

REDDING RANCHERIA TRIBAL GOVERNMENT POLICIES

Chapter TP 4-400

Procurement



October 13, 2020

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SECTION 1: PURPOSE

To set forth uniform policies and standards for the acquisition of goods and services by the Redding Rancheria.

SECTION 2: BACKGROUND AND INTENT

This policy provides overall guidance to all purchasing and acquisition process to be employed by the Redding Rancheria and all of its subordinate units and Tribal Enterprises. The policies cover the purchasing of goods and services as well as the selection and engagement of professionals and major contractual obligations, including improvements to Tribal Facilities.

Pursuant to the Constitution, the Tribal Council is the governing body and has all authority to engage in and do business on behalf of the Tribe. Therefore, only the Tribal Council has authority to approve the expenditure of funds and to obligate the Tribe. Procurements of any nature obligate the Tribe and, therefore, may only be undertaken with express consent of the Tribal Council. This policy contains general delegation of authority to the Chief Executive Officer.

Pursuant to Tribal Budget Policy, as contained within Chapter 4-200 of these Tribal Policies, the authority for the obligation and expenditure of funds is based on budget appropriation. Certain subordinate organizations and Tribal Enterprises have been delegated authority, based on their organizing policy, to conduct business within the parameters of the business for which they are organized, so long as the subordinate organizations and Tribal Enterprises meet the minimum standards set forth in this policy and also comply with all applicable federal laws and tribal policies, including but not limited to the following Redding Rancheria Tribal Governmental Policies:

- (a) Chapter TP 1-100, Tribal Code of Ethics
- (b) Chapter TP 6-000, General Public Works Policies
- (c) Chapter TP 6-700, Facility Planning and Development

SECTION 3: DEFINITIONS

As set forth herein:

- (a) Tribal Facilities: Facilities owned and operated by the Tribe and any of its enterprises or other subsidiary organizations.
- (b) Tribal Enterprises: Win-River Resort & Casino and Redding Rancheria Economic Development Corporation, and its subsidiaries.

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- (c) Tribal Government Facilities: All tribal facilities except tribal enterprise facilities.
- (d) Tribal Enterprise Facilities: Facilities that are managed and operated by tribal enterprises.

SECTION 4: DELEGATED AUTHORITY (Reserved)

SECTION 5: APPLICABILITY

This policy is applicable to all organizations, departments, programs, Tribal Enterprises, business operations and funds of the Tribe, except as specifically excluded herein.

SECTION 6: CONFORMANCE WITH FEDERAL REGULATIONS

In general, procedures set forth pursuant to this policy shall conform to applicable federal regulations. The provisions of 2 CFR Part 200.317 to 326 as it pertains to procurement activities carried on utilizing federal funds are hereby adopted and incorporated in the policy by reference. In addition, any official responsible for authorizing procurement utilizing federal funds shall be responsible for assurance with any other rules and regulations which are a condition of the funding source. To the extent that the requirements associated with any outside funding source are in conflict with this policy, the requirements of the funding source shall apply.

SECTION 7: GENERAL POLICY ON EFFICIENT USE OF RESOURCES

Each employee or official authorized to acquire goods and services on behalf of the Redding Rancheria shall take all due care to ensure that all costs incurred are reasonable and that all procurement actions are taken in a fair and equitable manner and in compliance with these policies.

SECTION 8: TRIBAL PREFERENCE

- (a) In the acquisition of goods and services, preference shall be afforded to businesses owned by Tribal members or Indians from other Tribes who have demonstrated ability to provide/deliver the necessary quality and quantity of goods or services within required time frame(s) and at price points competitive to the broader marketplace.
- (b) Goods and services to be acquired shall, when practical, be specified in sufficient detail to make price the deciding factor in selection of the successful bidder. All prospective bidders shall be put on notice of the bidding preference policy, as follows;
 - (1) Preference shall be given first to businesses 100% owned by Redding Rancheria members; second to businesses 51% or more owned by Redding Rancheria members; and third to other Indian

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businesses residing within the Tribe's general service area.

- (2) Contracts shall be awarded under preference to a qualifying business when its bid is responsive, equal to or exceeds all other conditions and does not exceed the lowest bid by the following percentages, when the lowest bid is;
 - (A) Between \$0 and \$10,000; 10%
 - (B) Between \$10,001 and \$50,000; 7%
 - (C) Between \$50,001 and \$100,000; 5%
 - (D) \$100,001 or more; 2%
- (c) Preference is not required to be afforded businesses having a poor record of performance.

SECTION 9: PROCUREMENT AUTHORITY

- (a) Procurement authority vested with the Tribal Council is hereby delegated to the Chief Executive Officer for all procurement actions needed for Tribal government operations not exceeding \$100,000 for which budget authority has been provided with exception of the following items for which the Tribal Council reserves approval authority to itself.
 - (1) Selection and engagement of Legal Counsel.
 - (2) Selection and engagement of Independent Auditors.
 - (3) Selection and engagement of other professional advisors to the Tribal Council for which an ongoing relationship is anticipated.
- (b) The Tribal Council reserves to itself approval of all procurement actions exceeding \$100,000.
- (c) The Chief Executive Officer may delegate all or any portion of his/her authority to managers and other officials under his/her direction, provided that such delegation shall;
 - (1) Be in writing and shall specify the specific authority and limits of authority which are individually delegated;

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- (2) Be made only to individuals who meet necessary educational and experience requirements for such delegation, and are fully advised as to Tribal policies;
 - (3) Be made only to employees of the Tribe, and shall expire upon termination of employment;
 - (4) Be withdrawn based on failure of the employee to follow established policies and procedures; and;
 - (5) Put the employee on notice that failure to follow established procedures shall result in withdrawal of such authority and/or other disciplinary action dependent on the severity of the issue.
- (d) Procurement authority vested in subordinate organizations and Tribal Enterprises shall be as stipulated within the organizing documents of such organizations or Tribal Enterprises, within which will be provisions requiring compliance with 2 CFR Part 200.317 – 200.326, when federal funds are used to procure any materials or services by the subordinate organization or Tribal Enterprises.

SECTION 10: WAIVER OF PROCUREMENT POLICIES

- (a) The Chief Executive Officer or his authorized designee shall have the authority to waive the provisions of any policies and procedures established to carry out this policy to the extent that an emergency exists involving the need for protection of life, property and the reputation and integrity of the Tribe. In such event, care shall be taken to ensure fairness, efficiency and compliance with established Tribal Policies as the circumstances dictate.
- (b) The provisions of this policy may be waived by resolution of the Tribal Council when in its judgment the circumstances warrant.

SECTION 11: PROCUREMENT OFFICE

- (a) The Chief Executive Officer shall establish a “procurement office” which shall be responsible to acquire for use of the organization such goods and services as are needed on an ongoing basis and are common to the organization. The Office shall be capable and expected to assist other authorized officials with procurement actions.
- (b) A requisition process shall be in place to enable operating departments and programs to access goods and services through the procurement office. Requisitions shall be the instrument by which budget spending authority for

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assigned budgets is passed from the departments and programs to the procurement office.

SECTION 12: SIMPLIFIED PURCHASES

- (a) Simplified purchasing procedures are procedures not requiring formal bidding procedures or formal proposals and may be utilized for procurements under \$250,000 as follows;
 - (1) Procurements of up to \$10,000 may be awarded on the basis of verbal quotations without competition, and are referred to in 2 CFR, Part 200 as "Micro-Purchases."
 - (2) Procurements of \$10,001 or more but less than \$250,000 may be awarded in a manner compliant with 2 CFR Part 200.320 § (b), Simplified Acquisition or Small Purchase methods, using relatively simple and informal procurement methods for securing services, supplies, or other property wherein price or rate quotations must be obtained from an adequate number of qualified sources, three (3) vendors.
- (b) Lowest price is not required to be the deciding factor in selecting the awardee in the case of simplified procurements. Any other factors may be considered.

SECTION 13: PROCUREMENTS OVER \$250,000

- (a) Procurements in excess of \$250,000 shall be subject to more formal procurement processes, including applicable written requests for proposal, formal written proposal and review processes. The Chief Executive Officer shall prescribe written procedures, to include provisions for formal communications with potential vendors by an employee not responsible for the evaluation of proposals and selection of successful vendors, consistent information and communication with potential vendors and fairness in selection. Lowest price shall not be required to be the sole deciding factor in selection, however specifications shall be clearly articulated in requests for proposal to afford consistent responses and fair comparison. A summary of vendor responses, prices and differences shall be provided to the Tribal Council when procurements over \$250,000 are recommended for approval. Procurements governed by this section that involve federal funds shall procedurally comply with 2 CFR 200.320 (c) and (d).
- (b) If procurement activities involve federal funds and the form of the contract is based on time and materials and only after a determination that no other contract is suitable and if the contract includes a ceiling price that the

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contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- (1) The actual cost of materials; and
 - (2) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- (c) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. (ref. 2 CFR 200.318 (j) (1) and (2)).

SECTION 14: SOLE SOURCE

The Chief Executive Officer shall have the authority to approve sole source awards up to \$100,000 when the circumstances dictate, and it is in the best economic interest of the Tribe to do so, except when applicable laws or regulations dictate a lower level. Other awarding officials may award up to \$5,000 sole source without approval of the Chief Executive Officer, provided that such limit is provided for within written procurement delegation. Procurements governed by this section that involve federal funds shall procedurally comply with 2 CFR 200.320 (e).

SECTION 15: PROCUREMENT RECORDS

Records shall be maintained for all procurements indicating the quotations received, other factors considered and the reason for selection of the person or entity to whom the award is made. Each official shall be responsible to ensure that the record of each procurement justifies the selection and award on the basis of fairness and efficient use of resources. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (ref. 2 CFR 200.318 (h)(i)).

SECTION 16: CONTRACTUAL AGREEMENTS

The Chief Executive Officer shall determine those goods and services for which formal written contracts shall be entered into, and the form of such contracts to ensure the protection of the Tribe's interests and the appropriate conduct of business. For the purpose of this Section, purchase orders are included as contracts. Procurement contracts that will be paid with federal funds shall comply with 2 CFR 200.326.

SECTION 17: PREVAILING WAGE

The Tribe and its affiliate entities, contractors, grantees, and all others doing construction work for or with the Tribe, in excess of \$2,000, shall comply with provisions of the federal Davis-Bacon Act, when the resources utilized are provided through agreements pursuant to the Indian Self-Determination Act and the Native American Housing and Self-Determination Act, as applicable.

SECTION 18: BUSINESS PRACTICES

All procurement actions shall be made consistent with appropriate and accepted business practices and shall ensure that all suppliers of goods and services are treated fairly and professionally in each transaction.

SECTION 19: CONFLICTS OF INTEREST

No individual shall participate in or act upon any procurement in which he/she has a conflict of interest as described within 2 CFR 200.112 and 200.318 (c), where federal resources are utilized, or otherwise in violation of the Tribal Code of Ethics provisions (Chapter TP 1-100 of the Redding Rancheria Tribal Governmental Policies).

SECTION 20: PROCUREMENT STANDARDS AND PROCEDURES

The Chief Financial Officer shall recommend and the Chief Executive Officer shall adopt such standards and procedures as are consistent with this policy and applicable federal rules.

SECTION 21: DISPUTE RESOLUTION

The Chief Executive Officer shall establish dispute resolution procedures to ensure that disputes arising from procurement actions are resolved timely and with fairness to all parties, while preserving the Tribe's interests.

Legislative History:

As amended by Tribal Council Resolution #038-09-02-03, dated September 2, 2003.

As amended by Tribal Council Resolution #058-10-24-06, dated October 24, 2006.

As amended by Tribal Council Resolution #010-02-04-20, dated February 4, 2020.

As amended by Tribal Council Resolution #075-10-13-20, dated October 13, 2020.