



**Waganakising Odawak
Little Traverse Bay Band of Odawa Indians
Accounting Department**

7500 Odawa Circle • Harbor Springs, Michigan 49740
Phone 231-242-1440

Policy and Procedures for Contracting

- I. **Introduction:** This policy establishes the Contracting Policy and Procedures for the Little Traverse Bay Bands of Odawa Indians Tribal Government (LTBB). Sound policies and internal controls are necessary to:
 - A. Protect the assets of LTBB by reducing the risk of exposure to fraud, loss, property damage, theft and misappropriation of funds.
 - B. Ensure LTBB puts forth a good faith effort to procure needed goods and services in a reasonable time.
 - C. Ensure LTBB utilizes competitive procurement practices.
 - D. Ensure LTBB utilizes contracts when they are in the best interest of LTBB.
 - E. Ensure contract requests have been authorized by the appropriate LTBB personnel and are for use by LTBB either by direct use or as part of direct client services under an LTBB Governmental Program. No effort will be made to procure items or services that would otherwise be the responsibility of another person or organization unless authorized under an LTBB Governmental Program.
 - F. Ensure adherence to Generally Accepted Accounting Principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB); regulations as outlined in the *Code of Federal Regulations, Title 2; Subtitle A Chapter 2 Part 200 OMB Uniform Guidance: Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR 200)*; the LTBB Administrative Procedures Statute and any other applicable Federal, Tribal or Granting Agency rules, regulations and procedures.

- II. **Definitions:**
 - A. Allowable Costs: Costs that are necessary, reasonable, and allocable to a fund; permitted under a program; and are adequately documented.
 - B. Purchasing: Division within the Accounting Department with staff designated to carry out the daily functions of procurement, contracts and other such matters.
 - C. Purchase Requisition: A completed request from a department for the Accounting Department to order a product or service, submitted with the proper account numbers via the electronic requesting system, Microix. To be considered submitted, Purchase Requisitions must be authorized by the person having budgetary authority over the requested funds.
 - D. Purchase Order: A Purchase Requisition that has been authorized by a Staff Accountant for funds availability and allowability and returned to the Purchasing Technicians for processing.
 - E. Contract Requisition: An Accounting Form requesting the Accounting Department to draft a contract for a service or customized product where a contract may be more appropriate than a Purchase Requisition.

- F. **Competitive Contract:** A contract for services or items that is subject to a quote or bidding process; generally, but not limited to or inclusive of, contracts valued at \$10,001 or more.
 - G. **Non-Competitive Contract:** A contract for services or items that is not subject to a quote or bidding process; generally, but not limited to or inclusive of, contracts valued at \$10,000 or less.
 - H. **Invoice:** A form generated by a vendor with the vendor's name, address, phone number and items purchased. Invoices must include a dollar amount.
- III. **Applicability:** This policy is applicable to all Branches, Divisions and Departments of the Little Traverse Bay Band of Odawa Indians Tribal Government and government run Enterprises, referred to as LTBB in this document. This procedure applies to all contract requests normally received and those purchase requisitions where a contract is deemed the proper course of action to best serve the interests of LTBB. In addition to following the requirements of this policy, all contracts for construction of capital assets must follow the LTBB Capital Asset Construction Management Policy.
- IV. **Consistency:** To maintain consistency in standards for effective controls and accountability as required in 2 *CFR* 200, this Contracting Policy and Procedures will apply for all funds spent by LTBB regardless of funding source.
- V. **Policy:** All funds spent by LTBB must follow procurement standards listed in the LTBB Purchasing Policy and Procedures. In addition to those standards the following policies apply to all LTBB Contracts:
- A. Obligations must be the responsibility of LTBB, either by direct use or as part of direct client services under an LTBB Governmental Program. No contracts will be made for items that would otherwise be the responsibility of another person or organization unless authorized under an LTBB Program.
 - B. Requisitions must be authorized by the appropriate personnel. No contract requisitions will be processed without the signatures of the persons having Departmental budget oversight and any other necessary signatures required per related LTBB resolutions, statutes, policies or procedures.
 - C. All securing of services to be performed by independent contractors will be facilitated through the Purchasing Division of the Accounting Department and in accordance with any LTBB Statutes.
 - 1. LTBB Staff are not authorized to obligate LTBB funds to any vendor by directly contacting vendors, signing contracts, memorandums of understanding, purchase agreements or any other document that may bind LTBB to funds or actions.
 - 2. All contracts must be authorized by the Accounting Department for funds availability and reviewed by the Legal Department. Only those with direct authority, as applicable, may sign a contract: the Tribal Chairperson, Legislative Leader, Chief Judge, Prosecutor or Chairperson of the Election Board. Executive Branch contracts under \$25,000 may be approved by the Chairperson's designee instead of the Tribal Chairperson.
 - 3. Purchasing must have a fully completed W-9 form or authorized equivalent on file for all vendors utilized by LTBB.
 - D. Purchasing must check all vendors to ensure they are not on the Federal Suspended or Debarred List. Proof of the check must be retained by Purchasing Staff. Vendors appearing on this list cannot be utilized by LTBB.

- E. General Procurement Standards: 2 *CFR* 200 Section 200.318 General Procurement Standards, as listed below, are applicable to all funds spent by LTBB, regardless of funding source:
1. Contracts must be authorized by a Staff Accountant for funds availability, allowability, allocability, necessity and reasonableness as detailed in 2 *CFR* 200 and in any other financial or guiding document as applicable.
 2. Construction projects will use value engineering clauses as appropriate.
 3. Contracts will only be awarded to responsible contractors with the ability to perform successfully under the terms and conditions of the proposed contract. Integrity, past performance, compliance with public and tribal policy, and financial and technical resources shall be considered.
 4. Records must be maintained to detail the procurement history of each contract, including reasons for selection, details on rejections and selections, and the basis for contract prices.
- F. Per Waganakising Odawak Statute 2018-010 Contracting, Section VIII, LTBB Tribal Citizens and Citizen owned businesses shall be given preference with respect for proposals and quotes provided they are qualified, maintain quality of product or service, uphold timeliness of delivery, and hold all appropriate licenses, insurances and other certifications.
- G. Competitive Procurement: To maintain consistency and transparency the Competitive Procurement Standards listed below apply to all funds spent by LTBB regardless of funding source:
1. All procurement transactions, including contracts, must provide full and open competition. To deter unfair advantages LTBB will not:
 - a. Accept bids from Contractors that developed invitations to bid, statements of work, requests for proposals or specifications on the project.
 - b. Please unreasonable requirements to qualify to do business with LTBB.
 - c. Require unnecessary experience or excessive bonding.
 - d. Encourage or accept noncompetitive pricing among affiliated companies.
 - e. Award additional contracts to consultants already on retainer contracts without asking for bids.
 - f. Award contracts where there could be an appearance of a conflict of interest between the person responsible for overseeing the project and the contractor, or the contractor and the funding source.
 2. LTBB classifies all contracts into one of the four following categories. Generally contracts cannot be amended if the amendment would push the cost of the full contract from one level to a higher level.
 - a. Micro-purchases: Total contract price between \$0 and \$10,000 (or \$2,000 if Davis-Bacon applies). If LTBB finds a reasonable price a contract may be made. Solicitation of competitive quotes is strongly encouraged but not required.
 - b. Procurement by Small Purchase Procedures: Total contract price between \$10,001 and \$50,000. Price and rate quotations must be obtained from an adequate number of qualified sources. LTBB will put forth all reasonable efforts to secure quotations from at least three qualified sources and will retain documentation to show such efforts were made. LTBB will select the vendor offering the best value. Pricing must be the major component when determining best value proposals unless the procurement is for Architectural/Engineering Services (A/E), but vendor availability, reliability, reputation, performance capability (numbers of employees, financial status, proper equipment), and past performance

- may also be considered. For A/E procurements LTBB may choose to use qualifications-based procurement as detailed in *2 CFR 200*.
- c. Procurement by Informal Competitive Proposal Procedures: Total contract price between \$50,001 and \$100,000. A request for proposals (RFP) will be publicized and will identify all evaluation factors and their importance to awarding the project. RFPs must be posted on LTBB's website for ten consecutive days; posting may occur longer and in more areas if desired. LTBB will put forth all reasonable efforts to secure proposals from at least three qualified sources and will retain documentation to show such efforts were made. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program. Pricing must be a major component when weighing proposals unless the procurement is for Architectural/Engineering Services (A/E), but vendor availability, reliability, reputation, performance capability (numbers of employees, financial status, proper equipment), and past performance may also be considered. For any A/E procurements LTBB may choose to use qualifications-based procurement as detailed in *2 CFR 200*.
 - d. Procurement by Formal Competitive Proposal Procedures: Total contract price of \$100,001 and higher. A request for proposals (RFP) will be publicized and will identify all evaluation factors and their importance to awarding the project. RFPs must be posted on LTBB's website for fifteen consecutive days and in at least one local periodical for four consecutive days; posting can occur longer and in more areas if desired. LTBB will include evaluation factors and award criteria in the RFP. LTBB will put forth all reasonable efforts to secure proposals from at least three qualified sources and will retain documentation to show such efforts were made. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program. Pricing must be a major component when weighing proposals unless the procurement is for Architectural/Engineering Services (A/E), but vendor availability, reliability, reputation, performance capability (numbers of employees, financial status, proper equipment), and past performance may also be considered. For any A/E procurements LTBB may choose to use qualifications-based procurement as detailed in *2 CFR 200*.
3. Contracts with a total cost of \$10,001 and above may only be secured with noncompetitive proposals in the following circumstances, which must be heavily documented:
 - a. The service is only available from a single source and proof of this single-source availability is documented.
 - b. A public emergency or otherwise urgent situation exists and the delay from using competitive solicitation will exacerbate the situation. This situation must be heavily documented.
 - c. The funding source expressly authorizes a noncompetitive proposal.
 - d. Solicitation of proposals from a number of sources has already occurred and competition is determined inadequate.
 4. Construction contracts are subject to the policies listed above, along with any additional requirements detailed in any LTBB Statutes, Resolutions and other LTBB Policies specifically related to construction.
- H. LTBB applies any restrictions not listed above but detailed in *2 CFR 200* to all contracts, regardless of funding source, unless doing so would place undue

hardship on LTBB to carry out services to citizens and the contract in question is not by funded Federal or cost-recovery funds. Exceptions to this policy should be rare.

- I. Contracts funded with Federal, state or private funds may have more restrictions placed on them, such as requiring approval from the funding source.
- J. Construction contracts funded with Federal funds are subject to provisions of the Davis-Bacon Act.
- K. The Constitutionally Mandated Rules of Conduct adopted by LTBB apply to vendor and contractual relationships. As such LTBB staff will not accept gifts from contractors or potential contractors, unless those gifts are unsolicited and are clearly not an attempt to influence or obtain a contract. Items of nominal value in nature; traditional items; small favors distributed to celebrate an occasion; or modest food or refreshments offered as a matter of social hospitality are generally acceptable.

VI. **Procedures:**

A. Contract Requisition:

- 1. If a Department Director or the Accounting Department determines a Contract is necessary for procurement, a Contract Requisition form should be filled out by the Department requesting services. Contracts are recommended, even for Micro-purchases, whenever a vendor requests payment prior to performing a service or delivering a finished good.
- 2. Contract Requisitions should be submitted to the Lead Purchasing Technician at least 30 business days prior to needing services costing \$10,001 and over (Competitive Contracts) and at least 10 business days prior to needing services \$10,000 or less (Non-Competitive Contracts).
 - a. A complete description of the services to be performed or product to be created must be entered.
 - b. The date the services or product are needed are required. If for an event attach event flyer.
 - c. Estimated cost or a "do not exceed amount" is required.

B. Approval of Contract Requisitions:

- 1. Contract Requisitions are not considered submitted until the supervisor with budgetary authority has approved the request.
- 2. If Contract Requisitions require an adjustment by the requestor the Purchasing staff should be notified immediately.
- 3. The Accounting Department will approve or deny completed Contract Requisitions within five business days of submittal. Purchasing Technicians and Staff Accountants may ask for more information before a Requisition can be approved or denied. If the requested information is not received within one business day the Requisition will require additional processing time by the Accounting Department. If a Requisition is denied the reason will be written on it and copy will be returned to the requestor.

C. Developing a Contract:

- 1. The Lead Purchasing Technician will draft a contract only after following the standards above.
- 2. The Legal Department, by statute, must review all contracts. If the standard Legal approved template is being used the Purchasing Technician may proceed with the contracting process. Some firms prefer the use of their own contract, in those situations the Legal Department may require additional

- processing time. Accounting will submit contracts to the Legal Department for review.
3. Per statute the Accounting Department will give signed contracts to the Legal Department for their repository electronically.
 4. Contractors are responsible for invoicing LTBB for work performed. The Lead Purchasing Technician will work with vendors on payment schedules. Construction contracts will require the submission of the Capital Project Payment Request Form as filled out the by Department overseeing the project.
- D. **Contract Terms:** To ensure the matching principle of Accounting is met, budgeted funds may only be spent in one budgetary period to receive and use goods or services in the same period. As such, contract deadlines must match the time frame services are performed in. If a contract amendment is necessary the Department must submit a completed Contract Amendment Form to the Accounting Department stating what changes are necessary.

VII. Conflicts of Interest: When contracting no employee may participate in the selection of a vendor or the administration of a contract or purchase if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, any member of his or her immediate family, his or her partner or an organization which employees any of the above has a financial or other interest, or could appear to receive a tangible personal benefit from the purchase or contract. If a real or perceived conflict of interest is apparent the employee must notify their supervisor and abide by all terms of the Employee Handbook and any other related policies, procedures or statutes in effect. If a Federal funding agency could be impacted by a real or perceived conflict of interest the person having authority over the LTBB Branch or Division assigned the federal award must request written approval from the funding agency, via the Grants Office, to proceed with the activity in question. Failure to adhere to this conflict of interest policy may result in disciplinary action per the employee handbook.

VIII. Internal Control Standards: To comply with 2 CFR 200.303, Internal Controls, LTBB follows the guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by COSO. This document lists five standards of Internal Control: Control Environment, Risk Assessment, Control Activities, Information and Communications, and Monitoring. To ensure compliance with the Risk Assessment Standard and the related continual changes in regulatory and operating conditions, the CFO will review this policy no less than annually and update as needed.