



Procurement Policy

Policy Name	Procurement Policy
Publication Date	24 October 2023
Categorisation	Finance
Review Frequency	Every 12 months
Review Date	24 October 2025
Policy Custodian	Chief Financial Officer

1. Purpose

The purpose of this policy is to set out the principles under which procurement will occur at Tiwi Land Council (Land Council). It also outlines the responsibilities, approved methods and processes for procurement.

The Land Council is committed to conducting business with all suppliers and contractors in a fair, ethical, equitable, competitive and consistent manner which includes transparency, accountability and best value for money.

2. Scope

This policy applies to:

- all activities involving procurement of goods and services undertaken by the Land Council including all general and specified goods and services from external suppliers whether purchased or leased, capitalised or expensed.
- all employees and for the purposes of this policy will extend to cover contractors, consultants and any person performing work for or, with the Land Council in any capacity.
- full Land Council members and Executive Committee members

3. Definitions

Agreement / Contract means an agreement between two or more parties (supplier and Land Council) that sets out what will be delivered at what cost and other obligations and requirements. This may be a standard contract, purchase order terms or, other form of Land Council approved contract that includes relevant schedules and annexures or attachments for the services, fees and any other relevant information agreed between the parties. The Contract also incorporates any related variations.

Authorised Delegate means a person who has the delegated authority to authorise the expenditure for procurement for goods or services and signs *off* the transaction as specified in the '*Land Council Delegation Register*'.



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Conflict of Interest means a conflict between performing an official duty and another interest that has the potential to interfere with the proper performance of that official duty.

Consultant means an external person or organisation engaged with a specific skill set and knowledge not normally available to the Land Council to provide a professional or expert advice in a specific field. They have greater subject matter expertise than would be feasible for Land Council to retain in-house and are typically engaged on a short term, temporary basis.

Contractor is a worker that provides services to the Land Council and performs work to further their own business. The worker is contracted to achieve a specific result and, is paid when they have completed that result. The worker bears the commercial risk for any costs arising out of injury or defect in their work.

Delegate means Land Council staff who have delegated authority to represent the Council in the transaction as set out in the '*Land Council Delegation Register*'.

Evaluation criteria is used to identify the supplier that can fulfil the procurement contract and provide the best value for money. They should reflect the objectives of the procurement and be defined prior to sending out request for quotations or tender documents.

Preferred Supplier means a Supplier that the Land Council has entered into a preferred Contractual arrangement with.

Probity means evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness, and honesty in procurement activity.

Procurement is the process of acquiring goods and services. It begins when a need has been identified and a decision has been made on the procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, and the awarding and reporting of a contract.

Purchase Order means the document issued by the relevant Land Council staff to a supplier acknowledging that there is a commitment to engage the supplier to perform a Scope of Work for the Land Council and to obtain related payment.

Supplier means an external person or organisation that supplies goods and / or services that Land Council may procure, in conducting its business.

Scope of Work means goods and / or services to be provided by the Supplier detailing how the work must be performed, the responsibilities between the parties, what materials and / or activities are required, minimum quality standards, minimum warranties, milestones or deadlines, and any requirements relating to delivery, installation or acceptance at a minimum. Scope of Work should be documented and forms part of a contract, usually as a Schedule.

Variation means an amendment to a Contract agreed between the Land Council and the Contracted Supplier.

Whole-of-life costs means the cost of the entire procurement, which could include: the initial purchase price of the goods and services, maintenance costs and administration costs, transition out costs, licensing costs (where applicable), the cost of additional features procured after the initial procurement, consumable costs, transaction costs and disposal costs.

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4. Policy Statement

The Land Council purchases goods and services on an, as, needs basis and gives consideration to the purpose of goods and services being procured including the source of suppliers (e.g., local national and/ or international suppliers) and; legal, financial, operational and or commercial risks.

The approach that Land Council follows in relation to its procurement of goods and services include;

- Sound contractual terms and conditions
- On-Time delivery of goods and/ or services that meet specific needs and requirements
- Adequate warranties, liability, and indemnity cover
- Contracted performance levels
- Fair and competitive prices
- Prioritising local and Indigenous business
- Value for money and;
- Valid intellectual property rights

The Land Council is committed to adopting good practice considerations for procurement to ensure effective stewardship, reduce risks, provision of support to our local communities and to enable the Land Council to respond to emerging needs whilst pursuing agreed strategic directions.

Procurement Principles and Requirements

The Land Council's procurement decisions are guided by the principles in the *Public Governance, Performance Accountability Act 2013* (PGPA Act).

This policy applies to the acquisition of goods and services which includes but is not limited to the following categories or circumstances:

- a) Information and Communication Technology including hardware, software and services.
- b) Capital works, facilities, and associated expenditure.
- c) Equipment and consumables, including those used for Land Council members.
- d) General goods and services (e.g. catering, office products, contingent labour, conference bookings etc).
- e) Travel and related items (e.g. accommodation, travel (airfares etc);
- f) Independent Contractors and Consultants (including recruitment agencies).

Core Principles

All procurement activities must be undertaken in accordance with the Land Council's statutory and regulatory requirements and responsibilities, its policies, and procedures, and will align with the underlying principles of the Land Council as stated on its mission, vision and values.

The principles are intended to provide consistency in the approach to the Land Council's purchasing and a transparent basis upon which purchasing decisions are made in the best interest of the Land Council and its stakeholders.

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Key principles are outlined below:

a) **Value for money** - is not only about the price but, involves undertaking a comparative analysis of the costs and benefits of goods or services throughout the whole procurement cycle.

This analysis may include, but is not limited to:

- The quality of the goods or services
- Fitness for purpose of the proposal
- The potential supplier's relevant experience and performance history, capacity and capability
- The ability of the supplier to deliver the goods or services within the required timeframe
- Whether the supplier is an Indigenous business or consultant
- Opportunities for Indigenous training and employment
- The environmental sustainability of the proposed goods and services (such as energy efficiency and environmental impact)
- Whole-of-life costs, including transaction, maintenance and operating costs, costs of additional features or services required and decommissioning costs.

b) **Efficient, effective, economical, and ethical use of resources**

Consistent with the Commonwealth Procurement Rules under the PGPA Act, the Land Council is committed to the efficient, effective, economical and ethical use and management of resources throughout its procurement processes. The Commonwealth Procurement Rules identify efficient, effective, economical and ethical procurement as follows:

Efficient relates to the achievements of the maximum value for the resources used. In procurement, it includes the selection of a procurement method that is the most appropriate for the procurement activity, given the scale, scope and risk of the procurement.

Effective relates to the extent to which intended outcomes or results are achieved. It concerns the immediate characteristics, especially price, quality and quantity, and the degree to which these contribute to specified outcomes.

Economical relates to minimising cost. It emphasises on the requirements to avoid waste and sharpens the focus on the level of resources to achieve outcomes.

Ethical relates to honesty, integrity, probity, diligence, fairness and consistency. Ethical behaviour identifies and manages conflicts of interests and does not make improper use of an individual's position.

c) **Accountable and transparent decision making in procurement**

The Land Council staff will be responsible for ensuring that actions and decisions that they take in relation to procurement are in accordance with the Policy. To ensure transparency, the Land Council will take steps to scrutinise the procurement activity where appropriate.

Accountability means that the Land Council is responsible for the actions and decisions that they take in relation to procurement and for the resulting outcomes.

The Land Council must maintain for each procurement a level of documentation commensurate with the scale, scope and risk of the procurement.

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Documentation should provide accurate and concise information on:

- the requirement for the procurement.
- the process that was followed.
- how value for money was considered and achieved.
- relevant approvals; and
- relevant decisions and the basis of those decisions.

The Land Council **must** have access to evidence of agreements with suppliers, in the form of one or a combination of the following documents: a written contract, a purchase order, an invoice or a receipt.

d) **Segregation of duties** - ensures appropriate oversight to ensure that probity and equity principles are adhered to.

e) **Conflicts of Interest** - any actual, perceived or potential conflict of interest must be reported and managed in accordance with the *Conflict-of Interest Policy*. Procurement Plans must include a declaration of either no Conflict of Interest or details of any Conflict of Interest.

f) **Delegations and approvals** - any financial approvals must be provided in accordance with the *Land Council Delegation Register* and appropriate funds must be available. The appropriate Delegate should authorise the commencement of any procurement activity. Even if an Authorised Delegate has the appropriate delegation, they must not approve their own recommendation in relation to a procurement activity.

g) **Gifts and hospitality** - where the Land Council or any Land Council staff member receives gifts, extensive hospitality or any other benefits from third parties, including current or prospective Suppliers, the Land Council's *Gifts and Benefit Policy* and associated procedures must be applied and;

h) **Responsible and Social Procurement** is about corporate behaviour, governance, and transparency in key social, environmental and business areas.

5. Responsibilities

Management of Procurement Risk

There is an element of risk inherent in every purchase transaction. Risk management is an integral part of the purchasing process and must be a key consideration in the decision-making and management processes of any purchase. The Land Council staff undertaking procurement must ensure that risks associated with procurement are appropriately identified and managed throughout the Land Council procurement process. Risks associated with a procurement are risks that may arise in the future because of the procurement, including any potential fraud, an inaccurate assessment of internal needs or induced supply chain issues.

The Land Council employee undertaking procurement must mitigate the risk of unexpected or adverse outcomes arising from a procurement by requiring:

- Requests for quotes and requests for tenders for higher value procurement.
- Documentation to demonstrate transparent decision-making.



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- Completion of a specification for the goods or services
- Completion of a conflict of interest declaration
- Application of evaluation criteria which requires consideration of service standards and qualifications
- The use of subject matter experts in the procurement of specialist technical items
- The use of the Land Council's template agreements for procurement valued over \$15,000.

Purchasing Strategy

Purchasing strategies for the Land Council must be designed to directly support Land Council's objectives. For both capital and recurrent expenditure the strategy must provide for;

- Goods and services to be of suitable quality.
- Delivery to be guaranteed; and
- Goods and services purchased to represent best value for money.

Procurement Thresholds / Methods

The following are the relevant thresholds and methods when purchasing assets or goods/services:

Threshold (GST exclusive amount)	Methods/Requirements
Tier 1 - \$0 to \$15,000	<ul style="list-style-type: none"> • Obtain at least one quote • Be able to demonstrate value for money
Tier 2 - \$15,001 to \$250,000	<ul style="list-style-type: none"> • Obtain a minimum of three written competitive quotes from suitable suppliers or service providers • Be able to demonstrate value for money
Tier 3 - Greater than \$250,000	<ul style="list-style-type: none"> • Obtain public tenders or invite at least three suitable suppliers or service providers to provide tender. • Be able to demonstrate value for money

Employees shall not purchase assets or goods/services if any Land Council employee or member has any relationships or interests (direct or, indirect) in the preferred supplier or its subcontractors without approval from the Chief Executive Officer (CEO) or delegate. (This requirement does not apply where the total cost of a service is less than \$2,000 GST exclusive).



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Invitation to Quote

Before a purchase for assets or goods/services can take place, a decision has to be made as to the best method of purchase. A key responsibility is to protect and enhance the Land Council's commercial position and to encourage the maximum degree of competition between suppliers, within the bounds of professional ethics.

The most common purchasing technique in use is the invitation of written quotations from suppliers. Calling formal quotations maximises competition between suppliers, brings any new information to the purchaser's attention, and helps ensure that the purchaser receives the most favourable terms. The invitation of quotations is most efficiently undertaken by sending a formal "invitation to quote" letter or email to prospective suppliers.

The invitation must clearly indicate the exact information required from suppliers, to ensure that all suppliers respond with information that is directly comparable.

A properly constructed invitation saves the employee much work, allows easy comparison of offers and ensures fair and impartial treatment of suppliers. When suppliers' offers have been received, the results must be tabulated, allowing rapid assessment of the relative merits of the offers.

Procurement Value

The value of a procurement must include the total value of the purchase or engagement GST exclusive with a supplier for a specific project. The total value of the procurement is the full anticipated length of the contract not the yearly value or a value based on work undertaken in a financial year.

If the value of the procurement increases resulting from a contract variation e.g. to accommodate further/unforeseen requirements (scope creep), then the additional costs should be added to the total value of the project.

Please note: Employees must not divide the estimated purchasing cost of assets or goods/services into separate parts to avoid these requirements for, in doing so, they may be in breach of the Procurement Policy.

Procurement Agreements

Procurement agreements outline the terms and conditions on which the Land Council is entering into the procurement arrangement. The types of procurement agreements relevant to the Land Council typically include purchase orders and contracts.

All procurement will require purchase order and procurement over \$15,000 (GST exclusive) will require a purchase order and a contract.

1. Purchase order

Employees must:

- Issue the purchase order to the supplier before the commitment is made to procure the goods or services.
- Instruct suppliers that they must reference an official purchase order before supplying goods or services.



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- Ensure the purchase order contains sufficient supporting documentation to help the Financial Delegate assess the request and approve the procurement.

The Land Council reserves the right to refuse payment for goods and services if a supplier does not have a purchase order or sends the Land Council an invoice without a reference to a purchase order.

2. Contract

Contracts are a formal legal instrument setting up the terms and conditions for single procurements or multiple work orders under a head services agreement. Any contracts must be reviewed by the Principal Legal Officer before it is finalised.

Local Benefit and Effect

In recognition of the role of the Land Council in the community, employees must ensure that due consideration is made in purchasing decisions of how suppliers contribute to social wellbeing of the local community.

Employees shall ensure relevant local businesses are given the opportunity to quote or bid for goods and services or contracts. The degree of impact of buying locally on the local economy and local social benefits should be incorporated in the Evaluation Criteria as relevant for all purchases requiring a written quotation or tender.

Aboriginal Economic Participation

As part of the procurement process the Land Council must ensure that due consideration is made to Aboriginal economic participation. This is to improve the level of Aboriginal people's participation in, and benefit from, employment and economic opportunities arising out of Land Council's expenditure.

Environmental Purchasing

The Land Council supports the purchase and use of quality products that have recycled/reused content are environmentally-friendly or produced/supplied by organisations following environmentally friendly systems or processes, work practices.

The recycled content and environmentally-friendly products and services must still meet the Land Councils' requirements for value for money, suitable quality and fit for purpose.

The degree of environmentally friendly aspects of each supplier's product/service should be incorporated in the Evaluation Criteria for all relevant purchases requiring a written quotation or tender.

Work, Health & Safety (WH&S)

The Land Council will undertake due diligence activities on all suppliers to ensure compliance to legislative and business requirements. The Land Council requires all contractor, service providers and volunteers to comply with all WH&S legislative requirements. These are mandatory and non-compliance will disqualify prospective suppliers. Suppliers must provide evidence of



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insurances in providing goods, services or works and adhere to Land Councils' risk management framework and are compliant with all necessary WH&S procedures.

Exemptions

There are circumstances when procurement of goods or services will not require multiple requests for quote or a tender process to be followed, these are:

- procurement (including leasing) of land, existing buildings or other immovable property or any associated rights.
- procurements funded by grants and sponsorship payments from non-Commonwealth entities.
- the engagement of an expert or neutral person, including engaging counsel or barristers, for any current or anticipated litigation or dispute.
- when there is emergency for the purposes of this policy, an emergency is either a state of emergency or disaster declared by the Commonwealth or Northern Territory Governments and, applies to the specific geographical regions specified for the term of the declaration. Examples of common emergency conditions are bushfire or flood. In these cases, the immediate need to acquire services or equipment.
- Urgency- similar to 'emergency', but where a state of emergency has not been declared, and a major unforeseen event has occurred that necessitates a time sensitive acquisition. This 'exemption' criterion must not be used simply because of poor planning.
- Sole Supplier - the supplier is the only supplier of a particular service or good in a geographic area where the need is, and the price benefit of an acquisition elsewhere is not greater than the additional transport or other costs involved in acquisition from another locality. For example, the only fuel supplier in the locality.

Where one or more of these circumstances legitimately apply the purchase requisition must record and describe the basis of the exemption from the requisite quotations or tender process, and authorisation of the requisition is also deemed to be an authorisation of the exemption by the CEO.

6. Related Documents

Legislation

- *Public Governance and Performance Accountability Act 2013*
- *Commonwealth Procurement Rules (Australian Government- Department of Finance)*
- *Goods and Services Tax 2009*

Policies and other Related Documents

- Tiwi Land Council Gifts and Benefits Policy
- Tiwi Land Council Conflict-of-Interest Policy
- Tiwi Land Council Purchase Card Workflow Process
- Tiwi Land Council Delegation Register
- Tiwi Land Council Fraud & Corruption Control Policy



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Endorsement and Approval

Endorsed by:

Full Land Council on 24 October 2023

Approved by:

Robert Graham
Interim CEO

Gibson Farmer
Chairman


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Signature

1//11/2023

Date:


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Signature

Date: 23

Version	Date	Description of changes	Name and Job Title of person responsible for changes
1.0	24/10/2023	Final version – approved by the Tiwi Land Council and signed by Accountable Authority	Accountable Authority – Robert Graham, Interim CEO and Gibson Farmer, TLC Chairman
1.1	31/10/2024	Change of Review date to 24/10/2025 to be consistent with Review period in the Policy Framework	Chief Financial Officer – Maria Juan