

**PROCUREMENT POLICY OF  
THE WINNEBAGO TRIBE OF  
NEBRASKA**

## Document Approval and Change History

### 1. Revision History:

Version	Presentation Date	Types of Changes	Resolution	Tribal Council Approval Date
1		Initial Release		10/3/2016
2	05.24.2019	Updates		06.28.2019

### 2. Document Approvals:

The Tribal Council has read and approved of the contents of this policy. All proposed policy changes must be approved by the CFO then recommend the changes to the Tribal Council for approval and documented in meeting minutes. Future revisions will use the naming convention included in the document to reference different versions.

# PROCUREMENT POLICY OF THE WINNEBAGO TRIBE OF NEBRASKA

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# PROCUREMENT POLICY OF THE WINNEBAGO TRIBE OF NEBRASKA

## PURCHASING

### I. GENERAL PROVISIONS

#### A. PURPOSE

The purpose of this Policy is to provide for the fair and equitable treatment of all persons or firms involved in purchasing non-construction related goods and services by the Tribe; assure that non-construction related supplies and services are procured efficiently, effectively, and at the most favorable prices available to the Tribe; provide that the Tribe purchasing actions are in full compliance with applicable Tribal and Federal standards, regulations, and laws.

#### B. APPLICATION

This Policy applies to the procurement of supplies, services, equipment and materials entered into by the Tribe for public purchasing, irrespective of the source of funds; however, nothing in this Policy shall prevent the Tribe from complying with the terms and conditions of any grant, contract or bequest that is otherwise consistent with law.

### II. PROCUREMENT AUTHORITY AND ADMINISTRATION

All procurement transactions shall be administered by the Chief Financial Officer (CFO) or other individuals he or she has authorized in writing. The CFO shall issue operational procedures, including procedures for the processing of purchase orders, to implement this Policy. Violation of this policy, including the ethical standards described in Section VII below, shall constitute insubordination and shall be subject to the sanctions described in the Winnebago Tribe of Nebraska's' Employee Handbook.

#### **The CFO or his/her designee shall ensure that:**

- A. Procurement requirements are subject to an annual planning process to assure efficient and economical purchasing:
  - 1) Solicitation procedures are conducted in full compliance with applicable federal and tribal standards, and Indian Preference requirements;
  - 2) Procedures for inventory control, storage and protection of goods and supplies, and issuance of, or other disposition of, supplies and equipment are established in accordance with applicable laws and/or standards;
  - 3) The Tribe adheres to its procurement policies and program
  - 4) The Tribe complies with applicable review requirements, as provided in the operational procedures implementing this Policy.
  - 5) This Policy and any later changes shall be submitted to the Tribal Council for approval. The Tribal Council appoints and delegates procurement authority to the CFO and is responsible for ensuring that any procurement policies adopted are appropriate for the Tribe.

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## III. PROCUREMENT METHODS

### SELECTION METHOD

When satisfying its need by procurement, the Tribe shall choose one of the following procurement methods, based on the nature and anticipated dollar value of the total requirement.

Unless otherwise stated, regardless of purchasing means all invoices/ receipts will be submitted to Finance following current Accounts Payable Procedures no more than 10 business days of the receipt of goods or services.

#### A. CHECK REQUEST PURCHASE

##### Check Request Purchase Procurement:

- 1) For Check Request Purchases (for purchases that require payment at the time of purchase and it has been determined that using a credit card is either not available or feasible and the purchase is no more than \$1,000), no bids are required. However, documentation of the nature of the purchase is required, such as a statement, an estimate or a quote (a quote is preferred). At a minimum, a written request must accompany the check request detailing the use and purpose of the check request as well as the reason our normal requisition and purchase order process cannot be utilized. Within three (3) working days from receipt of the check, the check request must be supported by an actual receipt or invoice, including documentation of any funds returned (if applicable), and attached to the check request. Failure to supply the required documentation will result in disciplinary action and a deduction covering the amount advanced from the requestor's next payroll check.
- 2) Under no circumstance will a purchase be broken down into more than one action in order to meet the Check Request Purchase threshold. The Check Request Purchase must be documented by an authorized purchase order. During the Check Request sign off review, the CFO may request additional quotes. The CFO at their discretion may audit any purchase by requesting additional quotes.
- 3) Indian Preference: To the greatest extent permissible and feasible, the Tribe shall give preference in the award to qualified Indians, Indian Organizations and Indian-Owned economic enterprises. To qualify as Indian one must be an enrolled member of a Federally Recognized Indian Tribe.

#### B. MICRO PURCHASE

##### Micro Purchase Procurement:

- 1) For purchases of \$0 and up to \$3,000, also known as Micro Purchases, the

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purchase requisition process will be used, which, upon approval, will result in a purchase order to be issued. Supporting documentation such as a quotation (preferred method) or written details (description, quantity, and price) of the item to be purchased is required. Micro-purchases may be awarded without soliciting competitive quotations if the department considers the price to be reasonable and documents the conclusion in the supporting documentation.

- 2) Under no circumstance may a purchase be broken down into more than one action in order to meet the Micro Purchase threshold. The Micro Purchase must be documented by an authorized Requisition Form. During the Requisition sign off review, the Department Director or CEO or CFO or any Tribal Council member may request details of additional quotes. The CFO at their discretion may audit any purchase by requesting additional quotes.
- 3) Indian Preference: To the greatest extent permissible and feasible, the Tribe shall give preference in the award to qualified Indians, Indian Organizations and Indian-Owned economic enterprises. To qualify as Indian one must be an enrolled member of a Federally Recognized Indian Tribe.
- 4) Certain transaction classes may be exempted from the approval process listed above. Such transactions will be addressed/ approved in a memo signed annually by the CEO and CFO. Examples of these transaction classes are (but are not limited to) phone bills and utility bills. These will be entered and paid by the finance department when they are due.

### **C. SMALL PURCHASE**

#### Small Purchase Procurement:

- 1) Any procurement valued at \$3,001 to \$10,000.00 may be conducted in accordance with the Small Purchase procedures authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a Small Purchase under this section.
- 2) Obtaining Quotes: The Tribal Procurement Department or the originating department shall solicit price quotations by phone, letter, or other informal procedures that allows participation by a reasonable number of competitive sources. Verbal quotations may be used. All verbal quotations must be documented in writing by the Department and attached to the requisition. All verbal quote documentation will include the date, the company and person's name providing the quote, the price and terms as well as any other information to allow the Department to support its decision for the purchase. When soliciting quotations, the Department shall inform the sources solicited of the specific item being procured, the time by which quotations must be submitted, and the information required to be submitted with each quotation. A written quotation is preferred under the Small Purchase procurement; however, the written quotation may be a confirmation of a previous oral quotation only if it's submitted within 10 days of the oral quotation or by the due date for submitting quotation. The names, addresses, and/or telephone numbers of the offerors and person contacted, and the date and amount of each quotation shall be recorded and

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maintained as a public record.

- 3) Competition: The Tribal Procurement Department or the originating department shall attempt to obtain quotations from a minimum of three qualified sources and document procurement with a justification whenever it has been unable to obtain at least three quotations. Solicitation of fewer than three sources is acceptable only if the Department has attempted, but has been unable to obtain a sufficient number of quotations. Documentation of the Department's efforts to obtain three quotations must be attached to the purchase requisition. The sole quotation received may be accepted only in unusual circumstances (such as an emergency threatening public health and safety).

Sole source procurement is allowed if such procurement is made out of an existing contract between the Tribe and a vendor or as outlined below in F.  
NONCOMPETITIVE PROPOSALS

## 4) Award

- a) Award based on Price: For purchases awarded based on price and fixed specifications (i.e., not subject to negotiation) the Tribe shall make award to the qualified Indian, Indian Organization or Indian- Owned economic enterprise with the lowest responsive quotation if it is reasonable and no more than 10% higher than the lowest responsive quotation received. If no responsive quotation from a qualified Indian, Indian Organization or Indian-Owned economic enterprise received is within 10% of the lowest responsive quotation from any qualified source, then award shall be made to the source with the lowest quotation. To qualify as Indian one must be an enrolled member of a Federally Recognized Indian Tribe.
- b) Award Based on Factors Other Than Price: For purchases to be awarded based on factors other than price, formal solicitation (request for proposals or request for quotations) shall be issued, including evaluation factors to evaluate each proposal or quotation. The solicitation shall identify all evaluation factors, including cost or price. The solicitation shall reserve 15% of the total evaluation points for providing Indian preference. Award shall be made to the best proposal or quotation in accordance with the stated ratings system.

All Small Purchase procurements shall be processed in accordance with procedures issued by the CFO pursuant to this Policy.

## D. COMPETITIVE PROPOSALS

Competitive proposals (or Request for Proposal (RFP)) will be used when the procurement cost of the good or services are expected to be greater than \$10,001. An RFP is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

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- A. 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, or;
- B. Proposals must be solicited from an adequate number of qualified sources;
- C. The Department must have a written method for conducting technical evaluations of the proposals received and for selecting recipients. Selection of the winning bidder must be based on evaluation of the proposals received. Evaluation may include factors such as price, prior history with the Tribe, quality of product or services received, knowledge of the bidding company (positive or negative) by the evaluation committee;
- D. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the Tribe, with price and other factors considered. The evaluation committee will recommend approval of the contract to Tribal Council; and
- E. The department may use competitive proposal for qualifications (or Request for Qualifications (RFQ))-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

### **E. SEALED BIDS**

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, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph A. of this section apply. Sealed bids may be used for non-construction procurement if considered appropriate by the department, CEO, CFO or Tribal Council.

- I. 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 and the selection of the successful bidder can be made principally on the basis of price.
- II. 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, for local, and tribal governments, the invitation for bids must be publicly advertised;

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- ii. 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;
- iii. All bids will be opened publicly at the time and place prescribed in the invitation for bids.
- iv. 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; and
- v. Any or all bids may be rejected if there is a sound documented reason.

### F. NONCOMPETITIVE PROPOSALS

#### Conditions for Use:

- 1) Procurement shall be conducted competitively to the maximum extent possible. Procurement by non-competitive proposals may be used only when the award of a contract is not feasible using check request, micro, small purchase, sealed bids, or competitive proposals, and one of the following applies:
  - a) An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Tribe, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, litigation or similar event. In such cases, there must be an immediate and serious need for supplies, services, or construction such that the need cannot be met through any other procurement methods, and the emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency; or
  - b) Only one source of supplies is available and the Department Head so certifies in writing;
  - c) The procurement is for the renewal of a professional services agreement for legal, or other highly specialized professional services; or
  - d) After solicitation of a number of sources, competition is determined inadequate.
- 2) Justification: Each procurement based on non-competitive proposals shall be supported by a written justification for using such procedures. Said justifications shall be prepared by the Procurement Department or the originating department and approved by the CEO and CFO and to be submitted to with the purchase requisition along with the non-competitive

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for consideration and approval. Procurement may not be made by non-competitive proposals unless approved by the CEO and CFO.

## IV. COOPERATIVE PURCHASING

The Tribe may enter into Federal, State and Local Inter-Governmental agreements to purchase or use common goods and services. The decision to use an Inter-Governmental agreement or conduct a direct procurement shall be based on economy and efficiency. If used, the Inter-Governmental agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions. The Tribe encourages the use of Federal or State excess and surplus property whenever such use is feasible and reduces project costs.

## V. INDIAN PREFERENCE REQUIREMENTS

- A. General: To the greatest extent feasible, preference shall be given to Indians, Indian Organizations or Indian-Owned economic enterprises in the award of all contracts and subcontracts. Where Indian preference is determined not to be feasible or in violation of federal law, the Tribe shall document the procurement file with the basis for its findings. Indian preference applies not only on-site, on the reservation, or within the Tribe's jurisdiction, but also to contracts with firms that operate outside these areas. Indian preference in the solicitation, evaluation, and award process shall be as described in Section III above. In no case shall the Tribe authorize or provide a preference for Indians, Indian Organizations or Indian-Owned economic enterprises, based on particular tribal affiliation or membership. To qualify as Indian one must be an enrolled member of a Federally Recognized Indian Tribe.
- B. Monitoring and Remedies: The Tribal Council shall monitor the implementation of Indian preference in its contracts, subcontracts, and training. The CEO of the Tribe along with the Tribal Human Resources Office shall implement and monitor the Indian preference in employment. The Tribal Council shall take appropriate remedial action (including cancellation of contracts and assessment of penalties) to ensure compliance.

## VI. Procurement During a Declared Emergency

Procurement procedures and approvals may be suspended for a period of seventy-two (72) hours when a emergency has been declared by the Tribal Council. The Tribe's Emergency Manager, CEO, CFO or Tribal Council officer may use available Tribal resources during this period and will follow direction in Section F. 1) Noncompetitive Proposals list above. This does not alleviate the requirement that all purchases be supported by adequate receipts or invoices after the immediate emergency has passed.

## VII. Ethics

### A. GENERAL

The Tribe shall adhere to the following code of conduct, consistent with

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applicable law.

## **B. CONFLICT OF INTEREST**

No employee, officer or agent of the Tribe shall participate directly or indirectly in the selection of, or in the award of, or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

1. An employee, officer, or agent involved in making the award;
2. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half -brother, and half-sister);
3. His/her partner; or,
4. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

## **C. GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION**

Tribal officers, employees or agents shall not solicit gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts. Tribal officers, employees or agents shall not knowingly use confidential information for tangible personal gain. Where the procurement is supported by federal or state funds, Tribal officers, employees or agents shall abide by any and all additional restrictions imposed by the funding agency.

## **D. PROHIBITION AGAINST CONTINGENT FEES**

Contractors shall not retain a person to solicit or secure a Tribal contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees.