**PROCUREMENT POLICY AND PROCEDURES**

**A. Policy**

To ensure that the procurement efforts implemented by [Organization Name] are in accordance with all applicable laws, regulations and local statutes.

**B. Purpose**

The foregoing procedures for the procurement of supplies and other expendable property, equipment, real property, contractual and other services, are to be followed to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal, State and local statutes.

**C. Organization Responsibilities**

1. [Organization Name] shall be responsible for implementing procurement policies consistent with OMB Circular A-110 standards when Federal funds are used for procurement. Such standards shall not relieve [Organization Name] of the contractual responsibilities arising under settlement and satisfaction of all contractual and administrative issues arising from procurement entered into in support of an award or other agreement. This includes disputes, claims, protests of award or other contractual agreement.

2. Matters concerning violation of statute shall be referred to Federal, State, or local authority as may have proper jurisdiction.

**D. Code of Conduct**

1. No employee, officer, or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be invoked. Such a conflict would arise when the employee, officer, or agent, any member of his/her immediate family, partner, or an organization employing or about to employ any parties indicated herein has a financial or other interest in the firm selected for an award.

2. No officer, employee, or agent of [Organization Name] shall solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subagreements.

3. Violation of this code of conduct shall result in termination of employment/affiliation with [Organization Name].

**E. Competition**

1. All procurement transactions shall be conducted in a manner that provides, to the maximum extent practical, open and free competition. [Organization Name] shall be alert to organizational conflict of interest as well as noncompetitive contractor practices that may restrict or eliminate competition/restrain trade.

2. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements/scopes of work, invitations for bid and/or requests for proposals shall be excluded from competing for procurement of same.

3. Awards shall be made to the bidder or offeror whose bid/offer is responsive to the solicitation and most advantageous to [Organization Name] – price, quality, and other factors considered.

4. Solicitations shall clearly set forth all requirements that the bidder/offeror shall fulfill in order for the bid/offer to be evaluated by [Organization Name]. Any and all bids may be rejected when it is determined by [Organization Name] to be within its interest to do so.

**F. Procurement Procedures**

1. Procurement of any item must meet the following criteria:

1. Must be necessary
2. Must be allowable under OMB Circular A-122
3. Must be reasonable in cost

2. When determined appropriate by [Organization Name], an analysis shall be made of lease and purchase alternatives to ascertain which would be the most economical and practical procurement.

3. Solicitations for goods and services provide for all of the following.

1. A clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Requirements which the bidder must fulfill and all other factors to be used in evaluating bids or proposals.
3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable standards.
4. The specific features of “brand name or equal” descriptions that bidders are required to meet when such items are included in the solicitation.
5. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
6. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

4. Positive efforts shall be made by [Organization Name] to utilize small businesses, minority-owned firms, and women’s business enterprises whenever possible. [Organization Name] shall take the following steps to further this goal.

1. Ensure that small businesses, minority-owned firms, and women-owned business enterprises are used to the fullest extent practicable.
2. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women-owned business enterprises.
3. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women-owned business enterprises.
4. Encourage contracting with consortiums of small businesses, minority-owned firms, and women’s business enterprises when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Indiana Department of Administration’s Minority Business Development Division in the solicitation and utilization of small businesses, minority-owned firms, and women’s business enterprises.

5. [Organization Name] shall determine the type of contract to be used (e.g. fixed price contracts, cost reimbursement contracts, purchase orders, incentive contracts, etc.), as determined to be appropriate for the particular procurement and in the best interest of the project/program. ***The “cost-plus-a-percentage-of-cost” or “percentage of construction cost” methods of contracting must not be used.*** [Organization Name] will follow typical procuring methods, including small purchase procedures, negotiated/competitive bids, sealed bids and single-source purchases. As a nonprofit, [Organization Name] may elect to procure construction contracts through either competitive negotiation or the sealed bid process. For projects funded by Indiana Housing and Community Development Authority (IHCDA), [Organization Name] will follow IHCDA’s program implementation manual for procedural details associated with the applicable procurement method.

6. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies’ implementation of E.O.s 12549 and 12689, “Debarment and Suspension.”

**G. Cost and Price Analysis**

1. Some form of cost or price analysis shall be made in connection with each procurement action.

* 1. Price analysis shall be accomplished by conducting 1) a comparison of price quotations submitted or 2) market price comparisons and similar indicia, together with discounts.
  2. Cost analysis can be accomplished by reviewing and evaluating each element of cost to determine reasonableness, allocation ability, and allowability.

2. Record of the conducted analysis shall be documented in the procurement files.

**H. Procurement Records**

1. Procurement records and files for purchases in excess of the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000) shall include, at a minimum, the following:

1. Basis for contractor selection
2. Justification for lack of competition when competitive bids/offers are not obtained
3. Basis for award price or cost

2. All procurement records and files shall be maintained together in a designated [Organization Name] location.

**I. Contract Administration**

1. A system shall be maintained to ensure contract conformance with the terms, conditions, and specifications of each contract and to ensure adequate and timely follow-up of all purchases.

2. [Organization Name] shall evaluate contractor performance and document, as appropriate, whether contractors have met terms, conditions, and specifications of the contract.

**J. Contract Provisions**

1. As applicable, bids and contracts, including small purchases, shall require and include compliance with provisions of Appendix A of OMB Circular A-110:

1. Copeland “Anti-Kickback” Act
2. Davis-Bacon Act, As Amended
3. Contract Work Hours and Safety Standards Act
4. Equal Employment Opportunity
5. Rights to Inventions Made under a Contract or Agreement
6. Clean Air Act And Federal Water Pollution Act, As Amended
7. Byrd Anti-Lobbying Amendment
8. Debarment and Suspension Certification

2. All construction contracts shall provide for some type of bid guarantee, performance bond, payment bond, retainage, or other method determined appropriate by [Organization Name] to the scope of work.

3. For Contracts In Excess of the Small Purchase Threshold:

1. Contracts shall be written to include provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and provide for such remedial actions as may be deemed appropriate by [Organization Name].
2. Contracts shall contain suitable provisions for termination by [Organization Name] including manner by which termination shall be effective and basis for settlement. These contracts shall describe: 1) conditions under which it can be terminated for default and 2) conditions under which it can be terminated because of conditions beyond the contractor’s control.
3. All negotiated contracts shall include provision for the duly authorized representatives of [Organization Name], the awarding agency, and Comptroller General of the U.S. to have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program, for the purpose of making audits, examinations, excerpts, and transcriptions.

4. For Construction Contracts In Excess of $100,000, the following is required:

a. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall 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 his 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.

d. Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, “Surety Companies Doing Business with the United States.”

**OR**

For IHCDA-funded projects, in lieu of acquiring the payment and performance bonds, IHCDA will accept an irrevocable line of credit listing IHCDA as the sole beneficiary and equal to (a) the the greater of the IHCDA award amount or (b) 25% of the total construction contract. The line of credit must be issued for the entire construction period plus one (1) year following construction completion.

APPROVED:

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[Organization Name and Official’s Title] (Date)