

This Procurement and Code of Conduct and Conflict of Interest Policy (“policy”) is designed to establish procurement processes that conform to applicable federal regulations and ethical standards pertaining to purchasing, including [2 CFR 200.318-327](#). This policy ensures the purchasing function is conducted in a manner which results in the most effective and efficient use of federal funds. This policy applies to all federal procurements. Gail Borden Public Library District (GBPLD) will use documented procurement procedures and will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. No one employee shall have complete control over the entire purchasing function. The responsibilities for purchasing, receiving, and approving payments for goods and services shall be assigned among different employees.

The Ethics Ordinance of the Gail Borden Public Library District, Kane and Cook Counties, Illinois provides standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

These procurement procedures will avoid the acquisition of unnecessary or duplicative items. GBPLD will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as:

- Contractor integrity
- Compliance with public policy
- Record of past performance
- Financial and technical resources.

GBPLD will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to:

- Rationale for the method of procurement
- Selection of contract type
- Basis for contractor selection or rejection
- The basis for the contract price.

The Chief Executive Officer or Chief Operating Officers will be responsible for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to:

- Source evaluation
- Protests
- Disputes
- Claims

## Competition

Procurement transactions must be conducted in a manner providing full and open competition as required, and GBPLD procurement transactions will contain no requirements that unduly restrict competition.

GBPLD procurement procedures will ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured in a manner that does not unduly restrict competition; and
- Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

GBPLD will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free completion. GBPLD will not preclude potential bidders from qualifying during the solicitation period.

GBPLD may use state purchasing contracts and other government entity or consortia purchasing arrangements, provided that the underlying contract complies with all applicable federal requirements outlined in this policy, including adequate competition, small, minority-owned, women-owned, and veteran-owned business affirmative step provisions, ensuring that the underlying contract has appropriate assignability provisions, and there are no cardinal changes to the underlying contract or pricing.

## Methods of Procurement

GBPLD may use one of the following methods of procurement. Notwithstanding the method of procurement, purchases over \$15,000 must be approved by the GBPLD Board of Trustees.

1. Micro-purchases (purchases of \$1 - \$10,000). Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, GBPLD will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if GBPLD considers the price to be reasonable.
2. Small Purchases (purchases of \$10,001 - \$24,999): Small purchase procedures are relatively simple and should use informal procurement methods for securing services, supplies, or other property that do not cost more than \$24,999. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. For purchases under \$24,999, GBPLD may develop a list of prequalified contractors to provide necessary services. These third-party providers will be asked to submit a statement of qualifications annually. GBPLD will then use the pre-qualified contractors on the list/lists to request at least three quotes for procurements of their services. Purchases in this threshold may be subject to Board approval. All purchases of \$10,000 or more will be reported at monthly Board meetings.

3. Competitive Proposals (purchases of \$25,000 and above): The technique 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. Proposals will be accepted through sealed bids. If this method is used, the following requirements apply:
  - a. Requests for proposals will be publicized on the GBPLD website and in newspapers, trade publications or websites, and/or other locations/sources as applicable, 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. GBPLD will include a written method within the RFP for conducting technical evaluations of the proposals received and for selecting recipients.
  - d. Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
  - e. Cost/Price Analysis for Federal Procurements in Excess of \$25,000
    - i. In accordance with the requirements in [2 CFR § 200.324](#), project lead/requestor will make independent estimates of the goods or services being procured before receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market. Independent cost estimates must be developed independently without participation or consultation with any potential offerors for the particular procurement.
    - ii. To accomplish this, the project lead/requestor will conduct either a price analysis or a cost analysis, depending on the type of contract, in connection with every procurement with federal funds in excess of \$25,000 before the opportunity is advertised. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the project lead/requestor will come to an independent estimate prior to receiving bids or proposals. The cost or price analysis, as appropriate for the particular situation, will be documented in the procurement files. GBPLD reserves the right to reject any and all proposals received if there is a sound basis for the rejection (such as significant deviation from the independent cost estimate or suspicion of contractor collusion).
    - iii. Accordingly, GBPLD will perform a cost or price analysis in connection with every federal procurement action more than \$25,000, including contract modifications, as detailed below.

4. Noncompetitive Proposals (Sole Source): Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
  - a. The item is available only from a single source; or
  - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
  - c. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or
  - d. After solicitation of several sources, competition is determined inadequate.

The project lead/requestor must document in writing the sole source justification, which must be approved by the Chief Executive Officer or Chief Operating Officers prior to proceeding with the procurement. This documentation must be kept in the official procurement file.

### **Cost Analysis**

Non-competitive Contracts: A cost analysis involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services. In general:

- A cost analysis must be used for all non-competitive contracts, including sole source contracts. The federal cost principles apply.
- All non-competitive contracts must also be awarded and paid on a cost reimbursement basis (itemized cost in a detailed budget), and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.

When performing a cost analysis, project lead/requestor will negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

### **Price Analysis**

Competitive Contracts: A price analysis determines if the lump sum price is fair and reasonable based on current market value for comparable products or services. In general:

- A price analysis can only be used with competitive contracts and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.

- Compliance with the federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost reimbursement basis. If awarded on a cost-reimbursement basis, the federal cost principles apply and costs are approved by expense category, and not a lump sum.

Costs or prices based on estimated costs for contracts are allowable only to the extent that costs incurred, or cost estimates included in negotiated prices would be allowable costs under the federal cost principles.

### **Contracting with Small, Veteran-Owned, and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms**

GBPLD will take necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus firms are used (labor surplus area firms will generally be appropriate for construction federal procurements), when possible, in compliance with [2 CFR § 200.321](#). To accomplish this, GBPLD will abide by the following required affirmative steps.

- Placing qualified small, veteran-owned, and minority businesses and women's business enterprises on pre-qualified vendor lists.
- Ensuring that small, veteran-owned, and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small, veteran-owned, and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small, veteran-owned, and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

### **Procurement Review**

GBPLD will make available, upon request by the federal awarding agency or passthrough entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

GBPLD will make available upon request, for the federal awarding agency or passthrough entity, pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates.

### **Subrecipient and Contractor Determinations**

GBPLD will make a case-by-case determination whether each agreement it makes for the disbursement of federal program funds is a subrecipient or a contractor agreement. In determining whether an agreement between GBPLD and another non-federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of agreement. GBPLD will use judgment in classifying each agreement as a subaward or a procurement contract.

### **Suspension and Debarment**

Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. No suspended or debarred entities or individuals will be eligible for participation in contracts or subawards with GBPLD.

To comply with these requirements, project lead/requestor will check all potential partners (subrecipients or contractors) in the [SAM.gov](https://sam.gov) website (the repository of information of non-federal entities and contractors that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal programs or activities). Before any contract or subaward, GBPLD will check SAM.gov and include a screenshot or download from SAM.gov within the subrecipient or contractor file, demonstrating that the entity is not suspended, debarred, or otherwise excluded from participation in federal programs.

### **Contract Administration**

GBPLD maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders Chief Executive Officer or Chief Operating Officers will ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase order. GBPLD will ensure the following:

- The effective dates (i.e., beginning and ending dates) of the contract are within the effective dates of the federal award. A contract may be procured (with appropriate language indicating that the procurement is in anticipation of an award and contracts will only be issued upon GBPLD receiving such award) and negotiated prior to the effective date of the award, but it may not be signed or be effective until on or after the effective date stated on the federal award agreement.
- The contract will contain all provisions required by [2 CFR 200 Appendix II](#) as applicable.

### **Documentation for Contracts**

GBPLD will maintain the following written documentation, at a minimum, for each contract paid with federal funds. The finance office is responsible for maintaining the written documentation for each contract paid with federal funds.

- A copy of the written, signed contract/agreement for services to be performed.
- The method of procurement, rationale, or procedure for selecting a particular contractor.
- Evidence the contract was made only to a contractor or consultant possessing the ability to perform successfully under the terms and conditions of the contract or procurement.
- Records on the services performed - date of service, purpose of service - ensuring that services are consistent and satisfactorily performed as described in the signed contract or purchase order.
- Documentation that the contractor was not paid before services were performed, unless advance payment is fully justified in writing and approved by the Chief Executive Officer or Chief Operating Officers. While advance payments are not prohibited, the risk of advanced payments to contractors is borne by GBPLD. Any advance payments that are made for costs or activities (for example, construction projects that will not result in a public benefit until project completion) may not be supported under the cost principles of 2 CFR 200.
- Records of all payments made (such as a spreadsheet or report generated from the general ledger), including the total amount paid to the contractor.
- If the purpose of the contract or purchase order is to deliver goods, the end user will verify that the quantity and quality of goods were received as specified in the contract/purchase order. The end user is responsible for the receipt of goods in accordance with the contract or purchase order. A signed proof of delivery must be obtained to verify the receipt of goods.
- If the purpose of the contract is to purchase services, the end user will verify that the quality and scope of services were received as specified in the contract. The end user is responsible for the receipt of services in accordance with the contract or purchase order. If necessary, signed proof of delivery must be obtained to verify the receipt of services.

All contracts must be managed and monitored in compliance with this policy, as well as any other requirements specific to a particular federal assistance award agreement (for example, HUD section 3 requirements, Davis-Bacon and Related Acts compliance, environmental policy requirements, and other national policy requirements).

### **Responsibilities**

The Chief Executive Officer or Chief Operating Officers will be responsible for ensuring compliance with all Procurement policies outlined above.

**Document Approval**

This policy has been endorsed and approved by:

/s/ Tiffany Henderson

Name:

Title: Secretary

**Approved:** November 14, 2023

/s/ Jean Bednar

Name:

Chair

**Approved:** November 14, 2023