

PYRAMID LAKE PAIUTE TRIBE

Procurement Policy

TABLE OF CONTENTS

- I. PURPOSE
- II. TERMS & DEFINITIONS
 - a. Consultant
 - b. Indirect Costs
 - c. Encumbrances
 - d. Allowable Costs
 - e. Unallowable Costs
- III. LEGAL REGULATIONS FOR PROCUREMENT
- IV. PROCUREMENT AREAS
 - a. Capital Expenditures/Fixed Assets
 - b. Consultant and Contract Services
 - c. Credit Accounts
 - d. Travel
 - e. Supplies
 - f. Space Costs
 - g. Equipment – General
 - h. Repairs
 - i. Insurance/Other
- V. PROCEDURES
 - a. Purchase of Goods and Services
 - b. Receipt of Goods or Services
- VI. Methods of Purchasing
 - a. Micro-Purchases
 - b. Small Purchases
 - c. Sealed Bids
 - d. Requests for Proposals
 - e. Non-competitive Negotiation
 - f. Cost and Price Analysis

I. PURPOSE

To control expenditures by obtaining the lowest cost (with satisfactory quality) for products and services received; and by not allowing expenditures to exceed budgeted amounts. This policy will make the purchase process more efficient for program directors and supervisors who have the ultimate responsibility to ensure that all program purchases are in compliance with federal, state, or local contract requirements as they apply to Tribal policies. Further the policy will outline the procedures and standards for seeing the purchase through approval, budget allocation, receipt and payment of products. These control elements are necessary to properly account for purchasing transactions and safeguard tribal assets.

II. TERMS & DEFINITIONS

- a. Consultant - An independent agent who provides services or goods for a fee. Usually, services of this nature are provided by professionals and determined by a written contract between the Tribe and the consultant.
- b. Indirect costs - The costs incurred for a common or joint purpose benefiting more than one cost objective or program. Examples of these costs include: administrative personnel, finance personnel, audit expenses, insurance, equipment maintenance costs, human resources personnel, and administrative office supplies. These costs determine what portion of general expenses each program should bear. The Tribe must develop and submit an Indirect Cost Proposal to the National Business Center (NBC).
 - i. Provisions of 2 CFR 200 will be adhered to in developing and updating indirect cost rates.
 - ii. The Comptroller, the appropriations committee, and the Tribal Council will review the proposed indirect cost rate or allocation plans on an annual basis and determine if any revision or re-negotiations are required.
 - iii. All proposals submitted to funding agencies will include the Tribes indirect cost rate for that fiscal year.
 - iv. The indirect cost rate is submitted to the Department of Interior each year.
- c. Encumbrances - There is usually a lapse of time between placing an order and the delivery of goods or services ordered. When contracts such as those for building construction or consulting services are executed, the time lag may extend over relatively long periods. All legally binding commitments to pay money eventually become expenditures. These commitments, called encumbrances, will be entered in to the MIP accounting system as a purchase order to ensure that expenditures do not exceed amounts appropriated and budgeted.
- d. Allowable Costs - Office of Management and Budget (OMB) 2 CFR 200 Subpart E, is the basic guideline in determining allowable costs for federally assisted programs. Variations from 2 CFR 200 must be clearly approved by the funding agency. Some examples of allowable costs are: travel by tribal employees for tribal business, advertising for employee recruitment, and training expenses.
- e. Unallowable Costs - The definition of Unallowable Costs as listed in 2 CFR 200, is the basic guideline in determining costs that are unallowable expenses for a federally assisted program. Some examples of unallowable costs are: travel for non-employees, fines and penalties, and alcohol.

III. LEGAL REGULATIONS FOR PROCUREMENT

Following is a listing of various federal and agency regulations that must be adhered to during the procurement process, as well as Pyramid Lake Tribal Policies.

- a. Tribal Council will maintain a code of conduct that prevents officers, employees or agents from accepting gratuities, favors, or anything of value from contractors. The Tribe must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the

selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Tribe must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the Tribe may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Tribe.

- b. All transactions will be carried out to provide maximum full open and free competition, with consideration given to prevent: conflicts of interest, and non-competitive practices. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.
- c. Native American/Alaskan Native Preference Requirement
 - i. Preference and opportunities for training and employment in connection with the grant will be given to Indians.
 - ii. Preference in the award of a contract in connection with the grant will be given to Native American/Alaskan Native organizations (Indian owned economic enterprises as defined in 25 USC 1452 and the Buy Indian Act and supporting case law).
- d. Affirmative action efforts will be made to use small, minority owned, and women owned businesses.
- e. Invitations for bid and requests for proposals on contracts over \$50,000 will be formally advertised and based on a clear and accurate description of the service or product. [NOTE THE FEDERAL GOVERNMENT HAS NEW THRESHOLD LEVELS DEFINED IN 2 CFR 200]
- f. Procurement method will be appropriate – i.e. firm fixed price or cost reimbursable NOT “cost plus a percentage of cost”. (see below for Micro purchase method, small purchase method, Invitation for Bid method, Request for Proposal Method, or Non-competitive Negotiation method.)
- g. Purchases can be negotiated if it is not practical or feasible to advertise under the following circumstances:
 - i. Public demand will not permit the delay of advertising
 - ii. Material or services are available from only one source – if the purchase exceeds \$5,000 this must be pre-approved by granting agency
 - iii. Contract is for personal or professional services, or to be rendered by an educational institution
 - iv. No acceptable bids were received after advertising
 - v. Purchase is for materials with the following characteristics
 1. Highly perishable materials or medical supplies
 2. Experimental, developmental, or research work
 - vi. Otherwise authorized by law
- h. Contracts will be made with only responsible contractors based on integrity, compliance with public policy, record of past performance, financial and technical sources.
- i. Contractor conformance with terms, specifications and conditions of the contract will be maintained.
- j. Contractor must comply with Federal, State, Local and Tribal debarment and suspension policies. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties

debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- k. If the principal source is to create, develop, or improve products, contract will contain a notice that matters regarding intellectual property rights to inventions and materials generated under the contract are subject to regulations issued by granting agency. Title to intellectual and intangible property acquired under a Federal award vests upon acquisition in the Tribe. The Tribe must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. The Tribe may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so unless restricted by the Tribe.
- l. Contracts must have provisions to allow remedies, sanctions and penalties in case the contractor violates contract terms and conditions.
- m. Construction and repair contracts will have a provision for compliance with the Copeland “Anti-Kickback Act”. The contracts must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
- n. When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the Tribe must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Tribe shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination.
- o. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the Tribe in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- p. Purchases and contracts over \$10,000
 - i. Formal advertising at least statewide in an appropriate media is the required method of soliciting bids or proposals; Pyramid Lake requires a minimum of three bids or offers be received.
 - ii. For Sealed bids, a firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is

lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.

Request for Proposals contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other technical factors considered.

- iii. All Solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
 - iv. Contracts must provide: justification, contractor selection, basis for cost or price negotiation.
 - v. All contracts in excess of \$10,000 must address termination for cause and termination for convenience by the Tribe including the manner by which it will be effected and the basis for settlement.
 - vi. Provision for compliance with Executive Order 11246 "Equal Employment Opportunity".
 - vii. Provision that grantee, granting agency, Comptroller of the United States or duly authorized representative will have access to any books, documents, papers, and records of contractor for audit purposes.
- g. Purchases and contracts over \$150,000
- i. Bonding requirements:
 - (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
 - ii. "Clean Air Act" of 1970 compliance is required. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

IV. PROCUREMENT AREAS

a. Capital Expenditures/Fixed Assets

Capital expenditures made are based on each program or departments set budget. They cannot purchase more than they are allocated by the Tribe or by the agencies awarding the program funds. There are two equipment GL codes set up in MIP accounting one for "equipment" and the other for "equipment over \$5,000.00." All equipment purchased throughout the year is expensed as equipment to one of those two expense accounts at the time of purchase. At the end of each year the finance department will review the equipment general ledger detail and invoices to determine all individual items which were \$5,000 or more. Anything over \$5,000 per item is capitalized. An adjusting journal entry is made to ensure all

capitalized equipment over \$5,000 appears on the balance sheet and all equipment under \$5,000 is expensed on the income statement.

b. Consultant And Contract Services

Determining the need for services should originate at the department level. The department director will provide, in writing, a request identifying the scope and nature of the services required and the reasons why the Tribe's own personnel cannot provide said service. This request will then be reviewed by the Executive Team and forwarded to the Comptroller if approved. The Comptroller will ensure the request is within the budget limitations and government regulations if applicable. Requests for proposals should then be sent to at least three consultants or contractors having the qualifications desired. Proposed requests will specify the product desired, a description of services to be performed, a time schedule for the performance and any limitation of costs, if necessary. A statement of the contractor's qualifications and resumes of personnel expected to work on the proposed project should be requested as part of each prospective consultant's proposal. All proposals received will be evaluated and submitted to the Tribal Council or a committee appointed by the Tribal Council for considerations. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical. Proposals must be solicited from an adequate number of qualified sources. The Tribe shall utilize a written method for conducting technical evaluations of the proposals received and for selecting recipients. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other technical factors considered; The decision to award a contract to a consultant or contract should be guided by the following factors:

- i. Expertise of consultant
- ii. Overall presentation of the proposal indicating understanding of the work to be performed
- iii. Past experience of consultant
- iv. Total cost of services
- v. The ability of consultant services to enhance the objectives of the department or program

Following the award of a contract, a standard consulting services agreement will be signed by the contractor, department director and Tribal Chairman prior to commencement of the work.

Contracts will contain a description of the services to be provided by the contractor and what the related fees are as well as a maximum limit on fees or other payments. Payments to a contractor may not exceed the maximum amount specified in the contract without prior approval of the Tribal Council or an amendment to such contract.

Contract amendments may be authorized by the Tribal Chairman if such amendments do not increase the maximum amount payable under the contract and the Tribal Council is subsequently notified of the amendment.

c. Credit Accounts

Any charge account opened in the name of the Pyramid Lake Paiute Tribe will require signature authorization of the Pyramid Lake Paiute Tribal Council. All Program Directors requesting to open a credit account will submit their request to the Finance Department. The request will include:

- i. The program and line item that will be used to pay the account on a regular basis;
- ii. The amount of credit being requested; and
- iii. The purpose and length the account is to be used for.

The Program Director will present the request to the Finance Department, who will complete the credit application. Purchase orders will be required for all charges on any credit account in the name of the Pyramid Lake Paiute Tribe. When a credit account is opened, the Finance Department will notify the

vendor of the requirement(s) for a purchase order when charges are being made. Unauthorized charges will be brought to the attention of the Tribal Council by the Finance Department and duly investigated.

d. Travel

The Tribe recognizes that certain amounts of travel are necessary for satisfactory performance and completion of program objectives. Control of travel ensures the effective and efficient use of the Tribal funds and our employee's work hours. The travel policy is included in the Personnel Policies in its entirety; following is a brief summation of travel as it relates to procurement.

Qualifications

All individuals seeking reimbursement for authorized travel must qualify as follows:

- i. Be a Tribal employee within the scope of his/her assigned duties;
- ii. Be a member of the Tribal Council acting on behalf of the Tribe;
- iii. Any person approved by the Tribal Council to conduct business on behalf of the Tribe.

Authorization

The Pyramid Lake Paiute Tribal Council will approve travel when approving a program's annual budget. The Tribal Council will approve the Tribal Chairman, Vice-Chairman, and Tribal Treasurer's Travel. The responsible Executive Team Officer or the designated representative can approve other department travel that is essential to conduct Tribal business.

All travel authorized must be within the program guidelines as specified by Program's annual budget. All travel must have prior authorization as follows:

- i. Local travel within the reservation, Fernley, and/or surrounding areas not requiring per diem or lodging as authorized by the Department Director and/or Supervisor.
- ii. Off-reservation travel within the State or areas requiring per diem or overnight travel as authorized by the responsible Executive Team Officer, and/or Department Director. Traveler must complete a travel request form prior to travel.
- iii. Out-of-State travel must be pre-authorized by the responsible Department Director and/or the responsible Executive Team Officer and included in the programs annual budget.
- iv. No individual may approve his/her own travel authorization or travel expense statement forms.
- v. Airfare and Hotels will be paid for on the tribal credit card. Prepayments for other costs done from preapproved travel request form.

Transportation Costs

Travelers must use the most economical and expeditious means available and every effort should be made to obtain the lowest rates possible. The Tribe requires all travelers to submit a Travel Expense Statement within five working days after returning from a trip. Failure to submit the proper documentation will result in the deduction of advanced travel funds from the individual's payroll or stipend check. The Tribe will not provide any additional funds to those individuals who fail to submit the required documentation or fail to provide reimbursement to the Tribe for travel funds received.

Reimbursements

Upon completion of any authorized travel, the traveler will file with the Finance Department an approved Travel Expense Statement form within five days after travel. This statement will include all travel receipts including but not limited to the following: lodging, airfare, car rental, and shuttle costs. These receipts will be viewed as support for the payment of travel expenses with the Supervisor's approval. The Finance Department will review and reconcile the Travel Expense Statement.

e. Supplies

Supplies should be stored under the supervision of the Tribal Secretary or designated Tribal department. Supplies acquired for a specific program should follow the normal procurement procedures and will be charged directly to that program. Supplies benefiting the Pyramid Lake Paiute Tribe's general activities

will also be acquired according to the same procedures, but will be charged to all programs as indirect costs through administration. The Tribe should take advantage of cash discounts, trade discounts, rebates and other allowances available whenever possible. Incoming transportation charges are a proper part of material cost.

The staff member receiving the supplies will verify the complete receipt of items with a signature on the receiving copy of the invoice or on the original invoice. Invoices will be compared with purchase orders prior to payment in order to insure the delivery was completed properly.

f. Space Costs

Space costs represent telephones, gas, water and electricity costs. In certain grants, space costs may include office rent. Telephone and electrical costs are approved in the budget process. New installations will be approved by the Executive Team. For costs to be allowable, it must have approval of the funding agency. Office rent will be documented by a rental agreement between the program and Tribe. The agreement will show the term, monthly rent, square feet being rented and stipulate which party is responsible for repairs, renovations and maintenance. The Tribe can compute the space cost above and use it as an in-kind contribution to match funds of a program.

Certain grant agreements allow the Tribe to charge rent for space used for grant activities. In such instances a rental agreement is approved by the Tribal Council and monthly payments are made to the Tribe and charged as a grant expense. This cost has to be approved by the funding agency before it is allowable. The Tribe may use this amount as an in-kind contribution to the program.

Building space and related facilities, in privately or publically owned buildings used for the benefit of the grant program are allowable subject to: total cost may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality; the cost of space may not be charged to the program for periods of non-occupancy.

Also the rental cost will exclude any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it is presently located.

Rental cost of space in a privately owned building is allowable. The costs of utilities, insurance, security, janitorial services, upkeep of grounds, normal repairs, alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value of useful life of the facilities are allowable when specifically approved by the Funding Agency.

All other space costs, such as bills for: telephone, electricity, water and propane should be approved by the Department Head receiving the service.

g. Equipment – General

Equipment may be either purchased or acquired by lease or rental. Once the need for a given piece of equipment is established a comparison of the relative advantages of purchase or lease/rental will be made. Factors to be considered include the length of time the item is needed, cost of purchase, maintenance and other expenses and anticipated salvage value compared with total cost of a lease or rental agreement.

Ordinarily, the method resulting in a lower cost to the Tribe should be chosen. Consideration should be given to securing through the government surplus (GSA, BIA, BLM, etc.)

Tribal Council approval of the purchase, lease or rental of purchases lease or rental of equipment is contained in the annual budget. Commitments, which would cause an over-expenditure of ten percent or more of the annual budget allocation for purchase, lease or rental of fixed assets, must be approved in advance by the Tribal Council. Most grants and contracts require specific advance grantor approval of equipment purchases.

i. Equipment Purchases

Purchase orders should be issued for all equipment purchases. The total purchase made during each fiscal year when added to the total fixed assets recorded in the books at the beginning of the fiscal year, should be reconciled to the physical inventory. A physical inventory will be taken of all equipment at the end of each fiscal year.

ii. Equipment – Lease and Rental

A purchase order will be issued for the lease or rental of equipment. The Finance Department's copy of the purchase order will be used to log payments made on the agreement.

For the purchase of fixed assets, information regarding each purchase will be entered into the BNA Fixed Asset program. The program accounts for fixed assets purchases, and will set up a depreciation schedule for any capital expenditures to be tied to the financial statements ~~at the end of the year~~. every two years. At the end of each fiscal year a physical inventory should be taken and reconciled to the fixed asset inventory. After adjustments are made to the fixed asset inventory list for missing or disposed of items the list should be reconciled to the Tribe's book of accounts.

The Tribal Council will approve in advance the disposal of any fixed asset over \$10,000. If the fixed asset was purchased with grant funds, the Funding Agency's prior approval is also required. The theft of fixed assets will be reported to local law enforcement agency to support the items removed from the inventory and reduction of the book balance for fixed assets.

- i. Invoices for lease or rental of equipment will be compared with the related agreement, and purchase order, prior to approval for payment. The Finance Department's copy of the purchase order is used to log payments made in order to prevent the overpayment of the rental agreement.

h. Repairs

Some repairs may be planned for in the budget process. The need for other repairs may become apparent during the fiscal year. In both cases, a review by program department head or Tribal maintenance should be made of the necessity of the repair, the usefulness of the item being repaired and the comparative cost of replacement. Standard procurement procedures should be used for repair costs. A description of repair materials and outside labor or service charges is shown on the requisition/purchase order. This description should be matched to the invoice prior to payment. The Department director should advise the Finance office to show that repairs were properly made.

i. Insurance/Other

The Pyramid Lake Paiute Tribe maintains public liability insurance. Insurance provides coverage for fire, theft and liabilities to the Tribe. Type and extent of coverage is in accordance with sound business practices. The Pyramid Lake Paiute Tribe maintains liability insurance for any tribal program, which requires or authorizes, either expressly or by implication, the use of motor vehicles.

Insurance provides coverage for damages to Pyramid Lake Paiute Tribe assets caused by incidents other than willful misconduct of Pyramid Lake Paiute Tribal employees. Damages and/or loss of Pyramid Lake Paiute Tribe's assets will be recovered by garnishment of employee's salary and disciplinary measures. General insurance related to policies for comprehensive liability including autos and for bonding of check signatures, individuals handling cash, the Treasurer and his staff. An insurance policy schedule should be maintained to summarize insurance carrier's policy number, description of coverage, period of coverage and related cost. The insurance policy and invoice from the insurance agent constitutes the required documentation.

Most insurance costs are charged back to the respective tribal departments.

Liability and bonding insurance costs are recorded in this category under Administration and an insurance policy with an invoice will support the expenditure. Specialized insurance relating to the activity of a single department may be charged as a direct cost of that department.

Cost of membership in civic, business, technical and professional organizations is allowable provided that the benefit from the membership is related to the grant program. Membership in an organization, which devotes a substantial part of its activities to influencing legislation, is not allowed to be charged to federal grants and contracts.

V. PROCEDURES

a. Purchase Of Goods And Services

All Tribal expenditures are initiated at the department level; the Purchase Order/Check Request is submitted and approved prior to any funds being disbursed.

i. Placing the order:

1. The Department Director is responsible for overseeing their program budgets to see if costs are allowable or if there are sufficient funds remaining. The Department Director completes the Purchase Order/Check Request form with attention to the following information:
 - a. The purchase is original and not a duplicate of a previously procured item
 - b. The expenditure is budgeted
 - c. The expenditure is allowable under the account/contract that will pay for the cost
 - d. The cost is necessary to the program
 - e. The purchase is allocated to the correct program codes
 - f. If the purchase is in excess of \$50,000.00 the Department Director is required to get the purchase authorized by Tribal Council
2. The Department Director completes the Purchase Order/Check Request form listing:
 - a. Vendor Name and Address
 - b. Date merchandise or service is required
 - c. Department Requesting the Item(s)
 - d. Item Description
 - e. Amount or Amount not to Exceed
 - f. Account Code
 - g. Signature with Date

- ii. The Department Director submits the completed Purchase Order/Check Request to the Finance Department with support documentation (i.e. quote, invoices, pricing) and logs the submission on the appropriate log, and time stamps the form using time clock. The details of the approval and payment process can be found in the Financial Management Manual.

b. Receipt of Goods or Services

As goods are received, the departments are responsible for submitting packing slips or other receipt documents to the Finance Department to be attached with the purchase order as proof of delivery to complete the purchase order package for payment.

- i. If the bill of lading indicates that a partial shipment has been received, contact the vendor and investigate when the order will be completed in full. Payment will be made only if the order is completed.
- ii. If the bill of lading has been sent and no goods have been received, investigate if and when the goods will be received.
- iii. Where receipt of goods cannot be verified, notify the vendor that there is a dispute on the invoice.

VI. PROCUREMENT METHODS.

A. Micro purchases:

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. Micro-purchase threshold means \$3,000 for equipment less than \$5,000; \$2,000 for

acquisitions of construction subject to the Davis-Bacon Act; and \$2,500 for acquisitions of services subject to the Service Contract Act. To the extent practicable, the Tribe must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations (one quote) if the Directors considers the price to be reasonable.

B. Procurement by small purchase procedures. (for purchases above the micro threshold and below the Simplified Acquisition Threshold (Small Purchase Threshold) as defined by the Tribe (currently \$50,000). Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (currently set by the federal government at \$150,000). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. At least three quotes are needed.

C. Sealed Bids (Invitation for Bids). This method is to be used for purchase of hardware, equipment or construction estimated to cost more than the Small Purchase Threshold. The method may also be applied for purchase of hardware, equipment or construction when the cost is estimated to be within the small purchase zone for the three quotes received.

Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids (responsive), is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions below apply.

In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract where the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
- (ii) the invitation for bids must be publically advertised at least statewide in appropriate media;
- (iii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iv) All bids will be publically opened at the time and place prescribed in the invitation for bids;
- (v) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs and Indian Preference must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (vi) Any or all bids may be rejected if there is a sound documented reason.

D. Request for Proposals. This method is to be used for purchase of consultants and professional services estimated to cost more than the Small Purchase Threshold. The method may also be applied for purchase of consultants and professional services when the cost is estimated to be within the small purchase zone for the three quotes received. It is used when award is to be made on the basis of factors in addition to price.

If this method is used, the following requirements apply:

- (i) Requests for proposals must be publically advertised at least statewide;
- (ii) Proposals must be solicited from an adequate number of qualified sources;

- (iii) The request for proposal must identify all evaluation factors and their relative importance
- (iv) Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (v) The Tribe will establish a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (vi) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and the technical factors considered;

E. Non-Competitive Negotiation.

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (i) The item is available only from a single known source in the United States;
- (ii) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
 - (a) where an emergency is defined as the potential to endanger life, health or safety, and
 - (b) where an exigency is defined as the potential to harm the ability to provide for the public welfare.
- (iii) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Tribe with justification; or
- (iv) After solicitation of a number of sources, competition is determined inadequate.

If such situations occur, then the Tribe shall conduct cost negotiations with the offeror based on cost analysis of the offer received.

F. Cost or Price Analysis.

Prior to negotiations the Director must perform a cost and price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Tribe must make independent estimates before receiving bids or proposals.

A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

The Tribe must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the Tribe under 2 CFR 200, Subpart E-- Cost Principles.