidelines (subject to inclusion in Corporate Business Plan).	Option 2: 31 December 2021
No documented contractor performance review before extensions are granted	Undertake a documented and recorded contractor performance review before any contract extension is granted.	30 June 2020

While the OAG report provides some comfort that Shire of Mundaring is not the only local government struggling with contract management, it is important that high priority be given to bring this essential part of the procurement function within acceptable governance standards.

The OAG report contains a very helpful table of “better practice principles”, which will be used as a guide when improving the Shire’s practices and controls.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee notes the Shire’s self-assessment of its contract extensions and variations practices and controls against the recommendations of the Auditor General’s Report “Local Government Contract Extensions and Variations”.

Western Australian Auditor General's Report



Local Government Contract Extensions and Variations and Ministerial Notice Not Required



Report 20: 2019-20

4 May 2020

**Office of the Auditor General
Western Australia**

National Relay Service TTY: 13 36 77
(to assist people with hearing and voice impairment)

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

**Local Government Contract Extensions and
Variations
and
Ministerial Notice
Not Required**

Report 20: 2019-20
May 2020



**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

**LOCAL GOVERNMENT CONTRACT EXTENSIONS AND VARIATIONS AND
MINISTERIAL NOTICE NOT REQUIRED**

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 2006*.

This focus area audit assessed if entities adequately managed extensions and variations to their contracts, and if they maintained comprehensive summaries of their contracts.

I wish to acknowledge the entities' staff for their cooperation with this report.

Also included is my determination that a section 82 notice was not required by the Minister for Water.

A handwritten signature in black ink, appearing to read 'C. Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
4 May 2020

Contents

- Local government contract extensions and variations..... 2**
- Executive summary 2
 - Background 2
 - Conclusion 2
 - What we did 2
- What we found..... 4
 - Recommendations 8
 - Response from entities..... 8
- Appendix 1: Better practice principles 9
- Ministerial notice not required 12**

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

**Local Government Contract Extensions and
Variations**

Executive summary

Background

Western Australia's 148 local government entities (entities) spend billions of dollars each year on purchasing a wide range of goods and services. A significant number of these purchases involve contracts.

Procurement contracts vary in complexity, value, duration and risk, but all benefit from a strong approach to contract management. Robust contract management processes centred around the principles of probity, accountability and transparency help to ensure that contracting is effective, meets the standards expected by the community and the Parliament and provides good value for money for the ratepayer.

Comprehensive policies and good management of contract extensions and variations are essential to achieving these outcomes. It is important for all entities to maintain a summary of their contracts in a register or database (hereafter referred to as register), with all key contract details, to help effectively manage contract extensions and variations. This is essential from an accountability perspective and also assists entities in meeting their financial reporting obligations.

Conclusion

At 5 entities there was insufficient documentation to demonstrate that extensions or variations were given due consideration, so we were unable to conclude if they were appropriately managed. At 3 entities, some extensions did not have evidence of contractor performance reviews, and at 3 entities some variations were not approved by delegated officers.

Most entities need to enhance their policies with comprehensive guidance. All entities' contract registers lacked key information essential to effective monitoring of contractual obligations.

What we did

The focus of this audit was to assess if entities adequately managed extensions and variations to their contracts, and if they maintained comprehensive summaries of their contracts.

We assessed the policies, procedures and practices for managing contract extensions and variations at 8 entities of varying sizes in both metropolitan and regional Western Australia. We assessed the following criteria:

- Do entities have adequate policies and procedures for managing contract extensions and variations?
- Do entities have complete and accurate summaries of their contracts?
- Are entities adequately:
 - controlling contract extensions, including the review of contractor performance before extending contracts
 - controlling contract variations, and determining if a variation significantly changes the original scope of the contract
 - complying with management approved delegations before a contract is extended or varied?

When testing against these criteria, we had regard for Part 4 of the Local Government (Functions and General) Regulations 1996, which deals with the provision of goods and services, and includes specific requirements relating to contract extensions and variations. In addition, we expected entities to meet the principles of the *Local Government Act 1995*, which requires entities to have policies, and to keep proper accounts and records. We also had regard to the broader principles of good internal control and governance and general better practice principles that help reduce procurement risks and support value for money.

The audit focused on whether controls were in place to support effective management of contract extensions and variations after a contract was finalised. It was not designed to review the adequacy of procurement processes undertaken prior to the signing of the original contracts.

The following 8 entities were included in this audit:

Entities
City of Bayswater (Bayswater)
City of Kwinana (Kwinana)
City of Rockingham (Rockingham)
City of Swan (Swan)
Shire of Narrogin (Narrogin)
Shire of Wagin (Wagin)
South Metropolitan Regional Council (SMRC)
Town of Cottesloe (Cottesloe)

Source: OAG

Table 1: Entities included in the audit

We assessed contract extensions and variations processed from 1 January 2018 to the date of the audits, in mid-2019.

Detailed findings have been reported to audited entities. Their audit committees should follow up to ensure audit findings and recommendations are appropriately addressed by management in a timely manner.

We conducted this audit under section 18 of the *Auditor General Act 2006* and in accordance with Australian Auditing and Assurance Standards. The approximate cost of undertaking the audit and reporting was \$177,500.

What we found

The contract management policies and procedures at most entities lacked appropriate guidance for staff to correctly and consistently process extensions and variations. We also found contract registers at all 8 entities were missing key information required for effective contract management.

We found instances at 5 entities where sound practices were not always followed for assessment and approval of extensions and/or variations. We therefore could not conclude whether this represented probity in purchasing and value for money for the ratepayer.

Policies and procedures need to be enhanced to ensure consistent application by staff

Comprehensive policies and procedures provide clear guidance to staff, help ensure that regulatory requirements are complied with, and that better practices are consistently followed by all staff. It is also important to have clear documentation of delegated authorisations to ensure that all decisions on contract extensions and variations are made by officers within their delegated authority limits.

Kwinana had sound policies and procedures for managing contract extensions and variations, with scope for improvement at the other 7 entities.

We identified the following shortcomings:

- Four entities did not have clearly established authorisations and delegations for the approval of contract extensions and/or variations. Establishing clear lines of responsibility and accountability for all decision making is an important prerequisite to ensuring decisions are made by individuals the entity considers have the requisite skills, knowledge and experience.
- The policies of 5 entities lacked guidance on what constitutes an appropriate contract variation. For example, a contract variation to provide goods and services that is inconsistent with the scope of the original contract, or significantly alters the scope of the original contract is not appropriate. In such circumstances, a separate procurement process would normally be required.
- The policies of 6 entities did not outline the key requirements for processing contract extensions, including that contracts could be extended only if the terms of the original contract included extension options.
- The policies or procedures of 5 entities did not require a documented performance assessment of a contractor before a contract extension option was considered. This increases the risk that poor performing contractors may be granted extensions.
- No entities' policies or procedures required staff to maintain a contract register, with all key contract information.
- Six entities did not require a regular review of their contract registers to identify contracts that are due to expire, so that appropriate action starts well before the contract expiry date. Lack of a review process increases the risk that contract extension decisions may be rushed, leading to inappropriate extensions, and potentially impact continuity in the provision of goods and services.

Contract registers did not include key information for effective contract oversight

It is important for all entities to maintain a summary of their contracts, with all key information, to help contract managers effectively manage contract extensions and variations.

The entities in our audit maintained records of their contracts on databases, registers, or a combination of both. One entity did not have any collective record of their contracts at the commencement of the audit, but subsequently provided us with a contract summary. The contract registers at the 8 entities did not include all key contract information. We identified the following:

- The contract registers at 2 entities were incomplete and did not include all current contracts. The register at another entity did not include the commencement, duration and end dates of contracts. A fourth entity's register included inaccurate and/or inconsistent information on key data such as contract values, term dates and the status of contracts. Inaccurate and incomplete contract registers can affect management's ability to effectively manage contracts.
- At 6 entities, the contract registers did not include the dollar value of contracts, or any contract extensions or variations. In addition, at 3 of these entities, registers did not include the estimated dollar value of Schedule of Rate¹ contracts. As a result, inadequate information was available to management on the total cost of their contracts.
- Where relevant, although details of contract variations are contained within individual contract management plans, none of the entities' contract registers included summarised information on approved contract variations, such as the number and dollar value of individual variations, and the total value of approved variations. This information is essential for contract managers to effectively track the cumulative value of contract variations, evaluate the impact on the scope of the original contracts, and initiate separate procurement processes where appropriate.
- At 4 entities, contract registers did not include information on the number and duration of extension options available under each contract and details of extension options that were exercised. This information would enable better monitoring of contracts, including the timely exercise of contract extension options.
- The contract registers at 6 entities did not have details of scheduled performance review dates, to ensure that timely reviews of contractor performance were performed prior to considering contract extension options.

Some entities need to improve their assessment of contractors' performance before extending contracts

A contract extension may extend the agreed terms for a further period and/or involve changes to price, personnel and services. We expected to find evidence that contract managers had performed an adequate and timely review of contractors' performance before granting an extension. This would provide management with adequate opportunity to assess if the contractor still offered value for money.

¹ Schedule of Rates contracts are used where the nature of contract work is certain, but the exact amount of work to be performed cannot be predicted at the outset and is inherently provisional in nature. Nonetheless, tenders are usually invited and awarded based on the range of estimated quantities.

All entities except Rockingham and Kwinana exercised contract extension options during our audit period. One of the 6 did not have detailed records of the total number and value of contract extension options exercised. Based on the contract registers of the remaining 5 entities, 51 contract extension options totalling \$19.6 million were exercised during the audit period.

We tested a sample of 18 contract extensions totalling \$13.6 million across the 6 entities. Narrogin, Wagin and SMRC had adequate processes in place for the extension of contracts.

At the other 3 entities, we noted the following shortcomings:

- At 2 entities, 6 of 7 contract extensions did not have any formal documentation to demonstrate that an assessment of contractor performance was conducted before the contract extensions were approved. We were therefore unable to conclude if there was adequate review of contractor performance before exercising the extension options. This increases the risk that poor performing contractors may be granted extensions. The total value of 5 of these extensions was \$1.4 million, while the value of the remaining extension could not be determined as the original contract was not available.
- Three extensions at 2 entities totalling \$1.48 million were approved after the expiry of the initial contracts. One of the entities advised that there were extenuating circumstances that resulted in a short period when some key functions were performed later than usual. Renewal processes that are not initiated well before the expiry of contracts, limit the entities' ability to assess whether the contracts still offer the best value for money. This also potentially impacts the continued supply of goods and services.
- For 2 of 5 contract extensions at 1 entity, there was no mutually accepted agreement or correspondence between both the parties to extend the contract.

Contract variations were not always adequately explained at 2 entities

Contract variations are amendments to a contract that change the original terms or conditions. Variations are usually used to alter the scope of the supply or services provided or to change pricing. We considered if contract variations, individually or cumulatively, significantly altered the scope of the original contract. This may indicate that an entity was using variations to avoid undertaking a new procurement process.

All entities except Wagin undertook contract variations during the period of our audit, although only 5 were able to provide detailed information of the total number and value of their contract variations processed. The contract registers of these 5 entities showed 63 variations totalling \$6 million. We reviewed 27 contract variations totalling \$5.2 million across the 7 entities.

At 2 entities, 4 of 12 variations were not supported by detailed proposals with descriptions of the nature and reasons for the variations, including associated cost, time and scope implications. We were therefore unable to conclude whether the variations had been approved based on adequate analysis of these implications and whether value for money assessments had been performed.

Delegation levels were not always complied with when extending or varying contracts

It is important that all decisions relating to the approval of contract extensions and variations are made in accordance with approved authorisation limits. This ensures that these decisions are valid, and are made by staff with the experience and knowledge commensurate with the value and complexity of the contracts involved.

We reviewed the approval processes of 27 variations valued at \$5.2 million and 18 contract extensions totalling \$13.6 million across all 8 entities and identified the following shortcomings:

- At 2 entities, 7 variations totalling \$1.2 million were approved by officers in excess of their delegated authority.
- At a third entity, we identified 2 variations to a contract totalling \$77,395 that significantly changed the scope of the original contract, increasing the contract value in excess of the \$150,000 tender threshold limit. The consequent waiver from tender was approved by an officer who did not have the delegated authority.
- Two extensions totalling \$73,058 at 1 entity did not have any documented evidence of their approval. We were therefore unable to conclude if an appropriate officer had approved them. This reduces transparency and accountability in decision making and increases the risk that the mandated level of scrutiny is not applied.

Recommendations

1. All local government entities, including those not sampled in this audit, should:
 - a. ensure their policies and procedures include comprehensive guidance to staff on recording of contract information and management of contract extensions and variations, so that better practices are consistently applied across the organisation
 - b. establish specific delegated authorisation limits for the approval of contract extensions and variations
 - c. ensure their contract summaries include all key information relating to contracts. The level of information should be based on their assessment of the significance, number and complexity of their contractual arrangements
 - d. ensure that records of key decisions are retained in accordance with their recordkeeping plans and are readily available
 - e. improve review processes relating to contract extensions, including timely and documented reviews of contractor performance before exercising contract extension options
 - f. ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications. The cumulative impact of variations on a contract should also be reviewed and an assessment made of whether a separate procurement process should be undertaken
 - g. ensure that all contract extensions and variations are approved in accordance with approved delegations, to ensure that all contracting decisions are subject to appropriate levels of scrutiny.
2. Entities should review their policies and procedures against the principles in Appendix 1.

Under section 7.12A of the *Local Government Act 1995*, all sampled entities are required to prepare an action plan addressing significant matters relevant to their entity for submission to the Minister for Local Government within 3 months of this report being tabled in Parliament and for publication on the entity's website. This action plan should address the points above, to the extent that they are relevant to their entity, as indicated in this report.

Response from entities

Entities in our sample generally accepted the recommendations and confirmed that, where relevant, they have amended policies and administrative systems, or will improve practices for managing contract extensions and variations.

Appendix 1: Better practice principles

The following table shows control principles on which our audit focused. They are not intended to be an exhaustive list.

Management of contract extensions and variations	Focus area	What we expected to see
Policy	Policies and procedures	<ul style="list-style-type: none"> Contract management policies and procedures are regularly reviewed to ensure compliance with current legislation and relevance to current operations. Policies or procedures include a requirement to maintain a comprehensive register or database of all contracts, including: <ul style="list-style-type: none"> the dollar value above which contracts are to be included in the register, and the custodian of the register with responsibility for regular review and update of the contract register or database. Policies include clear guidance on what constitutes a contract variation and when a separate procurement process is required. The policies or procedures provide guidance on the key processes for contract extensions, including timely and documented assessments of contractor performance prior to exercising an extension option.
	Delegations	<ul style="list-style-type: none"> There are appropriate delegations and authorisations in place for procurement as well as for contract extensions and variations.
Records	Comprehensive register of contracts	<ul style="list-style-type: none"> A comprehensive register of all contracts is maintained, with all key contract information.
Contract extensions	Contract terms	<ul style="list-style-type: none"> Contracts are extended only if the original contract includes extension options.
	Approval	<ul style="list-style-type: none"> Contract extensions are approved by an appropriate officer, in accordance with delegated authorisation limits. Extensions are approved before the expiration date of the original contract or previously extended term, for continuity in the provision of services.
	Contractor performance review	<ul style="list-style-type: none"> There is documented evidence that contractor performance has been assessed before a contract extension is approved.

Management of contract extensions and variations	Focus area	What we expected to see
	Recordkeeping	<ul style="list-style-type: none"> There is documented evidence that the terms of the contract extension have been mutually agreed by the entity and the contractor. Documents for approval of contract extensions are retained in accordance with recordkeeping plans, to promote accountability and transparency in decision making.
Contract variations	Approval	<ul style="list-style-type: none"> Contract variations are approved by an appropriate officer, in accordance with delegated authorisation limits. Consideration is given to the cumulative impact of variations, to ensure that the scope of the original contract is not significantly altered, and that a separate procurement process is not required.
	Proposal for variation	<ul style="list-style-type: none"> Contract variations are supported by proposals with detailed description of the nature of the variation, with associated cost, time and scope implications.
	Recordkeeping	<ul style="list-style-type: none"> The variation proposals and approval documents are retained in accordance with recordkeeping plans, to promote accountability and transparency in decision making.

Source: OAG

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Ministerial Notice Not Required

Local Government Contract Extensions and Variations and Ministerial Notice Not Required | 11

Ministerial notice not required

On 24 March 2020, we received 2 notices from the Minister for Water, the Hon David Kelly MLA, under section 82 of the *Financial Management Act 2006* (FMA) in relation to Legislative Assembly Questions on Notice 5872 part (6) and 5873 part (c).

On 10 December 2019, the Hon Terry Redman MLA asked the Minister for the following information:

Legislative Assembly Question on Notice 5872

(1) I refer to the recent Freedom of Information (FOI) released by Water Corporation including a redacted copy of "PRA Business Case" arguing the value of "insourcing the Perth Region Alliance", and ask?

(6) Will the Minister table a copy of the "Alliance Agreement" referenced on page 10 of the business case?

On 19 March 2020, the Minister replied:

(6) The Alliance Agreement is a commercial contract arrangement between the Water Corporation and Programmed Facilities Management.

Legislative Assembly Question on Notice 5873

I refer to the decision by Water Corporation to insource the services currently provided under the Aroona Alliance, and ask:

(c) Can the Minister table the Aroona Alliance contract;

On 10 March 2020, the Minister replied:

(c) The Alliance Agreement is a commercial contract arrangement between the Water Corporation and the Alliance partners.

The Minister's notices advised that the Perth Regional Alliance Agreement and the Aroona Alliance Contract could not be provided to Parliament, as their release would disclose commercially confidential and sensitive information.

We determined that the 2 notices were not required in this instance, as the information does not concern the conduct or operation of an agency as required by the FMA. Section 85 of the *Water Corporations Act 1995* outlines the limited application of the FMA and the *Auditor General Act 2006* to the Water Corporation, but this does not cover section 82 of the FMA.

The Audit Practice Statement on our website (www.audit.wa.gov.au) outlines the circumstances when a notice is unlikely to be required. These include when the requested information does not concern the conduct or operation of an agency as required by the FMA.

Auditor General's reports

Report number	2019-20 reports	Date tabled
19	Control of Monies Held for Specific Purposes	30 April 2020
18	Information Systems Audit Report 2020 – State Government Entities	6 April 2020
17	Controls Over Purchasing Cards	27 March 2020
16	Audit Results Report – Annual 2018-19 Financial Audit of Local Government Entities	11 March 2020
15	Opinion on Ministerial Notification	28 February 2020
14	Opinion on Ministerial Notification	31 January 2020
13	Fee-setting by the Department of Primary Industries and Regional Development and Western Australia Police Force	4 December 2019
12	Audit Results Report – Annual 2018-19 Financial Audits of State Government Entities	14 November 2019
11	Opinion on Ministerial Notification	30 October 2019
10	Working with Children Checks – Follow-up	23 October 2019
9	An Analysis of the Department of Health's Data Relating to State-Managed Adult Mental Health Services from 2013 to 2017	9 October 2019
8	Opinions on Ministerial Notifications	8 October 2019
7	Opinion on Ministerial Notification	26 September 2019
6	Opinions on Ministerial Notifications	18 September 2019
5	Fraud Prevention in Local Government	15 August 2019
4	Access to State-Managed Adult Mental Health Services	14 August 2019
3	Delivering Western Australia's Ambulance Services – Follow-up Audit	31 July 2019
2	Opinion on Ministerial Notification	26 July 2019
1	Opinions on Ministerial Notifications	19 July 2019



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Western Australia**

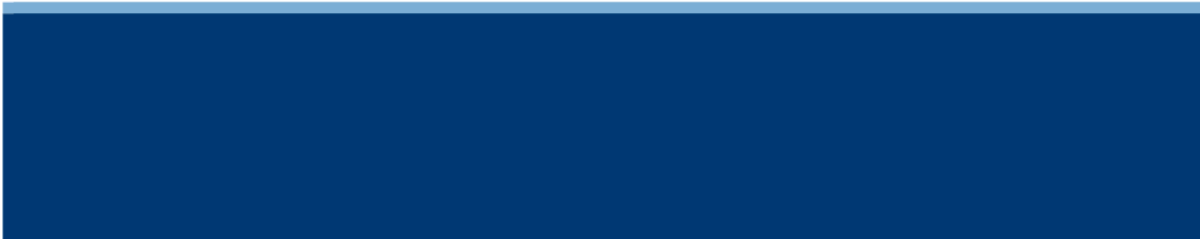
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8.5 Update to Policy AS-04 - Purchasing Policy

File Code	GV.OPP 1
Author	Danielle Courtin, Governance Coordinator
Senior Employee	Garry Bird, Director Corporate Services
Disclosure of Any Interest	Nil
Attachments	<ol style="list-style-type: none">1. AS-04 Purchasing Policy Update - changes tracked ↓2. Delegation CE-151 - Minor Amendment - changes tracked ↓

SUMMARY

Policy AS-04 – Purchasing Policy has been updated (**Attachment 1**) to reflect recent amendments to the *Local Government (Functions and General) Regulations 1996*, which have increased the tender threshold to \$250,000, aligning it with State Government tendering thresholds.

The Committee is requested to recommend that Council adopts the updated policy and makes a consequential minor amendment to Delegation CE-151 Expressions of Interest and Tenders.

BACKGROUND

As part of a raft of legislative amendments in response to the COVID-19 outbreak, a permanent amendment to regulation 11 of the *Local Government (Functions and General) Regulations 1996* was gazetted on 9 April 2020, coming into effect on 10 April 2020.

On 8 May 2020 further regulations were gazetted to update the provisions for local government purchasing policies in the *Local Government (Functions and General) Regulations 1996*: local governments must prepare, adopt and implement a purchasing policy in relation to contracts for other persons to supply goods or services under \$250,000.

STATUTORY / LEGAL IMPLICATIONS

Local Government (Functions and General) Regulations 1996

POLICY IMPLICATIONS

Purchasing Policy AS-04 is based on the *Local Government (Functions and General) Regulations 1996*.

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.8 – Compliance with the Local Government Act 1995 and all relevant

legislation and regulations

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: Compliance: Failure to update the policy following legislative amendments would make the policy non-compliant.		
Likelihood	Consequence	Rating
Almost Certain	Moderate	High
Action / Strategy		
Update the policy.		

EXTERNAL CONSULTATION

Nil

COMMENT

Regulation 11(1) of the *Local Government (Functions and General) Regulations 1996* has been amended to increase the tender threshold from \$150,000 to \$250,000.

As a result a new category of Purchasing Thresholds has been created in the Shire's Purchasing Policy AS-04: \$150,000 to \$249,000 requiring CEO approval and sign off.

The CEO's upper limit for accepting tenders and executing the resulting contracts, which is currently \$225,000 also requires review, as this limit is now less than the new tender threshold. It is proposed to increase this limit from \$225,000 to \$325,000. This will require Council to approve a minor amendment to delegation CE-151 Expressions of Interest and Tenders (**Attachment 2**).

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. Adopts the updated Purchasing Policy AS-04 in **Attachment 1**; and
2. By absolute majority approves a minor amendment to Delegation CE-151 Expressions of Interest and Tenders (**Attachment 2**), increasing the CEO's upper limit for accepting tenders and executing the resulting contracts to \$325,000.

Shire of Mundaring

POLICY**PURCHASING POLICY****Policy Ref:** AS-04

Adopted:	C16.04.07	Date:	24 April 2007
Amended:	C5.06.12	Date:	12 June 2012
Reviewed:	C8.06.17	Date:	13 June 2017
	C9.12.19	Date:	10 December 2019
		Date:	
Procedure Ref:	Admin-29 Admin-30 Admin-31	Delegation Ref:	CE-151
OP Ref.:	OP-58 Corporate Purchasing Card		
Policy Ref:	OR-12 Code of Conduct		
Statute Ref:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996		
Local Law Ref:	n/a		

PURPOSE

This policy commits Shire of Mundaring to maintaining purchasing practices that:

- Provide the Shire with an effective and consistent way of purchasing goods and services;
- Ensure openness, transparency, fairness and equity throughout the purchasing process;
- Support the Shire's economic development by ensuring goods and services are sourced from local suppliers where possible;
- Achieve a balance between operational efficiency and robust compliance to mitigate fraud and misconduct risks; and
- Ensure compliance with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.

1. PURCHASING PRINCIPLES**1.1 Code of Conduct**

All employees of the Shire are bound by the Shire's Code of Conduct when undertaking purchasing activities and will:

- ensure that any actual or perceived conflicts of interest are identified, disclosed and appropriately managed;
- observe the highest standards of ethics and integrity; and
- act in an honest and professional manner at all times.

1.2 Purchasing principles

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:

- **Accountability** - the responsible employee will be accountable for all purchasing decisions and the efficient, effective and proper expenditure of public monies to achieve the best outcome for the Shire and value for money;
- **Regulatory Compliance** - all purchasing practices will comply with relevant legislation, regulations and the Shire's policies, procedures and Code of Conduct;
- **Open Competition** - purchasing is to be undertaken on a competitive basis to ensure that all potential suppliers are treated impartially, honestly and consistently;
- **Integrity** - any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;
- **Transparency** - all processes, evaluations and decisions will be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- **Professionalism** – subject to legislative requirements and only to the extent required, any information provided to the Shire by a supplier will be treated as commercial-in-confidence and will not be released unless authorised by the supplier or relevant legislation;
- **Value for Money** – the responsible employee will ensure procurement decisions achieve the best possible outcome for the amount of money spent; and
- **Support of Local Businesses** – value for money assessment must recognise the role of Council in keeping jobs and profits in the Shire and keeping the local economy prosperous and competitive, thereby providing ongoing benefits to the local community;
- **Sustainability** – energy and water efficiency are key considerations in purchasing decisions, and reusable, recycled content or recyclable products are preferred where available and practical.

1.3 Buy Local Policy

Local supplier/contractor: has had a permanent office and permanent staff in the Shire of Mundaring district for a period of six months prior to quotations being sought.

As much as practicable, employees must:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans address local business capability and local content;

- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and
- provide adequate and consistent information to potential suppliers.

To this extent, a qualitative weighting may be afforded in the evaluation of quotes and tenders to local suppliers/contractors or suppliers/contractors who clearly demonstrate a benefit or contribution to the local economy.

1.4 Value for money

Value for money is a key policy objective. It ensures that the Shire achieves the best possible outcome at competitive prices. This does not necessarily mean selecting the bid that offers the lowest initial price.

Purchasing decisions will be assessed on a value for money basis, giving full consideration to:

- The advantages of dealing with local businesses;
- Local content;
- The whole-of-life cost of the purchase or contract;
- Compliance with specifications, guidelines and requirements;
- Supplier capability to fulfil the specified requirements – legal, financial, experience etc;
- Net benefits to the Shire including the benefits of maintaining an ongoing, innovative and competitive local business environment;
- Environmental impacts and ethical standards; and
- Opportunities for local employment growth or retention.

1.5 Sustainable procurement

Sustainable procurement is defined as those practices that bring together the consideration of sustainability outcomes in addition to the commercial value proposition in deciding the most appropriate supply action to select.

Sustainable procurement incorporates the quadruple bottom line objectives into its decision making, in considering the following impacts:

1. The **environmental** impact (positive or negative) of the purchase;
2. The **economic** cost of supply over the life of the purchase;
3. The **social and ethical** implications of the purchase; and
4. The application of **good governance and leadership** over its procurement decision making.

In accordance with its sustainability objectives, the Shire is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise negative environmental and social impacts.

2. PURCHASING THRESHOLDS

The following table prescribes the purchasing methodology to be selected based on the purchasing value.

Determining the purchasing value is to be based on the following considerations:

- Exclusive of GST;
- The actual or expected value of a contract over the full contract period, including all options to extend. Alternatively the extent to which it could be reasonably expected that the Shire will continue to purchase a particular category of goods, services or works and what total value could be reasonably expected to be purchased. Best practice obtained from the Department of Local Government is that if a purchasing threshold is reached within **three years**, then the purchasing requirement under the relevant higher threshold must apply, including for tenders;
- Must incorporate any variation to the scope of the purchase and be limited to a 10% tolerance of the original purchasing value.

The responsible employee is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for higher transaction value may be appropriate to a purchase despite it being of a lower value. Commonly a sufficient number of quotes would be sought according to the type and nature of purchase, not purely its value. The value dictates the minimum requirements for the purchase. In addition it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value is maintained.

Purchasing value (exclusive of GST)	Method to be used	Authority to accept the quotation or tender and sign off on the purchase
Up to \$3,000	<p>Obtain at least one verbal quotation.</p> <p>Written notes detailing the verbal quotation must be:</p> <ul style="list-style-type: none"> • recorded in the records system; and • attached to the requisition order. <p>Alternative suppliers are encouraged to be used to ensure best value for money and adequate market share.</p>	<ol style="list-style-type: none"> 1. Responsible employee initiates purchase order (PO) through OLR; 2. Coordinator or Team Leader confirms policy requirements by approving PO. <p>If no Coordinator or Team Leader, Manager signs off.</p>
\$3,001 to \$10,000	<p>Obtain at least two written quotations containing price and specification or technical description of proposed purchase.</p> <p>This applies to all purchases including purchases from a tender exempt or Preferred Supplier contract (WALGA or WA State Government Common Usage Agreement - CUA) See Part 4 of this Policy.</p> <p>Records must be kept of:</p> <ul style="list-style-type: none"> • the invitation to quote sent to each supplier; • the evaluation of each quotation; • the decision to accept a quotation and the reason(s) why. <p>Written quotes must be:</p> <ul style="list-style-type: none"> • Scanned and recorded in the records system; and 	<ol style="list-style-type: none"> 1. Responsible employee <u>evaluates quotations and</u> -initiates purchase order (PO) through OLR; 2. Manager confirms policy requirements by approving PO.

	<ul style="list-style-type: none"> attached to the requisition order. 	
\$10,001 to \$75,000	<p>Obtain at least three written quotations containing price and specification or technical description of proposed purchase.</p> <p>This applies to all purchases including purchases from a tender exempt or Preferred Supplier contract (WALGA or WA State Government Common Usage Agreement - CUA) See Part 4 of this Policy.</p> <p>Records must be kept of:</p> <ul style="list-style-type: none"> the invitation to quote sent to each supplier; the evaluation of each quotation; the decision to accept a quotation and the reason(s) why. <p>Written quotes must be:</p> <ul style="list-style-type: none"> Scanned and recorded in the records system; and attached to the requisition order. 	<ol style="list-style-type: none"> Responsible employee evaluates each quotation; Manager reviews and signs evaluation report; Employee initiates PO through OLR; Manager confirms policy requirements by approving PO; Manager signs the contract, if applicable.
\$75,001 to \$149,999	<p>Undertake a formal Request for Quotations (RFQ) seeking a minimum of three RFQ respondents one being a local supplier where available containing price and specification or technical description of proposed purchase.</p> <p>This applies to all purchases including purchases from a tender exempt or Preferred Supplier contract (WALGA or WA State Government Common Usage Agreement - CUA) See Part 4 of this Policy.</p>	<ol style="list-style-type: none"> Evaluation panel to consist of minimum two employees; Manager reviews evaluation report and recommends it to Director; Director approves and signs off; Employee initiates PO through OLR; Director confirms policy requirements by approving PO;

	<p>Records must be kept of:</p> <ul style="list-style-type: none"> • the invitation to quote sent to each supplier; • the evaluation of each quotation; • the decision to accept a quotation and the reason(s) why. <p>Written quotes must be:</p> <ul style="list-style-type: none"> • Scanned and recorded in the records system; and • attached to the requisition order. 	<p>6. Director signs the contract, if applicable.</p>
<p><u>\$150,000 to \$249,999</u></p>	<p><u>Undertake a formal Request for Quotations (RFQ) seeking a minimum of three RFQ respondents one being a local supplier where available containing price and specification or technical description of proposed purchase.</u></p> <p><u>This applies to all purchases including purchases from a tender exempt or Preferred Supplier contract (WALGA or WA State Government Common Usage Agreement - CUA) See Part 4 of this Policy.</u></p> <p><u>Records must be kept of:</u></p> <ul style="list-style-type: none"> • <u>the invitation to quote sent to each supplier;</u> • <u>the evaluation of each quotation;</u> • <u>the decision to accept a quotation and the reason(s) why.</u> <p><u>Written quotes must be:</u></p> <ul style="list-style-type: none"> • <u>Scanned and recorded in the records system;</u> <u>and</u> 	<ol style="list-style-type: none"> <u>1. Evaluation panel to consist of minimum three employees including one Manager;</u> <u>2. Director reviews evaluation report and recommends it to CEO;</u> <u>3. CEO approves and signs off;</u> <u>4. Employee initiates PO through OLR;</u> <u>5. CEO confirms policy requirements by approving PO;</u> <u>6. CEO signs the contract, if applicable.</u>

		<ul style="list-style-type: none"> • <u>attached to the requisition order.</u> 	
\$ <u>150250</u> ,000 and above	and	<p>Conduct a public Request for Tender (RFT) process in accordance with the provisions of the <i>Local Government Act 1995</i> (the Act), the <i>Local Government (Functions and General) Regulations 1996</i> (the Regulations) and the Code of Conduct;</p> <p>Refer to the Shire of Mundaring Tender Guidelines for detailed guidelines.</p> <p>State-wide advertising must include the local newspapers;</p> <p>or</p> <p>purchase from a tender exempt or Preferred Supplier contract (WALGA or WA State Government Common Usage Agreement - CUA). See Part 4 of this Policy, there is still a requirement to undertake a formal Request for Quotations (RFQ) seeking a minimum of three RFQ respondents containing price and specification or technical description of proposed purchase.</p>	<p>Delegation CE-151:</p> <ul style="list-style-type: none"> • CEO can accept tender where the consideration under the resulting contract is <u>\$225325,000</u> (excluding GST) or less and the item is identified in the adopted budget • CEO can accept regular supply tenders and tenders for plant and vehicles for items identified in the adopted budget • Director Infrastructure Services (DIS) – as for CEO, but tender must be relevant to DIS area of responsibility. <p>All other tenders must be accepted by Council, who can authorise the CEO as part of their decision to sign the contract.</p> <p>In line with the above delegation contracts resulting from a tender process and valued at <u>\$225325,000</u> (ex GST) or less over the term of the contract, can be signed off by the CEO or DIS.</p>

EXEMPTIONS FROM PURCHASING THRESHOLDS AND QUOTATION REQUIREMENTS

Only where the total value of the purchase does not exceed \$450250,000 exclusive of GST, the following purchasing decisions are exempt from the purchasing thresholds and quotation requirements of this policy:

1. Purchases:
 - From specialised suppliers, such as state-wide advertising, postal services, memberships and subscriptions, taxis/ride share services, industry based training etc.;
 - For utilities (power, water, gas);
 - For emergency repairs;
 - For proprietary software support (InfoHub, InfoCouncil);
 - From original equipment manufacturers, where warranty provisions may be voided, such as spare parts and service of plant and equipment; and
 - For specialist legal services, specialist consultancy services or specialised equipment manufacturers, as determined by a Director or the CEO, provided their approval is in writing, prior to the purchase.
2. Purchases made from panels of pre-qualified suppliers (see below).
3. Engagement of specific artists for events, for a value of less than \$5,000. "Artist" includes writer, actor, musician, public performer, painter, sculptor, writer, film maker, welcome to country performer. This purchase has to be approved by a Director.

3. TENDERS

For the procurement of goods or services where the value exceeds \$450250,000, the shire is required under s. 3.57 of the Act and Regulation 11(1) of the Regulations to publicly invite tenders or purchase from a tender exempt contract.

Please refer to the Shire of Mundaring **Tender Guidelines** for guidance with tender processes.

4. PURCHASING FROM WALGA PREFERRED SUPPLIERS OR STATE GOVERNMENT COMMON USE ARRANGEMENT (CUA)

A tender exemption may apply if a purchase is obtained through the WALGA Preferred Supplier Program or the State Government CUA. Both programs can also be accessed for purchases requiring quotations.

The intent of the exemption is not to bypass the purchasing or tender requirements, but to save time, money and effort in advertising purchasing intentions and evaluating quotations when this task has already been completed by WALGA or CUA.

In order to ensure accountability, regulatory compliance, open competition, integrity, transparency and value for money these requirements must be strictly observed for all purchases from WALGA Panels or CUA:

1. All quotations from WALGA preferred suppliers must be obtained through the WALGA e-quotes facility;
2. Contracts resulting from quotations through WALGA preferred suppliers or CUA suppliers are limited to a maximum term of 12 months.
3. All purchasing from WALGA preferred suppliers or CUA is subject to the same thresholds and approval authorities as above. Contracts valued at more than **\$225325,000** (excluding GST) over three years must be presented for approval to Council.
4. Conflict of interest and confidentiality declarations, as well as evaluation of submissions must be completed and recorded as per the Tender Guidelines.

5. PANELS OF PRE-QUALIFIED SUPPLIERS

5.1 Policy Objectives

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

- a range of similar goods and services are required to be purchased on a continuing and regular 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 purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- the Shire has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The Shire will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

5.2 Establishing a Panel

Should it be determined 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 two (2) years 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 three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the category is not to be established.
- In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a statewide 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 reg. 24AD(5)(d) and (e) when establishing the Panel.

5.3 Distributing Work Amongst Panel Members

To satisfy reg. 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 intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 5.3 a); or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with Clause 5.3 b).

In considering the distribution of work among Panel members, the detailed information must 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 on the basis of 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 Regulation 24AD(5)(f) when establishing the Panel. The Shire is to 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. 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. Should the list of invited Panel members 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 Part 2 of this Policy. When a ranking system is established, the Panel must 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.

5.4 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 member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be 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's electronic records system. 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.

5.5 Recordkeeping

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept. For the creation of a Panel, this includes:

- The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- Request for Applications documentation;
- Copy of public advertisement inviting applications;
- Copies of applications received;
- Evaluation documentation, including clarifications sought;
- Negotiation documents such as negotiation plans and negotiation logs;
- Approval of award documentation;
- All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- Contract Management Plan which describes how the contract will be managed; and
- Copies of framework agreements entered into with pre-qualified suppliers.

The Shire is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the Shire.

6. AUTHORITY TO EXECUTE CONTRACTS

Execution (or signing) of contracts must be in accordance with approved individual purchasing limits.

	Maximum value of contract over its term (excluding GST)
Managers	Up to \$75,000
Directors	Up to \$150,000
CEO	Greater than \$150,000 and up to \$225 <u>325</u> ,000 in accordance with Delegated Authority
Council to authorise CEO	All contracts over \$225 <u>325</u> ,000

7. CORPORATE CREDIT CARDS

The corporate credit card is to be used only for business related expenditure. The card must not be used for personal, non-work related expenditure or to obtain cash advances.

The CEO can authorise the issue of cards to employees as required. The CEO is to establish procedures for the use of cards to ensure adequate control is exercised over their use and that expenditure incurred on cards is included in the monthly schedule of accounts to be reviewed by Council. The CEO will also maintain a register of all credit cards.

All cardholders are designated employees under the *Local Government Act 1995* s. 5.74 and have therefore a statutory obligation to complete Primary and/or Annual Returns.

CE-151 Expressions of Interest and Tenders	
Date of adoption	25 February 2014
Function delegated	<p>Authority to determine:</p> <ol style="list-style-type: none"> 1. to call tenders for any items included in the Annual Budget [F&G Reg. 11]; 2. to invite tenders though not required to do so [F&G Reg. 13]; 3. the selection criteria for deciding which tender should be accepted [F&G Reg. 14(2a)]; 4. the information to be disclosed to those interested in submitting a tender [F&G Reg. 14(4)(a)]; 5. to vary tender information after public notice of invitation to tender and before the close of tenders [F&G Reg. 14(5)]; 6. to seek clarification from tenderers in relation to information contained in their tender submission [F&G Reg. 18(4a)]; 7. to evaluate tenders and decide which is the most advantageous [F&G Reg. 18(4)]; 8. to accept or reject tenders [F&G Reg. 18(2) and (4)]; 9. to decline any tender [F&G Reg. 18(5)]; 10. minor variations before entering into a contract [F&G Reg. 20]; 11. to accept the next most advantageous tender where within 6 months of accepting a tender a contract has not been entered into, or the successful tenderer agrees to terminate the contract [F&G Reg. 18 (6) and (7)]; 12. appropriate circumstances for seeking and inviting expressions of interest for the supply of goods or services [F&G Reg. 21]; 13. to consider expressions of interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&G Reg. 23]. <p>Authority to establish a panel of pre-qualified suppliers to supply particular goods or services in</p>

	accordance with Part 4 Division 3 of the F&G Regs.
Statutory power delegated	<p><i>Local Government Act 1995</i> s. 3.57 Tenders for providing goods and services</p> <p><i>Local Government (Functions and General) Regulations 1996</i> r. 11 When tenders have to be publicly invited r. 13 Requirements when local government invites tenders though not required to do so r. 14(2a) and (5) Publicly inviting tenders, requirements for r. 18 Rejecting and accepting tenders r. 20 Variation of requirements before entry into contract r. 21 Limiting who can tender, procedure for r. 23 Rejecting and accepting expressions of interest to be acceptable tendered Division 3 Establish panels of pre-qualified suppliers</p>
Statutory power of delegation	<p><i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO</p>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Council's conditions on delegation	<ol style="list-style-type: none"> 1. Regular supply tenders and tenders for plant and vehicles: may accept the most advantageous tender for all items identified in the adopted Annual Budget; 2. Other tenders: may only accept a tender where the consideration under the resulting contract is \$225325,000 (excluding GST) or less and the item is identified in the adopted Annual Budget.
Statutory power to sub-delegate	<p><i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees</p>
Sub-delegated to	Director Infrastructure Services (DIS)
CEO's conditions on sub-delegation	<ol style="list-style-type: none"> 1. Regular supply tenders and tenders for plant and vehicles: may accept the most advantageous tender for all items identified in the adopted Annual Budget; 2. Other tenders: may only accept a tender where the consideration under the resulting contract is \$225325,000 (excluding GST) or less and the item is identified in the adopted Annual Budget;

	<p>3. Tender must be relevant to DIS's area of responsibility;</p> <p>4. DIS cannot accept tenders for which he/she has determined the criteria.</p>
<p>Compliance links</p>	<p><i>Local Government (Functions and General) Regulations 1996 – Part 4 Division 2</i></p> <p><i>Local Government (Functions and General) Regulations 1996</i> r. 31 Anti-avoidance provision for Act s. 3.58</p> <p>Policy AS-04 Purchasing Policy Procedure Admin-30 Ordering and Payment of Goods and Services Procedure Admin-31 Quotations for Purchase of Goods and Services</p>

8.6 Review of Council Policy HR-01 Equal Employment Opportunity and Anti-Bullying

File Code	GV.OPP 1
Author	Maureen Gerlach, Manager HR
Senior Employee	Garry Bird, Director Corporate Services
Disclosure of Any Interest	Nil
Attachments	<ol style="list-style-type: none">1. Policy HR-01 Equal Employment Opportunity & Anti-bullying (track changes) ↓2. Policy HR-01 Equal Employment Opportunity & Anti-bullying (final) ↓

SUMMARY

The Equal Employment Opportunity and Anti-Bullying Policy HR-01 requires review to ensure legal obligations are understood and met; and processes to address concerns are clearly identified.

The Audit and Risk Committee is requested to recommend to Council that it adopts the reviewed policy.

BACKGROUND

Policy HR-01 Equal Employment Opportunity and Anti-Bullying was last reviewed by Council in March 2016 (amended by C3.03.16).

Following recent training delivered by the Equal Opportunity Commission, Policy HR-01 has been reviewed to ensure it remains compliant with legislative requirements and contemporary practice.

Further, as a result of the recent development of a Performance Management Framework (a new Organisational Practice) and review of existing performance-related Organisational Practices, Procedures and Guidelines, references in Policy HR-01 need to be updated.

STATUTORY / LEGAL IMPLICATIONS

All employees must comply with the *Equal Opportunity Act 1984* and other relevant legislation.

Elected members are legally obliged to comply with the provisions of the *Equal Opportunity Act 1984*. Further, a victim of harassment, discrimination or bullying could bring action against an elected member or against Council as a body corporate.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.3 – Risks are well managed

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: People, Reputational, Financial		
Failure to provide and follow legally compliant policies, procedures and practices exposes the Shire to claims of harassment, discrimination and/or bullying which could have human, reputational and financial implications.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
Regularly reviewing and updating this Policy and associated procedures is a risk mitigation strategy.		

EXTERNAL CONSULTATION

Nil

COMMENT

Policy HR-01 has been reviewed. The following amendments are proposed:

- Procedure and Statute references have been updated.
- Content has been amended in accordance with reference material provided by the Equal Opportunity Commission.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Councils adopts the reviewed Policy HR-01 Equal Employment Opportunity and Anti-Bullying (**Attachment 2**).

Shire of Mundaring

POLICY**EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING**

Policy Ref:	HR-01		
Committee Rec:	SPC 184	Date:	18 August 2003
Adopted:	R25410	Date:	26 August 2003
Amended:	<u>C3.03.16</u>	Date:	<u>8 March 2016</u>
Reviewed:	<u>C3.03.16</u>	Date:	<u>8 March 2016</u>
Procedure Ref:	AS-02 Complaints Management System <u>Procedure HR-09</u> <u>Grievance Management of Grievances</u> <u>Procedure HR-25</u> <u>Management of Suspected Misconduct</u>	Delegation Ref:	
Policy Ref:	<u>OR-12 Code of Conduct</u>		
Statute Ref:	<i>Equal Employment Opportunity Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Human Rights and Equal Opportunity Commission Act 1987</i> <i>(transitional Provision and Consequential Amendment) (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i><u>Age Discrimination Act 2004 (Cth)</u></i> <i><u>Spent Convictions Act 1988</u></i> <i><u>Public Interest Disclosure Act 2003</u></i> <i>Disability Services Act 1993</i> <i>Local Government (Rules of Conduct) Regulations 2007</i> <i><u>Industrial Relations Act 1979</u></i> <i><u>Fair Work Act 2009 (Cth)</u></i>		
Local Law Ref:	N/A		

PURPOSE

To provide a positive, inclusive and harassment free workplace culture.

Overview

~~The~~ Shire of Mundaring is an Equal Opportunity Employer committed to providing a safe workplace that is free from harassment, discrimination and bullying; and one where diversity is valued and encouraged. The Shire is committed to making decisions in relation to recruitment, selection and promotions based on merit ~~only~~.

Depending on the circumstances and outcome of any investigation:

- Elected Members who engage in misconduct as outlined in this policy may be suspended or disqualified from holding office.
- Employees who engage in misconduct as outlined in this policy may be subject to disciplinary action, which may include **instant** dismissal.

Scope

This policy applies:

- To everyone who works at the Shire, including employees, potential employees, trainees, volunteers and contractors, regardless of whether they work full time, part-time or as casual staff.
- In the workplace and at any other place where a person is a representative of Shire of Mundaring including work outside normal work hours and at work related events such as conferences, training events and social functions like after hours drinks, Christmas party or other functions.

Responsibilities

Elected Members

Shire of Mundaring Elected Members must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform the Chief Executive Officer or Shire President as soon as possible if they observe behaviour in the workplace that may contravene this policy.
- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
- They respect confidentiality in relation any complaint made or any suspected inappropriate conduct.

Elected Members may be personally liable for their actions if they do not comply with the above requirements.

All Employees

All employees at Shire of Mundaring must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform a manager or Human Resources (HR) or a Grievance Officer as soon as possible if they observe behaviour that may contravene this policy.
- They seek assistance from a manager or HR if they have any questions in relation to this policy.

- They respect the confidentiality of any complaint made and avoid gossip in relation to any suspected inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

Managers/Supervisors

Managers and supervisors have a greater responsibility in the workplace. In addition to the all employee requirements Managers and Supervisors must also:

- Apply this policy in the workplace to ensure that all employees are protected from harassment, discrimination and bullying.
- Demonstrate a higher standard of behaviour compared with other employees and must act as a role model for appropriate standards of behaviour.
- Investigate a complaint in accordance with the Grievance Procedure for Management Procedure of Grievances.
- Not victimise a person for making a complaint.

Managers and supervisors may be personally liable for their actions if they do not comply with the above requirements.

Employer

Employers must:

- Ensure this pPolicy is accessible to all employees and others bound by the Policy.
- Include discussion of this policy in the Employee Induction manual and discuss with new employees at induction Program.
- Educate all employees in relation to their rights and responsibilities in relation to harassment, discrimination and bullying.
- Educate managers and supervisors in relation to their extra responsibilities and duties because of their role in the organisation.
- Either have trained gGrievance eOfficers or an external investigator to investigate complaints or an external investigator.
- Have trained people available to support employees throughout the process and/or offer free confidential access to an external confidential counseling/support service.

Discrimination

Discrimination can be either direct or indirect.

Direct discrimination is when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the following grounds and in one of the areas of public life covered by the Equal Opportunity Act 1984 (the Act):

Indirect Discrimination occurs when an apparently neutral rule (policy, procedure or practice) has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic, eg race, compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances.

Systemic discrimination may occur in service delivery where agencies cater to the dominant majority group, and people from minority groups may miss out on essential services due to barriers. Hence it is necessary to provide services differently because people have different needs.

Substantive equality involves preventing or addressing systemic discrimination and achieving equitable outcomes as well as equal opportunity. Substantive equality recognises that equal or the same application of rules to unequal groups can have unequal results.

Grounds of Discrimination

The *Equal Opportunity Act 1984* (the Act) sets out the types or grounds of discrimination which are unlawful. They are:

- Gender
- Race (includes colour, ethnicity, national origin)
- Impairment or disability
- Age
- Pregnancy or potential pregnancy
- Breastfeeding
- Marital Status
- Family Responsibility
- Family Status
- Political Conviction
- Religious Conviction
- Gender History
- Sexual Orientation
- ~~Spent Conviction~~
- ~~Trade Union membership/activities~~
- ~~Association with someone who has one of the above attributes~~
- Publication of name in the fines enforcement register website

The Act may also apply to a relative or a person who has a close relationship to a person affected by these grounds.

The Commissioner for Equal Opportunity also deals with complaints on the ground of spent convictions in the area of employment; and victimisation from having made a disclosure under the *Public Interest Disclosure Act 2003*.

In addition, the *Industrial Relations Act 1979 and Fair Work Act 2009* (Cth) provide protection for persons in relation to membership or non-membership of an industrial association; and participation or non-participation in industrial activity as defined within the relevant legislation.

~~Indirect Discrimination is when there is an unreasonable rule (policy, procedure or practice) that appears neutral but has a negative effect on a particular group of people with characteristics that would fit into one of the grounds mentioned above and the person discriminated against is not able to comply with the rule.~~

Harassment

~~Unlawful harassment is unwanted, uninvited and inappropriate behaviour based on a person's sex, race or disability. Under the Act it is unlawful to sexually harass a person or harass a person because of their race. Sexual and racial harassment only apply in the areas of employment, education and accommodation.~~

Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person would be offended, humiliated or intimidated by. The conduct includes ~~oral and written statements and physical gestures~~ unwelcome physical touching, intrusive questions about a person's private life or body, sexually explicit communications, requests for sexual favours.

It does not matter that a person did not mean to be offensive. It can involve a single incident depending on the facts of the case.

Racial Harassment

Racial harassment is when a person is threatened, abused, insulted or taunted about their race (including colour, descent, ethnicity, national origin or nationality), or a characteristic generally associated with their race; and they believe they are have or will be disadvantaged for if they objecting to the unwanted behaviour ~~they will be disadvantaged.~~

Disability Harassment

~~Disability harassment is when a person is threatened, abused, offended or excluded because of their disability.~~

The Areas of Public Life Where the Act Can Apply

- Employment
- Accommodation
- Education
- Provision of goods, services and facilities
- Access to places and vehicles
- Disposal of land
- Clubs

- [Application forms](#)
- [Advertising](#)
- [Superannuation and Insurance](#)

Bullying

Bullying is repeated unreasonable or inappropriate behavior that is directed towards an employee, or group of employees, that creates a risk to health and safety.

Discipline

Discrimination, harassment and bullying will not be tolerated in Shire of Mundaring. An employee who engages in any conduct that constitutes **unlawful** discrimination, harassment or bullying as defined in this policy will be subject to disciplinary action up to and including **instant** dismissal.

Any Manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to **appropriate** disciplinary action, up to and including **instant** dismissal.

Managing a Complaint

Every allegation of discrimination, harassment and bullying made against an employee will be investigated by Shire of Mundaring in accordance with ~~the Procedure HR-09~~ [Grievance Management Procedure of Grievances](#).

If after the investigation it is found that an employee has breached this policy then appropriate disciplinary action will be taken up to and including **instant** dismissal. [Refer to Procedure HR-25 Management of Suspected Misconduct](#).

Prior to lodging a complaint an employee may seek the support of an appropriate person to talk through the situation. An appropriate person could be internal to Shire of Mundaring such as a Manager or HR or external to Shire of Mundaring such as the Shire's counseling service (~~OPTUM: 1300 364 008~~ [Relationships Australia 1300 364 277](#).)

At any stage in the process an employee may choose to make a complaint external to Shire of Mundaring and can lodge a complaint with the Equal Opportunity Commission, Australian Human Rights Commission, WorkSafe and/or the Fair Work Commission.

Complaints regarding Elected Members will be dealt with in accordance with the [Local Government Act 1995 and the Local Government \(Rules of Conduct\) Regulations 2007](#).

Victimisation

Any employee who has made a complaint, or is a witness to a complaint -in relation to discrimination, harassment or bullying will not be discriminated against or suffer any other disadvantage for having made a complaint in good faith.

Vexatious Complaints

If a complaint is made by an employee and is subsequently found to be a frivolous or vexatious complaint then the employee who made the complaint will be subject to disciplinary action up to and including ~~instant~~ dismissal.

Shire of Mundaring

POLICY**EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING**

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Committee Rec:	SPC 184	Date:	18 August 2003
Adopted:	R25410	Date:	26 August 2003
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Reviewed:		Date:	
Procedure Ref:	AS-02 Complaints Management System Procedure HR-09 Management of Grievances Procedure HR-25 Management of Suspected Misconduct	Delegation Ref:	
Policy Ref:	OR-12 Code of Conduct		
Statute Ref:	<i>Equal Opportunity Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Human Rights and Equal Opportunity Commission Act 1986 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Age Discrimination Act 2004 (Cth)</i> <i>Spent Convictions Act 1988</i> <i>Public Interest Disclosure Act 2003</i> <i>Disability Services Act 1993</i> <i>Local Government (Rules of Conduct) Regulations 2007</i> <i>Industrial Relations Act 1979</i> <i>Fair Work Act 2009 (Cth)</i>		
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- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
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Elected Members may be personally liable for their actions if they do not comply with the above requirements.

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Employers must:

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- Educate managers and supervisors in relation to their extra responsibilities and duties because of their role in the organisation.
- Either have trained Grievance Officers or an external investigator to investigate complaints.
- Have trained people available to support employees throughout the process and/or offer free access to an external confidential counseling/support service.

Discrimination

Discrimination can be either direct or indirect.

Direct discrimination is when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the grounds and in one of the areas of public life covered by the *Equal Opportunity Act 1984* (the Act).

Indirect Discrimination occurs when an apparently neutral rule (policy, procedure or practice) has a negative effect on a substantially higher proportion of people with a

particular attribute or characteristic, eg race, compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances.

Systemic discrimination may occur in service delivery where agencies cater to the dominant majority group, and people from minority groups may miss out on essential services due to barriers. Hence it is necessary to provide services differently because people have different needs.

Substantive equality involves preventing or addressing systemic discrimination and achieving equitable outcomes as well as equal opportunity. Substantive equality recognises that equal or the same application of rules to unequal groups can have unequal results.

Grounds of Discrimination

The *Equal Opportunity Act 1984* (the Act) sets out the types or grounds of discrimination which are unlawful. They are:

- Gender
- Race (includes colour, ethnicity, national origin)
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- Age
- Pregnancy or potential pregnancy
- Breastfeeding
- Marital Status
- Family Responsibility
- Family Status
- Political Conviction
- Religious Conviction
- Gender History
- Sexual Orientation
- Publication of name in the fines enforcement register website

The Act may also apply to a relative or a person who has a close relationship to a person affected by these grounds.

The Commissioner for Equal Opportunity also deals with complaints on the ground of spent convictions in the area of employment; and victimisation from having made a disclosure under the *Public Interest Disclosure Act 2003*.

In addition, the *Industrial Relations Act 1979* and *Fair Work Act 2009* (Cth) provide protection for persons in relation to membership or non-membership of an industrial association; and participation or non-participation in industrial activity as defined within the relevant legislation.

Harassment

Under the Act it is unlawful to sexually harass a person or harass a person because of their race. Sexual and racial harassment only apply in the areas of employment, education and accommodation.

Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person would be offended, humiliated or intimidated by. The conduct includes unwelcome physical touching, intrusive questions about a person's private life or body, sexually explicit communications, requests for sexual favours.

It does not matter that a person did not mean to be offensive. It can involve a single incident depending on the facts of the case.

Racial Harassment

Racial harassment is when a person is threatened, abused, insulted or taunted about their race (including colour, descent, ethnicity, national origin or nationality); and they believe they have or will be disadvantaged for objecting to the unwanted behaviour.

The Areas of Public Life Where the Act Can Apply

- Employment
- Accommodation
- Education
- Provision of goods, services and facilities
- Access to places and vehicles
- Disposal of land
- Clubs
- Application forms
- Advertising
- Superannuation and Insurance

Bullying

Bullying is repeated unreasonable or inappropriate behavior that is directed towards an employee, or group of employees, that creates a risk to health and safety.

Discipline

Discrimination, harassment and bullying will not be tolerated in Shire of Mundaring. An employee who engages in any conduct that constitutes unlawful discrimination, harassment or bullying as defined in this policy will be subject to disciplinary action up to and including dismissal.

Any Manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to disciplinary action, up to and including dismissal.

Managing a Complaint

Every allegation of discrimination, harassment and bullying made against an employee will be investigated by Shire of Mundaring in accordance with [Procedure HR-09 Management of Grievances](#).

If after the investigation it is found that an employee has breached this policy then appropriate disciplinary action will be taken up to and including dismissal. Refer to [Procedure HR-25 Management of Suspected Misconduct](#).

Prior to lodging a complaint an employee may seek the support of an appropriate person to talk through the situation. An appropriate person could be internal to Shire of Mundaring such as a Manager or HR or external to Shire of Mundaring such as the Shire's counseling service (Relationships Australia 1300 364 277.)

At any stage in the process an employee may choose to make a complaint external to Shire of Mundaring and can lodge a complaint with the Equal Opportunity Commission, Australian Human Rights Commission, WorkSafe and/or the Fair Work Commission.

Complaints regarding Elected Members will be dealt with in accordance with the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*.

Victimisation

Any employee who has made a complaint, or is a witness to a complaint in relation to discrimination, harassment or bullying will not be discriminated against or suffer any other disadvantage for having made a complaint in good faith.

Vexatious Complaints

If a complaint is made by an employee and is subsequently found to be a frivolous or vexatious complaint then the employee who made the complaint will be subject to disciplinary action up to and including dismissal.

8.7 Interim Audit Results for the year ending 30 June 2020

File Code	FI.AUD 1920
Author	Stan Kocian, Manager Finance and Governance
Senior Employee	Garry Bird, Director Corporate Services
Disclosure of Any Interest	Nil
Attachments	1. Interim Audit Management Letter ↓

SUMMARY

This report present the results of the interim audit undertaken by the Office of the Auditor General (the OAG).

The OAG highlighted four matters raised as a result of the interim audit. These matters were discussed with Shire management and comments provided by management have been included in the OAG's letter.

It is recommended the Committee note the results of the interim audit and the management comments regarding the four matters raised.

BACKGROUND

The OAG, through its appointed contractor Moore Stephens, has completed the interim audit for the year ending 30 June 2020 in accordance with its audit plan. The focus of the OAG's interim audit was the Shire's overall internal control environment to obtain an understanding of the Shire's key business processes, risks and internal controls relevant to the audit of the Shire's annual financial report.

STATUTORY / LEGAL IMPLICATIONS

Part 7 of the Local Government Act 1995 sets out the requirements for external audits of local governments.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.6 – Sound financial and asset management

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: The Shire's financial processes and controls are inadequate to the extent that there is a risk that the Shire's annual financial report contains material mis-statements.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
An audit of the Shire's financial processes and controls has been undertaken by the OAG.		

EXTERNAL CONSULTATION

Nil

COMMENT

The OAG has provided a letter which identifies and highlights four matters raised as a result of the interim audit. These matters were discussed with Shire management and the comments provided by management have been included in the OAG's letter. The table below provides a summary of the matters raised by the OAG and management's comments in relation to each finding.

OAG Finding	Management Comments
<p>1. Revenue has not been recognised in accordance with AASB 15 or AASB 1058</p> <p>Finding</p> <p>Our sample testing of revenue transactions (rates, grants and fees & charges) noted some revenue has not been recognised in accordance with AASB 15 or AASB 1058.</p> <p>Furthermore, the impact of the application of AASB 15 and AASB 1058 has not been recognised at 1 July 2019.</p> <p>Recommendation</p> <p>As recommended in our 2018-19 Audit Results Report, the Shire should complete a detailed revenue recognition assessment of all revenue streams. This is to conclude if a particular revenue stream or transaction arises from an enforceable contract with a customer and has sufficiently specific performance obligations. The assessment will trigger the revenue recognition requirements under AASB 15, or if it falls outside this scope, under AASB 1058, so that revenue is not misstated for the 2019-20 financial year.</p> <p>The Shire should also measure the impact of the application of AASB 15 and AASB</p>	<p>Accepted. However it should be noted that AASB 1058 has been applied to the treatment of rates from 1 July 2020: i.e. the prepaid rates recognised as revenue as at 30 June 2019 were subsequently accounted for as a current liability as at 1 July 2019 and then subsequently recognised as revenue when rates were raised for 2019/20 (in mid-July 2019).</p> <p>As part of its year end processes the Shire will complete a detailed revenue recognition assessment of revenue streams relating to fees, charges and grants to ensure that its accounts and Financial Report for the year end 30 June 2020 comply with AASB 15 and 1058.</p> <p>Responsible person: Manager Finance and Governance</p> <p>Completion date: 30 June 2020</p>

<p>1058 at 1 July 2019 and process appropriate adjustments in the general ledger.</p>	
<p>2. Operating leases not capitalised in accordance with AASB 16</p> <p>Finding</p> <p>The Shire's operating leases have not been capitalised in accordance with AASB 16.</p> <p>Recommendation</p> <p>The Shire should capitalise its operating leases at 1 July 2019 by recognising right of use assets and lease liabilities in accordance with the recognition requirements under AASB 16. The right of use assets should be depreciated over the useful life of the lease and monthly lease repayments should be offset against the lease liabilities rather than being expensed. This will help ensure the financial position of the Shire is fairly stated for the 2019-20 financial year.</p>	<p>Accepted. As part of its year end processes the Shire will process the necessary journals in its accounts to capitalise its operating leases, account for depreciation of these right of use assets and recognise the current liability and non-current liability associated with the leases (and offset the lease repayments that are currently being expensed). This process will ensure that the accounts and Financial Report for the year end 30 June 2020 comply with ASSB 16.</p> <p>Responsible person: Manager Finance and Governance</p> <p>Completion date: 30 June 2020</p>
<p>3. Creditors and payroll audit trail report</p> <p>Finding</p> <p>We noted the system audit trail report for changes made to creditors and payroll masterfile was not generated and independently reviewed prior to the processing of each payment run.</p> <p>Recommendation</p> <p>To help ensure all changes to creditors' and employees' details in the system are correct and authorised, the system's audit trail report showing all changes made to the system should be generated and reviewed by a senior staff member independent of processing before each payment run.</p> <p>The independent review should seek to confirm the integrity of the changes/details in the system against appropriate authorisation and should be evidenced accordingly.</p>	<p>Accepted. Finance staff will investigate the Authority accounting system's capability to generate a system audit trail report for changes made to creditors and payroll Masterfile. If the reports are available a process will be implemented whereby the reports will be generated and independently reviewed prior to the processing of each payment run.</p> <p>Responsible Person: Manager Finance and Governance</p> <p>Completion Date: Dependent on the availability of reports within the Authority accounting system, 30 June 2020.</p>
<p>4. Timesheet not reviewed by manager or supervisor</p> <p>Finding</p>	<p>Noted. The Shire's current practice is for all employee timesheets to be reviewed and approved (by way of signature) by their Manager or Supervisor. This instance</p>

<p>Our sample testing of payroll transactions noted 1 instance out of a total of 13 transactions tested (8%) where the timesheet was not reviewed by the employee's manager or supervisor.</p> <p>Recommendation</p> <p>Management should ensure that all timesheets are reviewed and approved.</p>	<p>appears to be an anomaly, however Payroll staff will be extra vigilant to ensure timesheets are signed by the employee's manager or supervisor before data entry occurs.</p> <p>Responsible Person: Manager Finance and Governance</p> <p>Completion Date: Immediate</p>
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VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the Committee notes the results of the Office of the Auditor General's interim audit and the management comments regarding the matters raised.

ATTACHMENT

SHIRE OF MUNDARING

PERIOD OF AUDIT: YEAR ENDED 30 JUNE 2020

FINDINGS IDENTIFIED DURING THE INTERIM AUDIT

INDEX OF FINDINGS	RATING		
	Significant	Moderate	Minor
1. Revenue has not been recognised in accordance with AASB 15 or AASB 1058	✓		
2. Operating leases not capitalised in accordance with AASB 16	✓		
3. Creditors and payroll audit trail report		✓	
4. Timesheet not reviewed by manager or supervisor			✓

KEY TO RATINGS

The ratings in this management letter are based on the audit team's assessment of risks and concerns with respect to the probability and/or consequence of adverse outcomes if action is not taken. We give consideration to these potential adverse outcomes in the context of both quantitative impact (for example financial loss) and qualitative impact (for example inefficiency, non-compliance, poor service to the public or loss of public confidence).

- Significant** - Those findings where there is potentially a significant risk to the entity should the finding not be addressed by the entity promptly.
- Moderate** - Those findings which are of sufficient concern to warrant action being taken by the entity as soon as practicable.
- Minor** - Those findings that are not of primary concern but still warrant action being taken.

SHIRE OF MUNDARING
PERIOD OF AUDIT: YEAR ENDED 30 JUNE 2020
FINDINGS IDENTIFIED DURING THE INTERIM AUDIT

FINDINGS

1. Revenue has not been recognised in accordance with AASB 15 or AASB 1058

Finding

Our sample testing of revenue transactions (rates, grants and fees & charges) noted some revenue has not been recognised in accordance with AASB 15 or AASB 1058.

Furthermore, the impact of the application of AASB 15 and AASB 1058 has not been recognised at 1 July 2019.

**Rating: Significant
Implication**

Non-compliance with AASB 15 or 1058. As the application of these standards may result in delayed income recognition, the Shire's revenue may be overstated for the 2019-20 financial year. In addition, monthly financial information may not be accurate and financial decision making may be ill-informed.

Recommendation

As recommended in our 2018-19 Audit Results Report, the Shire should complete a detailed revenue recognition assessment of all revenue streams. This is to conclude if a particular revenue stream or transaction arises from an enforceable contract with a customer and has sufficiently specific performance obligations. The assessment will trigger the revenue recognition requirements under AASB 15, or if it falls outside this scope, under AASB 1058, so that revenue is not misstated for the 2019-20 financial year.

The Shire should also measure the impact of the application of AASB 15 and AASB 1058 at 1 July 2019 and process appropriate adjustments in the general ledger.

Management comment

Accepted. However it should be noted that AASB 1058 has been applied to the treatment of rates from 1 July 2020 i.e. the prepaid rates recognised as revenue as at 30 June 2019, where subsequently account for as a current liability 1 July 2019 and then subsequently recognised as revenue when rates were raised for 2019/20 (in mid-July 2019).

As part of its year end processes the Shire will complete a detailed revenue recognition assessment of revenue streams relating to fees & charges and grants to ensure that its accounts and Financial Report for the year end 30 June 2020 comply with AASB 15 and 1058.

Responsible person: Manager Finance and Governance
Completion date: 30 June 2020

SHIRE OF MUNDARING
PERIOD OF AUDIT: YEAR ENDED 30 JUNE 2020
FINDINGS IDENTIFIED DURING THE INTERIM AUDIT

2. Operating leases not capitalised in accordance with AASB 16

Finding

The Shire's operating leases have not been capitalised in accordance with AASB 16.

**Rating: Significant
Implication**

Non-compliance with AASB 16. In addition, monthly financial information may not be accurate and financial decision making may be ill-informed.

Recommendation

The Shire should capitalise its operating leases at 1 July 2019 by recognising right of use assets and lease liabilities in accordance with the recognition requirements under AASB 16. The right of use assets should be depreciated over the useful life of the lease and monthly lease repayments should be offset against the lease liabilities rather than being expensed. This will help ensure the financial position of the Shire is fairly stated for the 2019-20 financial year.

Management comment

Accepted. As part of its year end processes the Shire will process the necessary journals in its accounts to capitalise its operating leases, account for depreciation of these right of use assets and recognise the current liability and non-current liability associated with the leases (and offset the lease repayments that are currently being expensed). This process will ensure that the accounts and Financial Report for the year end 30 June 2020 comply with AASB 16.

Responsible person: Manager Finance and Governance
Completion date: 30 June 2020

SHIRE OF MUNDARING
PERIOD OF AUDIT: YEAR ENDED 30 JUNE 2020
FINDINGS IDENTIFIED DURING THE INTERIM AUDIT

3. Creditors and payroll audit trail report

Finding

We noted the system audit trail report for changes made to creditors and payroll masterfile was not generated and independently reviewed prior to the processing of each payment run.

**Rating: Moderate
Implication**

There is an increased risk that erroneous or fraudulent changes may not be detected.

Recommendation

To help ensure all changes to creditor's and employee's details in the system are correct and authorised, the system's audit trail report showing all changes made to the system should be generated and reviewed by a senior staff member independent of processing before each payment run.

The independent review should seek to confirm the integrity of the changes/details in the system against appropriate authorisation and should be evidenced accordingly.

Management Comment

Accepted. Finance staff will investigate the Authority account system's capability to generate a system audit trail report for changes made to creditors and payroll Masterfile. If the reports are available a process will be implemented whereby the reports will be generated and independently reviewed prior to the processing of each payment run.

Responsible Person: Manager Finance and Governance
Completion Date: Dependent on the availability of reports within the Authority accounting system 30 June 2020.

SHIRE OF MUNDARING

PERIOD OF AUDIT: YEAR ENDED 30 JUNE 2020

FINDINGS IDENTIFIED DURING THE INTERIM AUDIT

4. Timesheet not reviewed by manager or supervisor

Finding

Our sample testing of payroll transactions noted 1 instance out of a total of 13 transactions tested (8%) where the timesheet was not reviewed by the employees' manager or supervisor.

**Rating Minor
Implication**

When timesheets are not reviewed and approved, there is a greater risk of employees being paid incorrectly.

Recommendation

Management should ensure that all timesheets are reviewed and approved.

Management Comment

Noted. The Shire's current practice is for all employee timesheets to be reviewed and approved (by way of signature) by their Manager or Supervisor. This instance appears to be an anomaly, however Payroll staff will be extra vigilant to ensure timesheets are signed the employees' manager or supervisor before data entry occurs.

Responsible Person: Manager Finance and Governance
Completion Date: Immediate

9.0 URGENT BUSINESS (LATE REPORTS)

10.0 CLOSING PROCEDURES

10.1 Date, Time and Place of the Next Meeting

10.2 Closure of the Meeting