



Name	FIN03 Procurement
Policy Type	Council
Responsible Officer	Director of Community and Corporate Services
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### 1. Purpose

The purpose of this policy is to ensure Council implements a fair, transparent and accountable process in the purchase of goods and services and achieves value for money.

### 2. Principles

Council commits to methods that are cost effective and represent best value for money. In fulfilling Council's purchasing role, the following principles will apply:

- Transparency and accountability in purchasing procedures and practices to ensure that Council purchases goods and services at the best price and that all potential suppliers are given equal opportunity to provide the required goods and services;
- Council will seek opportunities to support local economic development and growth;
- Council will comply with statutory and other obligations; and
- Council will maintain an appropriate level of commercial confidentiality.

### 3. Definitions

For the purposes of this Policy, the following definitions apply:

Procurement	Procurement shall mean, purchase, hire, lease, rental, exchange or any other commercial transaction involving the outlay of funds in return for the provision of goods and services to Council, Council staff or third parties acting as representatives for Council. Purchases must be made by issuing a purchase order or credit card in accordance with Council's Purchasing Card Policy.
Cost	Cost is defined as the full cost of the procurement process and includes external costs for administration, delivery and establishment of the goods and services and is inclusive of Goods and Services Tax (GST).
Local Supplier	Is a supplier which has a normal or regular place of business within the Northern Territory, and more particularly, the Top End.
Conflict of Interest	Conflict of interest is as defined in Council's Code of Conduct Policy for employees.

Consultancy or other professional services	A consultancy or other professional service mean a one off non-continuous supply of a professional service where the supply agreement is for a particular activity, generally with a set start and finish date or for a set length of time (usually no more than six months). A professional service is usually provided by a suitably qualified person who may be required to hold a licence or be registered with a recognised association.
Period Contracts	Period contracts are contracts Council enters into that span between one and three financial years, (this includes any extension period if there is an option to extend the contract).
Procurement Group	Two or more entities (a council; a local government subsidiary or representative body; LGANT) that proposes to obtain goods or services may form a group (a procurement group) to act collectively for the purpose of obtaining the goods or services in accordance with Part 13 Division 2 Local Government (Accounting) Regulations.
Supply agreement	An agreement between Council and a supplier for a period less than 12 months.
Purchasing Officer	An officer of Council with financial purchasing delegation as defined in the Delegations Manual.

#### 4. Policy Statement

##### 4.1. Responsibility

Litchfield Council has a decentralised procurement model, meaning that Directors and Managers within Litchfield Council have responsibility to ensure that this procedure is adhered to. This responsibility shall not be delegated to a subordinate of a Manager.

Council officers responsible for purchasing goods and services must comply with this policy and it is the officer's duty to understand the meaning and intent of this policy.

Council officers are required to:

- follow the standards of the Local Government Act and the corresponding regulations;
- preserve Council's integrity to ensure that Council may be seen to have acted appropriately in all procurement dealings; and
- abide by Council's Code of Conduct Policy and all applicable policies and instructions.

All relevant communication undertaken through the procurement process must be recorded in Council's electronic records system.

## **4.2. Procurement Principles**

Council Officers must have regard to the following procurement principles in all procurement activities.

### **4.2.1. Budgetary Provisions**

Procurement must be in accordance with the adopted annual budget or a council resolution and sufficient funds must be available to meet the full cost of the proposed procurement.

### **4.2.2. Value for Money**

Council must harness its procurement power to maximise value for money. This is not restricted to price alone; value for money must include consideration of:

- contribution to the advancement of Council's priorities;
- fitness for purpose, quality, services and support;
- whole-of-life-costs including costs of acquiring, using, maintaining and disposal of goods;
- internal administration costs;
- technical compliance issues;
- alignment with and leverage of related procurement activities;
- benefits of purchasing from a local supplier;
- risk exposure; and
- the value of any associated environmental benefits.

### **4.2.3. Open and effective competition**

Council must give fair and equitable consideration to all prospective suppliers.

### **4.2.4. Development of competitive local business and industry**

Where all other value-for-money assessment criteria are equal Council shall favour a "buy local first" approach, as Council acknowledges the economic benefits that flow to other local businesses.

### **4.2.5. Environmental Protection**

Council values and promotes environmental protection and endeavours to undertake procurement activities in ways that promote the purchase of environmentally sustainable goods and services that satisfy the value for money objective.

### **4.2.6. Work Health and Safety**

Council must ensure that its contractors and suppliers share in and uphold Council's commitment to working in a safe and healthy manner, so far as is reasonably practicable. Preferred suppliers will need to demonstrate that they have appropriate systems and processes to manage risks and hazards.

### **4.2.7. Probity**

In all dealings, Council will observe the highest standards of probity. The community expects business in the public sector to be conducted ethically, displaying honesty, integrity, diligence, trust and respect when dealing with others. Probity is a defensible process which is able to withstand internal and external scrutiny. All processes must achieve both accountability and transparency and provide suppliers with fair and equitable treatment.

The key elements of a sound standard of probity are:

- The process is compliant with relevant legislation and council policies.
- A competitive procurement process is used at all times, where applicable.
- Potential suppliers and contractors competing for works, goods and services are to be treated equally and must have the same opportunity to access information in a fair and impartial process.
- The process needs to be consistent and transparent with quotations and tender responses being evaluated in a systematic manner against explicit predetermined evaluation criteria.
- The receiving and managing of intellectual property and proprietary information from suppliers' must be done securely and confidentially.
- Any person involved in a procurement process (including in its evaluation) is to identify and declare any actual or potential conflicts of interest in line with the existing Council policy.

#### 4.2.8. Ethical Behaviour Purchasing Officers

Council officers involved in procurement should act in an ethical manner in line with the obligations given by the Local Government Act, the Code of Conduct and this policy.

- Ethical behaviour encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency.
- In pursuit of ethical behaviour, officers will disclose to the appropriate senior officer any possible conflict of interest in the purchasing activity prior to any business dealings.
- Officers will deal with all suppliers in an honest, fair and even-handed manner.
- Officers will respect all in-confidence information received and not use it for personal gain, or to prejudice fair and open competition.
- Officers will not accept money, goods, loans, credits, purchasing incentives, services or prejudiced discounts.
- Officers will not use Council's name or purchasing power to make purchases other than for Council use.
- Officers are not allowed to publicly endorse any products or services without the approval from Council. Individual requests received for endorsement need to be referred to the CEO.

### **4.3. Electronic Procurement Process**

Goods and Services will be obtained by use of an electronic purchasing system. Exempt from the electronic purchasing system process are credit card and petty cash transactions. Those transactions need to comply with the procedures and policies in place.

The process for procurement shall be explained in the following steps:

- a) The Purchasing Officer must obtain a quote in line with the quotation process outlined in this policy for the procurement.
- b) The Officer or a delegate of the officer will raise a Purchase Order in Council's Electronic purchasing system and attach any related communication undertaken in the process of the procurement.
- c) Within the electronic purchasing system, the order will be approved by an officer with authority to incur expenditure on behalf of Council as delegated in the Delegation Manual. The order will be sent to the vendor and retained electronically on the system.
- d) Payment for the purchase will be approved by a Purchasing Officer in line with the given delegation in the Delegation Manual. It is the Purchasing Officer's responsibility to ensure Goods and Services have been received, although other staff can receive goods and services on their behalf.

#### **4.4. Quotation Requirements**

The following quotation requirements are in line with Section 28 of the Local Government (Accounting) Regulations and relate to the cost of the purchase as defined in this policy.

When a supply agreement contains an option, by either party, to extend the agreement then the agreement is to be treated as if the option will be taken to identify quotation requirements.

In case of period contracts every amount per financial year is treated as contiguous amount to identify quotation requirements.

##### Purchases with a value of \$5,000 or less

The Purchasing Officer has to obtain one verbal or written quote.

##### Purchases with a value between \$5,001 and \$10,000

The Purchasing Officer has to obtain three verbal or written quotes with a consistent request with detailed scope for quotation being in writing.

##### Purchases with a value between \$10,001 and \$100,000

The Purchasing Officer requires a minimum of three written quotes with a consistent request with detailed scope for quotation being in writing.

##### Purchases with a value of more than \$100,000

The Purchasing Officer has to call for a public tender and follow instructions for public tender given in this policy and related administrative procedures.

Purchase of goods and services must not be broken down in unreasonable components, or order quantities reduced, in order to avoid the necessity to comply with the price limit or other purchasing requirements under this policy.

When seeking quotes, staff should consider the likelihood of exceeding the \$100,000 threshold. If there is a risk that this limit will be exceeded then tenders should be called instead of quotations.

#### **4.5. Tender Process**

In line with Section 29 Local Government (Accounting) Regulations council must not enter into a contract for the provision of supplies to the council at a cost of more than \$100,000, unless it has first called for tenders for that contract by public notice published in a newspaper circulating the council's area.

The subsequent process needs to be followed in line with the Local Government (Accounting) Regulations:

- Call for tender with public notice containing statement to the effect that notice of the successful tender will be published on the council's website.
- Tenders will only be received in electronic format, unless specifically allowed to be received in another format. A report of the electronic tender system will be provided to the Tender Evaluation Panel (see Section 4.6) to certify the tender receipt and verify all files are properly received for assessment.
- Tender evaluation will be conducted by the Tender Evaluation Panel described in this policy and relevant procedures.
- Council must accept the successful tender by written notice to the person who submitted the tender and give notice of the successful tender in writing to each other person who submitted a tender; and by publishing the notice on the council's website.
- The notice of successful tender on the council's website must include the name of the person who submitted the successful tender, the supplies to be provided and the tender price.

#### **4.6. Tender Evaluation Panel (TEP)**

4.6.1 The Tender Evaluation Panel (TEP) will consist of at least:

- CEO or their delegate; and
- Director Infrastructure and Operations or their delegate; and
- Director Community and Corporate Services or their delegate.

The members of the TEP will be entered on the required form and where delegation occurs, the delegate must agree in writing on that form. Members of the TEP might

delegate to external contractors on the requirement that those are trained on Council's relevant policies and processes.

The TEP might comprise of more than three delegates if specialist knowledge is required or several Council areas are impacted by the procurement.

4.6.2 The following processes will occur when evaluating a tender:

- a. The Tender Evaluation Panel (TEP) will decide on the Assessment Criteria and the percentage weighting that will be allocated against each criteria.

The evaluation criteria need to be determined prior to inviting tenders and should be listed in the invitation documents. Apart from total cost over the estimated life, some typical examples of criteria that may be considered are:

- Local;
  - Relevant Experience;
  - Past Performance;
  - Methodology;
  - Resources;
  - Management skills and systems; and
  - Technical skills.
- b. The evaluation will be based on the written information provided in the submission, which may be supplemented by information from reviews or workshops. While the TEP may seek further information or clarification at its absolute discretion, it is under no obligation to do so.
  - c. The TEP may undertake negotiations with any tenderer concerning the impact of additions, deletions or amendments to the Technical Specifications.
  - d. The TEP will evaluate price using the Comparative Price Method.
  - e. The TEP will present its recommendation in the form of the Tender Evaluation Report.
  - f. All TEP documentation needs to be presented to the Director for approval before being signed off by the CEO. Council approval needs to be given for tenders above the CEO's financial delegation. Where time prohibits the report to be presented at an ordinary meeting, a special Council meeting might be called.
- ~~g.~~ The recommendations of the TEP will be reported to Council in the quarterly reports.

#### **4.7. Exemptions from Quotation and Tender requirements**

4.7.1 If it is impractical to obtain three written quotations, the Director must sign an exemption from quotation form and record the reasons for the implacability. This information is to be kept in the electronic purchasing system attached to the order. Exemptions exist if:

- there is only one supplier available;
- due to the specialised or confidential nature of the services that are sought, it would be disadvantageous for Council to invite quotes or tenders;
- a genuine emergency exists;
- the purchase of goods is made by auction;

- the purchase is of second hand goods;
- under an arrangement with a government body.

4.7.2 In line with Section 30 Local Government (Accounting) Regulations, quotations and tenders are not required for the following situations:

- Purchase of land;
- Consultancy or other professional services;
- Travel and accommodation;
- If the Minister dispenses, in a particular case, with the requirement to call for quotations or tenders; or
- If the supplies are to be obtained under a contract to which any of the following is a party:
  - a. the Territory
  - b. the Commonwealth
  - c. a State or another Territory
  - d. another council
  - e. a local government subsidiary or association (e.g. LGANT)

This exemption only applies for (d) and (e) if the supply has been authorised by resolution of the council; and notice of the resolution has been published on the council's website.

4.7.3 Furthermore under Section 31 Local Government (Accounting) Regulations Council can make an application to the Department of Local Government to refrain from the quotation and tender obligations. The request shall be made with the Local Government (Accounting) Regulations Exemption Form located on the Department of Local Government and Community Services website.

The following Specific Local Government Procurement Exemptions were issued by the Department of Local Government and Community Services in a letter to Council dated 22 February 2016:

- Telecommunication services, where there is only one supplier or it is more efficient to purchase additional services from the existing supplier;
- For the renewal and/or upgrade of existing licenses particularly for software already utilised in council's operations;
- Regular training to maintain an existing licence, qualification, software or equipment;
- Contracts entered into regarding the Aboriginal Land Rights Act section 19 leases;
- Contracts entered into regarding the rent or operating lease of land and/or building where an extensive review of various available properties of the kind required has been considered and documents have been kept by council to show this review was undertaken;



- Where a Commonwealth funding agreement, entered into by council, specifically states the entity to which some or all of the funding is to be paid to undertake services for which the agreement relates;
- Where, in relation to Natural Disaster Relief and Recovery Arrangements, the council determines a particular supplier is the best provider to undertake the recovery work after a disaster event.

A further exemption has been granted in a letter to Council by the Department of Local Government and Community Services dated 18 May 2016:

- Procurement of insurance services through an insurance broker. Exemption does not apply to the brokerage service fees nor to insurance services not procured through an insurance broker.

#### **4.8. Collective Procurement**

##### 4.8.1. Procurement Group

Before commencing to act as a procurement group, the entities in the group must enter into a written agreement (a collective procurement agreement) setting out the arrangements for the collective procurement by the group. If a procurement group complies with Division 2 Part 13 Local Government (Accounting) Regulations, a council that is in the group is not required to separately comply with Division 1 Part 13 Local Government (Accounting) Regulations.

##### 4.8.2. Collective Procurement Agreement

A collective procurement agreement must set out:

- The entities that constitute the group; and
- The supplies that are to be obtained; and
- Which of the entities in the group is to be the lead entity for the group; and
- Any matters required for regulation 30D(2)(b) Local Government (Accounting) Regulations; and
- For regulation 30D(3) Local Government (Accounting) Regulations – the individuals who are to constitute the group’s tender committee; and
- Multiple contract arrangements; and
- Partial acceptance arrangements; and
- The decision making process for acceptance of quotations or tenders for the group will be made, including any variations in that process necessary to accommodate the group’s multiple contract arrangements and partial acceptance arrangements; and
- How administrative and other costs associated with the collective procurement are to be allocated between the members of the group; and
- The process for setting disputes between the entities in the group about the collective procurement; and
- The process by which the agreement may be terminated: and

- A copy of the collective procurement agreement must be made available to a prospective supplier or tenderer on request.

#### 4.8.3. Collective Procurement Group Tender Committee

In line with 30C(2) Local Government (Accounting) Regulations the committee must include at least one person representing each entity in the group. The person representing a council must be a member of the council or a member of the council's staff designated by the council for that purpose. A member of the committee may be identified by name or as the person from time to time holding or occupying a named office, designation or position.

#### 4.8.4. Multiple Contract Arrangements

In line with 30C(3) Local Government (Accounting) Regulations multiple contract arrangements are arrangements as to whether the members of the group will consider quotations or tenders for the provision of supplies:

- Only under a single contract entered into by all members of the group; or
- Only under separate contracts entered into by each member of the group; or
- Under either a single contract or separate contracts.

#### 4.8.5. Partial Acceptance Arrangements

In line with 30C(4) Local Government (Accounting) Regulations partial acceptance arrangements are arrangements as to:

- Whether a quotation or tender received by the group may be accepted by some but not all entities in the group; and
- If a quotation or tender may be accepted by some but not all entities:
  - The amount or proportion of supplies being sought that relate to each entity in the group; and
  - What variation in the quotation or tender price will be allowed in the event of partial acceptance.

#### 4.8.6. Collective Procurement Procedure

The following provisions apply in relation to the obtaining of supplies by a procurement group as if the group were a council:

- Regulation 28 Local Government (Accounting) Regulations
- Regulation 29 Local Government (Accounting) Regulations, other than sub regulation (2);
- Any other provision of the Act imposing requirements in relation to quotation or tendering procedures for a council.

Subject to sub regulation (4), the group's functions under those provisions must be exercised:

- By the lead entity on behalf of the group; or
- If the collective procurement agreement provides for a function to be exercised in a different way – in the way provided in the agreement.

If the procurement group is required to call for tenders for a contract, a tender received in response to the call may only be opened in the presence of at least 3 members of the group's tender committee.

The decision as to which (if any) quotation or tender is accepted must be made in accordance with the collective procurement agreement.

#### 5. Associated Documents

Litchfield Council Policies

Litchfield Code of Conduct

#### 6. References and Legislation

Northern Territory Local Government Act

Northern Territory Local Government (Administration) Regulations

Northern Territory Local Government (Accounting) Regulations

Australian Accounting Standards

Ministerial Guidelines

Local Government General Instructions

#### 7. Review History

<b>Date Reviewed</b>	<b>Description of changes (Inc Decision No. if applicable)</b>
17 May 2017	Compliance updates
15 October 2015	Compliance updates, update to new policy code from LC56 to FIN03. (15/0138/02)
14 August 2014	Compliance updates (PA/CAM/068)