

BUDGET AND APPROPRIATION REGULATIONS
Regulation #R100-01:AC-01

Chapter 1. Purchasing and Procurement

Section 1. Authority; Purpose

1-1. *Authority.* In accordance with Section 4.10 (e) of the Budget and Appropriation Ordinance, #01-100-04, the Tribal Council hereby promulgates these rules for purchasing and procurement by the Little River Band of Ottawa Indians.

1-2. *Purpose.* This policy is intended to provide a framework to ensure that Tribal purchase transactions are understood, and accompanying procedures are uniformly applied. Guidelines are intended to support purchasing activities of the Tribe, create a managed purchasing system, promote vendor compliance, and conform to the Constitutional requirements for ratification and approval by Tribal Council.

Section 2. General Policies

2-1. *Applicability.* This policy shall be followed for all Tribal Government Purchases and Agreements. The policies covered in this regulation address (1) purchase of supplies and equipment for program and Tribal use; and (2) contracts for professional services and maintenance services.

These regulations do not apply to the processing of payments, such as purchased and referred care, extended health services, and pharmaceutical purchases provided to tribal members and other related payments for health care, and recurring bills (i.e. utilities, telephone, etc.) for normal operating expenses.

2-2. *Justification.* All purchase and contract actions must be justifiable and support legitimate Tribal objectives.

2-3. *Pricing.* Purchasing and contract actions will be based on competitive pricing to the greatest extent possible and exceptions shall be documented and approved. Competitive pricing as used in this policy means obtaining price quotes or bids from multiple vendors to assure the lowest price on quality goods and services.

2-4. *Purchasing Authority.* All purchases are to be made by the Purchasing Office. Purchase variances must not exceed 10% above the suggested price, excluding shipping and handling. Purchase variances that exceed 10% must be approved by the Department Director.

2-5. *Approval.* It is the intent of these policies to treat purchases as a logical group and to avoid unnecessary or duplicative items. Purchases shall not be separated into smaller amounts to avoid necessary levels of approval.

2-6. *Contracts.* All purchases shall be accompanied by an original signed contract or purchase order which shall be filed with the Purchasing Department.

2-7. *Legal Review.* All contracts and other forms of agreements shall require a written legal review by a Tribal Attorney.

2-7[a]. *Contract Authorization and Ratification Required.* All contracts and Agreements shall be required to have ratification by the Tribal Council, in accordance with Article IV, Section 7(b) and Article V, Section 5(a)(3) of the Constitution.

2-8. *Honorariums.* Tribal Law (Ordinance 14-800-17) governs payment of Honorariums, which are defined as the payment of money or anything else of value made to a person for services rendered for which fees cannot legally be or are not traditionally paid.

Section 3. Contract Authorization Levels

3-1. *Monetary Authorization.* No employee is authorized to bind or commit the Tribe to the purchase of any goods or

services, except with appropriate approval.

3-2. *Contracts and Purchase Requisition Approval.* All purchases shall be placed through the Purchasing Office and shall obtain approval as set forth in this section. Program Directors shall request the Purchasing Office, after approval by the Ogema, to negotiate all purchases in excess of \$12,000.01. The following value and authority levels limit authority to initiate the development of purchase requests and/or contracts.

a. For Ogema Operations:

1. Purchase orders with the value of \$00.01 to \$2500.00, require authorization from the Purchasing Manager and the Program Director.
2. Purchase orders with the value of \$2500.01 to \$12,000.00 require authorization from the Tribal Leads and the Purchasing Manager.
3. Purchase orders with the value of \$12,000.01 to \$25,000.00, require authorization from the Ogema or, if delegated authority from the Ogema by memo, the Tribal Leads and the Purchasing Manager.
4. Purchases of \$25,000.01 and above, require authorization by the Tribal Ogema, Tribal Council, and the Purchasing Manager. In addition, for purchases over \$25,000.01, verification that vendors/contractors are not debarred or suspended from participation in federal assistance programs shall be attached.

b. For the Prosecutor's Office:

1. The Tribal Prosecutor's Office shall identify by memo, each fiscal year, the person(s) authorized to make purchases on behalf of the Prosecutor's Office. Such authority shall also identify the authority to sign contracts authorized by the Prosecutor for the purchase of goods and services, provided that such goods and services are specified with the approved budget of the Tribal Prosecutor's Office.

3-3 *Ratification and Approval of all Agreements Required.* Notwithstanding the above, all Agreements between the Little River Band and federal, state, and local governments and other tribal governments, or with private persons or organizations, that bind the Tribe to non-monetary obligations, require Tribal Council ratification and approval in accordance with Article V, Section 5(a)(3) and Article IV, Section 7(b) of the Constitution and Resolution #09-0429-111.

Section 4. Responsibilities

4-1. *Program Directors.* Program Directors are responsible for achieving program goals and at the same time conserving Tribal resources and maintaining accountability. Their responsibilities begin with the development of a sound program budget. As managers, their primary responsibilities in relation to purchasing are:

- a. Exercising control over expenditures, to ensure that they do not exceed amounts allotted in the budget and that they are consistent with purposes detailed in the budget.
- b. Ensuring that transactions are made with adequate planning and that emergency purchases are avoided.
- c. Ensuring that all requisitions are prepared properly.
- d. Coding expenditures properly.
- e. Determining that expenditures are completed within the performance period for the grant program which they support.
- f. Provisions of certain Tribal grants and contracts may apply policies or require practices in addition to those defined in this policy. Whenever funds under a specific federal grant or contract are used for purchasing or contracting purposes, it is the responsibility of the Program Director to abide by the terms and conditions of the grant or contract requirements.
- g. Keeping record of all purchases made for reference and accountability.

4-2. *Purchasing Manager.* The Purchasing Manager is responsible for ensuring purchasing activities are carried out properly and in a manner that best serves the interests of the Tribe. The Purchasing Manager is the person with primary responsibility for representing the Tribe as it enters into agreements with vendors. As such, the Purchasing Manager will be responsible for duties including, but not limited to:

- a. Seeking competitive quotations, bids, and proposals whenever feasible, to insure that the Tribe obtains quality goods or services at reasonable prices.
- b. Obtaining or providing the appropriate written approval of all purchase actions.
- c. Routing invoices and purchase orders to the Accounting Department.
- d. Maintaining documents regarding purchasing activities for two years.
- e. Maintaining documents regarding contract activities.
- f. Determining whether potential vendors are responsible, which means having the resources, personnel, integrity, and overall capability to meet the Tribe's needs successfully.
- g. Purchasing goods for stock and building supplies.
- h. Maintaining a vendor file.
- i. Keeping all vendors aware of Tribal Purchasing Policies and Procedures.
- j. Verifying that all purchasing requirements have been met before issuing a purchase order.

4-3. *Tribal Leads.* The Tribal Leads, or the Ogema's delegate in the absence of a Tribal Lead, is responsible for reviewing a monthly purchasing activities report for purchases under \$2500.00. In addition to the general responsibility, a Tribal Lead holds specific responsibility for:

- a. Approving purchase requests submitted which exceed \$2500.01, but do not exceed \$25,000.00.

4-4. *Ogema Review.* The Tribal Ogema is responsible for reviewing a monthly purchasing activities report for purchases under \$2500.00. A Tribal Lead may be delegated responsibility for this review by written memorandum signed by the Tribal Ogema. Provided that, disciplinary actions resulting from non-compliance with these regulations remain the responsibility of the Tribal Ogema.

4-5. *Ogema.* The Tribal Ogema, as the chief administrator for the Tribe, is responsible for overseeing the entire purchasing process. In addition to that general responsibility, the Tribal Ogema holds specific responsibility for:

- a. Approving purchase requests that exceed \$12,000.01, but do not exceed \$25,000.00.
- b. Reviewing a monthly purchasing activity report.
- c. Approving agenda requests for purchase requests and contracts, which require resolution approval.
- d. Executing all contracts.
- e. Submitting in writing a list of all individuals identified as Program Directors to exercise authority under 3.2(a) on an annual basis to the Purchasing Office and Controller. Lists shall be amended and updated with any personnel changes.

4-6. *Tribal Council.* The Tribal Council has final responsibility for management of the Tribe's financial resources. Its key responsibilities in regard to purchasing are:

- a. Approving program budgets.
- b. Approving purchase requests that exceed \$25,000.01.
- c. Approving Agreements that require the Tribe to fulfill non-monetary obligations.

Section 5. Standards of Conduct

5-1. *Ethical Conduct.* It is important that high standards of conduct be maintained at all times to ensure confidence and integrity in the Tribe's purchasing process. All Tribal officers, employees, and agents who are involved in purchasing and contracting activities must follow the standard of conduct set forth below:

- a. Tribal employees will refrain from participating in a purchasing or contracting action in which a conflict of interest would be involved.
- b. Tribal employees will not accept gratuities, favors, or gifts which exceed the monetary value of \$25.00.
- c. Any Tribal employee who has unknowingly obtained any benefit resulting from a purchase or contract will immediately, upon discovery, report the benefit to his or her immediate supervisor.
- d. No employee of the Tribe shall knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any other person.
- e. The Tribe will remain impartial when conducting a procurement action involving a related organization.

Section 6. Purchasing Procedures

6-1. *Request for Purchase Order.* Any purchase of goods or services on behalf of the Little River Band of Ottawa Indians must be initiated by submitting a "Requisition", an internal document that conveys to the Purchasing Manager the request for supplies, equipment, or services. No purchase or contract action may be initiated without a requisition. The requisition shall include the following information:

- a. Date: The date the request is being made.
- b. Program number: Enter in the program number to which the purchase will be charged.
- c. Account number: Enter in the account number from which the purchase amount will be obligated.
- d. Placed by: The employee requesting the purchase.
- e. Quantity: Number of item(s) needed.
- f. Description: A clear item description including catalog number, color, size or any other information that may be needed to identify the item.
- g. Source: Enter complete name, address, and phone number of suggested vendor.
- h. Price: Enter in the item(s) unit price and multiplied price if ordering more than one unit.
- i. Approved by: Must be signed by the proper authorized personnel. See authorization levels in this policy.
- j. Justification: Reason for purchase.

6-2. *Issuance of Purchase Order.* Requisition forms shall be sent to the Purchasing Office. Upon receiving all required authorizations, a purchase order may be issued.

6-3. *Encumbrance Procedures.* The Purchasing Office shall place orders as follows:

- a. All approved requisition forms shall be assigned a Purchase Order number.
- b. The Purchasing Office shall provide documentation prior to placing an order that funding is available to support the request for purchase. Supporting documentation shall be attached to the purchase order.
- c. The Vendor will be phoned, faxed, email, or mailed. A description of the item should include color, size, and any additional information that may be needed.
- d. The Purchase Order is then entered into the Accounting System.
- e. An original Purchase Order is printed and signed. A copy shall be routed to the Program Director and the Receiving Office.
- f. Departments are responsible for maintaining copies of their own request(s). The purchase order number that is assigned to an order can also be used to look up an order that may require an item to be returned or used for future orders of a similar item.
- g. All purchase orders shall identify a shipping address and an invoicing address. All invoices shall be mailed to Accounts Payable. When the invoice arrives with the goods, the invoice shall be routed to Accounts Payable.

6-4. *Procurement Transactions/ Bidding Requirements.*

When making a purchase transaction, the following methods of procurement shall be used:

- a. Micro procurement transactions shall be used when purchasing supplies and equipment under \$3,000.00 in value. Micro-purchases may be awarded without competitive quotations if the price is considered reasonable. In cases where it is determined to be more efficient, purchase orders can be issued for an amount not to exceed. For cases such as these, the amount shall never exceed \$250.00. The requisition shall list the requested items. The purchase order shall clearly indicate the amount not to exceed.
- b. Small procurement transactions shall be used when purchasing supplies, securing services, or equipment that are between \$3,000.01 and \$100,000.00. Small purchases require quotations from an adequate number of qualified sources.
- c. Major procurement transactions are used when purchasing supplies, securing services, or equipment that exceed \$100,000.01. Major procurement transaction require open solicitation (formal advertising). Quotes maybe submitted by sealed bids or by competitive proposals.
- d. *Standing Purchasing Orders.* When business with a vendor is on a regular basis and purchases or service dollar amounts vary, it may be more cost effective to establish a standing purchase order with the vendor. A Standing Purchase Order shall be generated and maintained in the same fashion as the

Purchase Order request, with the following conditions noted: the dollar amount not to exceed, a time limitation, and the personnel approved to make charges against the standing purchase order.

- e. *Honorarium.* Honorarium payments shall be used to reward dedicated acts of goodwill that benefit the Tribe and its Members. When making a payment for an honorarium, the following shall apply:
 - 1. Funds shall be expensed from a department budget line dedicated to tribal activities.
 - 2. Total payments to any honorarium recipient including, but not limited to, mileage or per diem payments must not exceed \$500.00 for any one event.

Honorarium payments shall not be granted to an employee, contractor or vendor of the Tribe or any of its enterprises for an act performed in the regular course of employment or under any term of their contract or vending agreement. Honorarium payments shall not be made to an employee for an act or service performed during his or her regular employment shift, unless the employee has filed a work variance form. Individuals who provide regular ongoing services to the Tribe or its Members shall be required to enter into a contract with the Tribe.

To promote cost-effective use of shared services, programs directors may choose to enter into state and local inter-governmental agreements. In addition, program directors may choose to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible.

6-5. Bidding Process. Where appropriate, a comparison of lease and purchasing alternatives shall be made to determine which is the more economical. Contractors that develop or draft specifications of work are strictly prohibited from competing for such procurements. All bids shall be generated in the following manner:

Standard Bids. When bids are being sought for transactions under \$100,000.00, the following shall take effect:

- a. The Program Director will provide the Purchasing Office with a description of equipment or service expectations/needs. Descriptions shall be detailed and accurate. Descriptions shall not contain features which restrict competition.
- b. The Purchasing Office will contact the source or sources and notify them of the opportunity to bid.
- c. Bids must be submitted in writing within a predetermined time frame.
- d. The following restrictions and requirements must be followed to obtain a fair and just bid:
 - 1. Bids must be in writing.
 - 2. All bids are confidential.
 - 3. All copies of bids shall be attached to the purchase order.

Sealed Bids. Procurement by sealed bids are publicly solicited. Transactions exceeding but not limited to \$100,000.00 require open solicitation. In cases where quotes are being sought by sealed bids, the following conditions shall be present:

- a. A complete, adequate, and realistic specification or purchase description.
- b. Two or more responsible bidders are willing and able to compete effectively for the business.
- c. The procurement lends itself to the firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- d. If sealed bids are used, the following requirements apply:
 - 1. The invitation for bids will be publicly advertised and 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.
 - 2. The invitation for bids shall include all specifications and define the items or services in order for the bidder to properly respond.
 - 3. All bids will be publicly opened at the time and place prescribed in the invitation for bids.
 - 4. 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 cost must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior expenses indicate discounts are usually applied.

Procurement by Competitive Proposals. The use of competitive proposals 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:

- 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.
- b) Proposals must be solicited from an adequate number of qualified sources.
- c) Must have a written method for conducting technical evaluations for the proposals received and for selecting recipients.
- d) Contracts must be awarded to the responsible firms whose proposal is most advantageous to the program, with price and other factors considered.

6-6. *Sources.* The Purchasing Manager will compile and maintain a list of sources of supply for the various goods and services which the Tribe purchases regularly. The source lists will include the following:

- a. Name of vendor.
- b. Telephone number of vendor.
- c. Name of the Tribe's sales representative.
- d. Type of goods or services the vendor provides.
- e. If business is a small, minority, or women-owned business.
- f. If business is a Little River Band of Ottawa Indians certified Indian owned business.

6-7. *Sole Source Bidding.* Noncompetitive proposals may be used when the item is available only from a single source, after solicitation of a number of sources, competition is determined inadequate, or in cases where grant funds are used, a written letter grants authorization for noncompetitive proposals from the awarding agency.

When other sources are available, sole source bidding can be used in cases where programs have an immediate need to meet program objectives or to protect the health and safety of employees or Tribal Members. In such cases, documentation and approval must be obtained from:

- a. For Ogema Operations – The Ogema. The Tribal Lead may be delegated this responsibility with a written memorandum from the Tribal Ogema.
- b. For Tribal Council – The Speaker or Recorder
- c. For Tribal Court – The Chief Judge of the Tribal Court
- d. For Prosecutor's Office, the Prosecutor

6-8. *Documenting Quotes.* All quotes must be documented. A record is necessary to show that competition was obtained when feasible and to be utilized for future purchases. All soliciting documents shall be attached and remain with the purchase order.

6-9. *Evaluating Quotes and Selection of Vendor.* Indian preference must always be a factor when evaluating quotes and in the vendor selection process. Indian preference will be given only to bidders who provide proof of current certification to the Little River Band of Ottawa Indian Purchasing Office. The Purchasing Manager shall evaluate the quotes received and determine which quote is most economical. The price should be the determining factor, but in cases where the Purchasing Manager determines that the bidding vendor is not responsible and cannot fulfill the requirement properly and on time, these requirements must be considered over price. The Tribe shall make procurement awards only to responsible entities that have the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to integrity, compliance with public policy, record of past performance, and financial and technical resources. In making this judgment, awards shall be based on evaluation criteria.

When factoring Indian Preference, awards shall not exceed the lowest bid amount by the following:

- a. For purchases with the value of \$00.01 to \$2500.00, not exceed 10%
- b. For purchases with the value of \$2501.01 to \$12,000.00, not to exceed 7%
- c. For purchases with the value that exceed \$12,000.01, not to exceed 5%

6-10. *Disputes.* Any claim by a vendor/contractor shall be submitted in writing to the Purchasing Manager. Disputes must be received in writing within ten (10) calendar days after the award. Disputes received after (10) ten calendar days will not be considered. The Purchasing Manager, at his or her discretion, can suspend the procurement pending resolution of the protest, if warranted by the facts presented. The claim shall be subject to a written decision by the Purchasing Manager, which is final unless the vendor/contractor appeals the matter. Appeals shall be submitted in writing to the Ogema, whose decision is final.

6-11. *Receiving.* Shipments shall be delivered to the Receiving Office unless otherwise specified by the Purchasing Office. The procedure for receiving goods is as follows:

- a. Packing slips must be matched to the purchase order.
- b. The Receiving Office shall inspect all shipments to ensure they have been received in good condition and in the proper quantity.
- c. As shipments are received, a check mark shall be entered on the packing slip beside the item to demonstrate the item was received.
- d. Every received order must be stamped as "received" and initialed by the receiving personnel.
- e. Once the order has been received, receipt of the order is entered into the Accounting system.
- f. The packing slip or invoice shall be forwarded to Accounts Payable for payment and closeout.
- g. Purchases will be delivered by the Receiving Office.

6-12. *Back Orders.* Upon receiving notice of a backorder, the Receiving Office shall notify the purchasing program that the order has been placed on backorder.

6-13. *Contracts.* When satisfying the Tribe's requirement for services, rather than for supplies or equipment, contract procedures shall be followed. Special policies, procedures, and provisions required in contracting for construction are not included in this regulation. In cases where provisions for grants require practices, in addition to those defined in this policy, it is the responsibility of the Program Director to abide by the terms and conditions of the grant or contract requirements.

Section 7. Adoption; Amendment; Repeal

7-1. *Adoption.* This Chapter was adopted by the Tribal Council on March 6, 2002 by Resolution 02-0306-07 and amended by Resolution 03-0618-177, Resolution 04-0515-205, Resolution 04-1201-481, Resolution 04-1218-526, Resolution 07-0131-64, Resolution 08-0709-235, Resolution 09-0429-111; Resolution 10-0303-66, Resolution 10-0714-248, Resolution 11-0615-222, Resolution 11-1130-400; Resolution 12-1205-311; and Resolution 14-0716-198 and Resolution 15-1112-340; and Resolution 17-0628-213.

7-2. *Amendment.* This regulation may be amended by the Tribal Council or by submission of amendments by the Tribal Ogema approved by the Tribal Council, in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians.

7-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

7-4. *Compliance.* In regards to compliance with this regulation, deviation from the requirements of this regulation must be noted and corrected. Failure to follow the requirements of this regulation may result in disciplinary action, up to and including termination from employment and action to recover expenditures resulting from unauthorized actions.

7-4 *Repeal.* This regulation may be repealed in accordance with the Administrative Procedures Act.