



Cocopah Indian Housing and Development

PROCUREMENT PROCEDURES

SECTION 1

GENERAL INFORMATION

1. PURPOSE.

- a. The purpose of these procurement procedures is to:
 - Provide for the fair and equitable treatment of all persons or firms involved in purchasing;
 - Assure that supplies, services and construction are procured efficiently, effectively and at the most favorable prices available to Cocopah Indian Housing and Development (“CIHAD”);
 - Promote competition in contracting;
 - Provide safeguards for maintaining a procurement system of quality and integrity; and
 - Assure that CIHAD purchasing actions are in full compliance with applicable federal standards and regulations along with any applicable state and tribal laws.
- b. These procedures are provided as procedural guidance only and confer no rights upon individual CIHAD employees or third parties. These procedures similarly impose no obligations on CIHAD supplemental to those implied by applicable tribal, state or federal law.

2. APPLICATION.

- a. These procedures apply to all contracts for the procurement of supplies, services and construction entered into by CIHAD. They shall apply to purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in these procedures shall prevent CIHAD from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law.
- b. When both federal and non-federal funds are used for a project, the work to be accomplished with the funds should be separately identified. The term “procurement” as used in these procedures includes both contracts and modifications (including change orders) for construction or services, as well as purchase, lease or rental of supplies and equipment.

3. INDIAN PREFERENCE REQUIREMENTS.

- a. Projects developed and operated with assistance under 24 CFR 1000.48, et al, are subject to Section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) provides that to the greatest extent feasible, preference shall be given to Indian organizations and Indian-owned economic enterprises in the award of all contracts and subcontracts. Preference must be provided in accordance with the requirements set forth in 24 CFR 1000.52. Indian preference applies not only on-site or within CIHAD's jurisdiction, but also to contracts with firms that operate outside these areas.
- b. Eligibility for Indian preference shall be established in accordance with the requirements of 24 CFR 1000.48. If CIHAD or its prime contractor determines an applicant ineligible for Indian preference, CIHAD or its prime contractor shall notify the applicant in writing before contract award, or filling the position, or providing the desired training.
- c. Unrestricted Solicitations. CIHAD shall advertise a contract, inviting bids from Indian-owned economic enterprises or organizations as well as non-Indians.

Award shall be made under unrestricted solicitations to the lowest responsive bid from a qualified Indian-owned economic enterprise or organization within the maximum total contract price established for the specific project or activity being solicited, if the bid is no more than five percent (5%) higher than the total bid price of the lowest responsive bid from any qualified bidder.

If the bid from the qualified Indian-owned economic enterprise or organization is within the five percent (5%) range of the lowest non-Indian firm, the Indian-owned firm will be given the opportunity to meet the lowest bid price. Should the Indian-owned firm refuse to meet this lower price, the bid shall then be awarded to the responsive and responsible low bidder for the project.

Example:	Bidder 1	\$120,000	Non-Indian Firm
	Bidder 2	\$110,000	Indian Firm
	Bidder 3	\$105,000	Non-Indian Firm
	Bidder 4	\$116,000	Indian Firm

Bidder 3, a non-Indian-owned firm, is the apparent low bidder for this project. Bidder 2, an Indian-owned firm, is within five percent (5%) of Bidder 3. Bidder 2 is then provided the opportunity to meet the dollar amount of Bidder 3's bid. If Bidder 2 is unable to meet Bidder 3's bid, the award shall be made to Bidder 3. If Bidder 2 is able to meet the lower bid, award shall be made under this Indian Preference Policy. CIHAD must always ensure the lowest, responsive and responsible bid is made for every solicitation, under the Informal or Formal Bidding procedures.

- d. In accordance with 24 CFR 1000.52(e), CIHAD may require information from prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises.
 - e. Complaints arising from any of the methods CIHAD utilizes to implement Indian preference shall be conducted in accordance with the procedures described at 24 CFR 1000.54.
4. RETENTION OF PROCUREMENT RECORDS. In accordance with 24 CFR 1000.552, all financial and programmatic records, supporting documents and statistical records are required to be retained for a period of three (3) years after the completion of the action and resolution of all issues which arise from it or until the end of the regular three- (3-) year period, whichever is later. A separate file for each procurement activity shall be maintained for quick reference and/or review.

SECTION 2

GENERAL

1. PROCUREMENT AUTHORITY AND ADMINISTRATION.

- a. The Contracting Officer, who shall be the CEO or another employee of CIHAD authorized by the CEO in writing, shall administer all procurement transactions.
- b. The CEO or his/her designee shall ensure that:
 - 1) Purchases utilizing the Purchase Order form for "open Purchase Order accounts" shall be restricted to staff designated by the CEO or his/her designee;
 - 2) Every purchase/acquisition utilizing the Purchase Order form shall be approved prior to such purchase by the CEO or his/her designee;
 - 3) Procurement activities should be coordinated with the performance objectives described in CIHAD's Indian Housing Plan ("IHP") to assure efficient and economical purchasing;
 - 4) Contracts and modifications shall be in writing, clearly specifying the desired supplies, services or construction and are supported by sufficient documentation regarding the history of the procurement, including, at a minimum, the method of procurement chosen, the selection of the contract type, the rationale for selecting or rejecting offers and the basis for the contract price;
 - 5) For procurement other than small purchases, a minimum of thirty (30) days (or other time determined by CIHAD) for major construction contracts and fifteen (15) days (or other time period if required by state or tribal law) for other contract types are provided for the preparation and submission of bids or proposals;
 - 6) Solicitation procedures are conducted in full compliance with federal standards stated at 24 CFR 85.36 and the Indian Preference requirements at 24 CFR 1000.48 through 1000.54;
 - 7) An independent cost estimate is prepared before solicitation issuance and is appropriately safeguarded for each procurement above the small purchase limitation and a cost or price analysis is conducted for each of the responses received for all procurement;

- 8) Contract award is made to the responsive and responsible bidder offering the lowest price, consistent with Indian preference requirements (for sealed bid contracts) or contract award is made to the offeror whose proposal offers the greatest value to CIHAD, considering price, technical qualifications and other factors as specified in the solicitation, including Indian preference (for contracts awarded based on competitive proposals). Unsuccessful firms are notified within ten (10) days (or other time period required by state or tribal law) after contract award;
- 9) There are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders); work is inspected before payment; and payment is made promptly for contract work performed and accepted;
- 10) Effective contract administration is performed; and
- 11) Effective monitoring of contractor's performance is conducted.

2. SMALL PROCUREMENT ACTIVITY INITIATION.

- a. Procurement Initiation. Procurement activities and procurement obligations are initiated by the execution of a Request to Purchase, Check Request or a Contract. The details of each is described as follows:
 - 1) The Request to Purchase ("RTP") is considered the primary source document to initiate the procurement process for the purchase of a good or service up to \$500,000 (or lesser amount as determined by CIHAD). The RTP is used primarily for routine and non-routine purchases throughout the organization.
 - 2) A Check Request may be used to fulfill an obligation initiated by a Purchase Order or a procurement activity that has been initiated to fulfill "one-time" special needs procurement as in the case where a vendor will not accept a Purchase Order.
 - 3) A Contract is used for contracting purposes when a Purchase Order is inappropriate for the type of procurement that is being used. Examples of this would be any and all procurement involving labor, regardless of dollar amount or professional services contracts.

3. PREPARATION OF A PURCHASE ORDER.

- a. Purchase Orders may only be used at vendors that have established accounts with CIHAD. Purchase Orders must be used by authorized staff.
- b. An RTP may initiate Purchase Orders. RTPs will be typed or neatly handwritten. Directors may sign any RTP, including any they initiate themselves; all other RTPs must be signed by someone authorized other than the requestor.

RTPs missing any of the information requested below will be returned to the department initiating the request and will not be filled until such time that all items have been included on the form:

- Purchase Order Number
 - The items to be purchased.
 - The quantity of items to be purchased.
 - The location to where the items are to be delivered.
 - The time frame in which the materials are needed.
 - The correct funding source or project to which the material is to be charged.
 - The name and signature of the person responsible for initiating the RTP.
- c. Each Purchase Order will be assigned an eight (8) digit number at the time it is issued.
 - d. Only designated personnel shall be authorized to sign Purchase Orders. Such designation shall be in writing by the CEO, and the authorized staff member shall be forwarded a copy of such designation.
 - e. At the beginning of each Fiscal Year, the Finance Director or his/her designee will send a letter to each vendor with an open account detailing the following information:
 - 1) A description of CIHAD's Purchase Order sequence methodology.
 - 2) A list of valid Purchase Order numbers for that particular vendor.
 - 3) A list of personnel authorized to make purchases under a particular Purchase Order number. The list of authorized personnel will be updated periodically to reflect changes made in employment status and/or employee duties.

- 4) Notification that, should a vendor accept and process a Purchase Order from any unauthorized personnel, that Purchase Order shall be considered invalid.

One of these letters will also be sent to each new open Purchase Order account established during the remainder of a fiscal year.

- f. The Purchase Order is used as the primary contract document for single material and supply purchases of \$500,000 or less. At all times, CIHAD procedures for Informal Solicitations (small purchases) shall be followed.

Note the following exceptions:

- 1) Procurements that are expected to exceed \$5,000 and *include labor* shall be prepared utilizing a Contract and shall be administered by the CIHAD Contracts/ Procurement Officer.
 - 2) Procurements that are expected to exceed \$50,000 but not exceed \$500,000 and *do not include labor* shall be prepared utilizing CIHAD informal solicitations Invitation for Bids ("IFB") or Request for Proposals ("RFP") format and shall be coordinated through the CIHAD Contracts/ Procurement Officer.
 - 3) For the procurement of professional services (i.e., consultant, design professional, etc.), the primary contract document shall be a professional services contract executed between the professional and CIHAD.
- g. Regardless of the dollar amount, single purchases for which an emergency or a sole source exception is made, the Purchaser shall obtain the signed approval of the CEO or designee on the Purchase Order. The procurement department shall prepare a memorandum which documents the emergency or special circumstances. The memo shall be signed by the CEO and attached to the Purchase Order. If the contract is federally funded, the vendor must comply with payroll reporting requirements when labor is involved (as described below). Therefore, the Procurement designee must obtain the required documentation from the contractor before payment is made for the goods or services.
 - h. The Purchase Order will be computer generated, sequentially pre-numbered and properly labeled with the billing information for CIHAD.
 - i. The Purchase Order shall identify the source of funds and project that has been assigned by the Finance Director or his/her designee.

- j. The Purchase Order form shall have blocks that identify the following:
- Date of Purchase Order
 - Project Number
 - Vendor Name
 - Vendor Mailing Address
 - Quantity of item(s) being purchased under this Purchase Order
 - Description of item(s) being purchased
 - Unit price of item(s) being purchased
 - Extended price of item(s) being purchased
 - Signature and date blocks
- k. Procedures.
- For Open Purchase Order Accounts – See **Appendix A**.
 - For New Purchase Order Accounts – See **Appendix B**.

SECTION 3

PROCUREMENT METHODS

1. **SELECTION OF METHOD.** CIHAD shall choose the appropriate procurement method to purchase goods and services based on the dollar amount of the purchase and available vendors.
2. **INDIAN PREFERENCE.**
 - a. CIHAD shall, to the greatest extent feasible, provide preference to Indian-owned economic enterprises and organizations and shall, to the extent feasible, maintain and/or refer to lists of qualified Indian supply sources.
 - b. CIHAD shall include in all contracts with contractors and subcontractors a requirement that the contractor/subcontractor will provide Indian preference in subcontracting, training and employment to the greatest extent feasible.
 - c. CIHAD shall document its efforts in providing Indian preference. If no quotations are solicited or received from Indian-owned economic enterprises or Indian organizations, CIHAD shall document in the procurement file the reasons for the lack of Indian participation.
3. **DEFINITIONS.**
 - a. **Single Purchases:** Single purchases for the purpose of these procedures shall be considered to mean the total cost of one or more similar items to be obtained at any one time from a single source and listed on a single Purchase Order.
 - b. **Services:** Contractual services for the purpose of these procedures shall be considered to mean any purchase which requires the contractor to employ labor to perform the work on the site of any property owned or controlled by CIHAD, including personal services of a technical or professional nature.

NOTE: Service contracts should not be confused with contracts involving labor, which are reportable to the Department of Labor (federally funded labor contracts).
4. **SMALL PURCHASES OF \$500,000 OR LESS (INFORMAL SOLICITATIONS).**
 - a. CIHAD may elect to use small purchase procedures in accordance with the regulations found at 24 CFR 85.36(d)(1).

b. In accordance with 24 CFR 85.36, any procurement not exceeding \$500,000 in the aggregate may be conducted in accordance with the small purchase procedures described in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under these policies and procedures.

c. Competition:

- 1) CIHAD shall, to the greatest extent feasible, provide Indian preference in the award of all contracts.
- 2) All preferences shall be publicly announced in the advertisement and bidding or proposal solicitation documents and the bidding and proposal documents.
- 3) CIHAD, at its discretion, may require information of prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises. CIHAD may require prospective contractors to provide the following information before submitting a bid or proposal, or at the time of submission:

- Evidence showing fully the extent of Indian ownership and interest,
- Evidence of structure, management and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; materials or equipment supply arrangements; and management salary or profit-sharing arrangements; and evidence showing the effect of these on the extent of Indian ownership and interest, and
- Evidence sufficient to demonstrate to the satisfaction of CIHAD that the prospective contractor has the technical, administrative, and financial capability to perform contract work of the size and type involved.

4) CIHAD shall incorporate the following clause (referred to as the "section 7(b) clause") in each contract awarded in connection with a project funded under this part:

"The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) (the Indian Act). Section 7(b) requires that to the greatest extent feasible:

- a. Preferences and opportunities for training and employment shall be given to Indians; and

- b. Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

The parties to this contract shall comply with the provisions of section 7(b) of the Indian Act.

In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preference and opportunities for training and employment to Indians.

The contractor shall include this section 7(b) clause in every subcontract in connection with the project and shall, at the direction of CIHAD, take appropriate action pursuant to the subcontract upon a finding by CIHAD or HUD that the subcontractor has violated this section 7(b) clause of the Indian Act.”

- d. In addition to the small purchase procedures described at 24 CFR 85.36(d), the following procurement procedures for certain identified categories of supplies and materials where the total annual value of the purchase does not exceed \$500,000 shall apply.

Each year, the CEO (or other designated individual) shall:

- 1) Analyze the prior year’s purchase to establish a list of categories to be covered using small purchase procedures such as office supplies, small tools and maintenance supplies and materials.
- 2) Establish a list of common use items in each category and determine the normal purchasing schedule (weekly, monthly, quarterly, annually).
- 3) From the information gathered on purchasing patterns, determine the best purchasing pattern and method to achieve the best price over a fixed period of time. For example, should an entire month’s or quarter’s supply of an item be purchased at one time to achieve best price and avoid expensive emergency purchases?
- 4) Establish a period of time for which the vendor selection for each category will be effective. The timeframe for various categories may vary.
- 5) Develop vendor lists from catalogs, local businesses, national businesses, Internet, etc.

- 6) Solicit quotes verbally, by telephone, advertising, electronically or in writing from an adequate number of vendors. The CEO or his/her designee shall determine the adequate number of vendors to contact. A tabulation of solicitations made and quotations received shall be kept on file that include price comparisons, time period covered and any limitations to the purchase process (such as delivery times, etc.).
 - 7) Select a vendor based on lowest purchase price along with the delivery price, less any discounts or other credits. For example, it may be cost effective to pay a vendor who delivers to the office more for a product that it would to have an employee travel to an area discount store to purchase the same product.
 - 8) Purchases of the items in the established categories will be made from the selected vendor(s) for the established time period, unless there is a documented emergency situation necessitating purchases to be made in an expeditious manner to prevent collateral damage and expense.
 - 9) If the cost of an item from another vendor is on sale and is below an item's cost from the selected vendor, purchases may be made at the lower cost without further analysis.
 - 10) Each separate file for the procurement of the identified categories of supplies and materials should contain documentation of price quotes, specifications and any other pertinent information.
- e. Soliciting Proposals: For the purpose of soliciting written proposals for small purchases under \$500,000, one or more of the following methods shall be used:
- 1) Advertisement placed in a newspaper of general circulation
 - 2) A written notice to potential vendors by CIHAD
 - 3) Telephone or fax contact
 - 4) Internet

5. WAGE REQUIREMENTS.

The designated Contracts/Procurement Officer should request Davis-Bacon wage rates as determined by the Department of Labor using the HUD request for wage rate determination form at least forty-five (45) days prior to the initial solicitation. This determination must be provided to the bidder at the time the quote is requested.

At least ten (10) days before award of the contract, the Contracts/Procurement Officer should confirm the wage rates with HUD's regional labor relations office. The Department of Labor will provide determination if work is considered eligible for Davis-Bacon in accordance with 24 CFR 1000.16.

6. DEBARMENT. In accordance with 24 CFR 1000.44 and 24 CFR Part 24, CIHAD shall not hire, contract with, or otherwise do business, either directly or indirectly, with contractors or individuals which have been debarred, suspended or subjected to a Limited Denial of Participation ("LPD") by the US Government. Prior to contract award (i.e., the preparation of the Notice to Proceed), the Contracts/Procurement Officer shall verify that the contractor has not been debarred, suspended or LPD'd by reviewing the most updated publication of "*Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.*" This list can be obtained at <http://www.hudclips.org> or from the Government Printing Office (GPO). The Contracts/Procurement Officer should document the review in a memorandum to the contract file.

7. SEALED BIDS (FORMAL ADVERTISING OR FORMAL SOLICITATIONS).

a. In accordance with 24 CFR 85.36(d)(2), contracts shall be awarded based on competitive sealed bidding if the following conditions are present:

- A complete, adequate and realistic specification or purchase description is available,
- Two (2) or more responsible bidders are willing and able to compete effectively for the work,
- 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.

Sealed bidding is the preferred method for construction procurement for all construction contracts exceeding the small purchase limitation. For professional services contracts, sealed bidding should not be used.

b. Bid Documents:

- 1) Specifications and Estimates. The Contracts/Procurement Officer must prepare work plan specifications and estimates of the cost of the contract. The amount of detail of the cost estimate and the degree of analysis will depend on the particular complexity of the contract. The specifications shall serve as evaluative criteria at the completion of the contract and the estimates serve as a reference for proper evaluation of the solicited bids. See "Cost and Price Analysis" section for further detail.

- 2) Budget Approval. The Contracts/Procurement Officer shall assign a Contract Number and forward to the Finance Director. The Finance Director will approve or reject this request based on fund availability, program and account coding and the estimated amount of contract. If funding is available, the Finance Director shall provide a project number to the Contracts/Procurement Officer and open a file for the proposed contract. The form should then be forwarded to the CEO for review and approval.
- 3) Wage Requirements. The Contracts/Procurement Officer shall complete the HUD request for wage rate determination form based on the specifications for labor determined above or use the adopted Tribally Determined Wage Rates. Reference: 24 CFR 85.36 and 24 CFR 1000.16.
- 4) Wage Determination. If applicable, the Contracts/Procurement Officer shall obtain Davis-Bacon wage rates as determined by the Department of Labor using the HUD request for wage rate determination form at least forty-five (45) days prior to the initial solicitation. This determination must be provided to the bidder at the time the quote is requested.

At least ten (10) days before award of the contract, the Contracts/Procurement Officer must confirm the wage rates with HUD. Reference: 24 CFR 85.36(i)(5) and 24 CFR 1000.16.

- 5) Invitation for Bids (“IFB”). The IFB shall be prepared in the form prescribed by CIHAD. The IFB should define the goods or services for bidder to properly respond and include any specifications and pertinent attachments. The bid acceptance period shall be specified and the bidders shall be informed that CIHAD reserves the right to reject any or all bids received.
- 6) Instructions to Bidders for Contracts. The bid package shall contain the “Instructions to Bidders for Contracts” form. The Contracts/Procurement Officer shall mark all places required within the instructions. The “Instructions to Bidders for Contracts” shall be used to inform interested bidders of the general bidding requirements, the responsibilities of each party, and the factors to be considered in determining the successful bidder.

- 7) "Representations, Certifications and Other Statements of Bidders" Form. For all construction contracts over \$2,000, the bidder shall be required to submit a "Representations, Certifications and Other Statements of Bidders" form with the bid. The Contracts/Procurement Officer shall mark the form highlighting all required statements. If a form is not submitted with the bid, the bid may be considered incomplete and non-responsive. No contract award shall be made without a properly executed "Representations, Certifications and Other Statements of Bidders" form.
- 8) General Conditions. Provisions of the general conditions reflect federal statutes, executive orders and/or established CIHAD policy. The Statement of General Conditions shall be included in the solicitation.
- 9) Project Manual. The Contracts/Procurement Officer should ensure that bound construction specifications and working drawings or other description of supplies and/or services are signed by the preparer.
- 10) Bid Form. Two (2) of the actual bid forms will be required to be submitted in compliance with the IFB. The bidder shall be required to quote prices and specify completion or delivery date.
- 11) Non-Collusive Affidavit. For all construction and equipment contracts over \$50,000, the bidder shall be required to submit a "Non-Collusive Affidavit" with the bid. If the affidavit is not submitted with the bid by the low bidder, the Contracts/Procurement Officer shall require submission within three (3) working days. If the affidavit is submitted after that date, the bid shall be considered non-responsive and incomplete. The contract may then be awarded to the second low bidder. No contract award shall be made without a properly executed non-collusive affidavit.
- 12) Equal Opportunity for Business and Lower Income Persons. For all construction contracts over \$200,000, the contractor is required to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 in accordance with 24 CFR 1000.42. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in the area or to businesses owned in substantial part by persons residing in the area of the project.

- 13) Statement for Indian Preference. All IFBs shall contain the CIHAD Indian Preference Statement which delineates the Bidder's responsibility toward ensuring the project, the contractor and all sub-contractors meet the requirements of the Indian Preference regulations in accordance with 24 CFR 1000.48.
- 14) Contract Form. The contract shall be prepared by the Contracts/Procurement Officer and reviewed and approved by the CEO.
- 15) Insurance Requirements. Before the notice to proceed is authorized, the contractor and each subcontractor shall furnish the Contracts/Procurement Officer with certificates of insurance, which demonstrate that the insurance requirements are in force and will insure all operations under the contract. Insurance requirements must be in accordance with the "General Conditions" document and the contract. All insurance shall be carried with companies that are financially responsible and authorized to do business in the CIHAD service area. The Finance Director shall verify the insurance company is acceptable to CIHAD. The Contracts/Procurement Officer shall notify the contractor to stop work if the required insurance coverage is not in force at the time the work begins or if the coverage expires before the work is accepted. The Contracts/Procurement Officer shall also notify the contractor that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

c. Solicitation for Bids.

- 1) General. Once the bid documents and/or specifications have been approved, the contracting department shall prepare a copy of the IFB, with a request for publication, along with the bid packages to be disbursed. The contracting department shall number sequentially each copy of the bid package for control purposes.
- 2) Restricting Solicitations. The invitation may be restricted to qualified Indian-owned economic enterprises and Indian organizations if CIHAD has reasonable expectation of receiving the required minimum number of responsive bids. CIHAD shall solicit bids from non-Indian as well as Indian-owned economic enterprises and Indian organizations if:
 - CIHAD decides not to restrict the solicitation.
 - An insufficient number of qualified Indian-owned economic enterprises or organizations submit responsive bids in response to the solicitation, or
 - A single bid is not acceptable.

- 3) Pre-Bid Conference. The Contracts/Procurement Officer may hold pre-bid conferences to inform the bidders about the requirements of the scope of work and also give a walkthrough of the project. Attendance to the pre-bid conference may be made mandatory.
- 4) Publication. The Contracts/Procurement Officer shall give full opportunity for open and competitive bidding by publishing the invitation for bids at least twice for two (2) consecutive weeks in local newspapers or trade publications. The Contracts/Procurement Officer shall also extend an invitation to known potential vendors.
- 5) Bid Period. Emergencies as certified by the CEO or designee are not required to be advertised and are considered non-competitive procurements. The invitation for bids shall be first published not less than ten (10) days prior to the date specified for the public bid opening. However, if an addendum is issued, the Contracts/Procurement Officer shall consider the magnitude of change and allow at least five (5) working days as an extension to the date specified for public opening.
- 6) Methods for Soliciting Bids. For the purpose of soliciting bids, the following methods shall be used:
 - Advertisement place in a newspaper of general circulation in the project area. The advertisement shall run in the legal section for at least a minimum period of twice for two consecutive weeks, thus allowing firms adequate time for preparation of bids.
 - Advertisement at designated plans review centers.
- 7) Plans Fee. The Finance Director may require a plans fee for each bid package in an amount that is determined by the Contracts/Procurement Officer and is based on local practice. The fee should at least be sufficient to offset the cost of reproducing the bid package. A fee is not required for bid packages issued to plan centers. All checks or drafts shall be made payable to CIHAD and may be nonrefundable.
- 8) Alternate Bids. The contracting department may request alternate bids (e.g., two different structural systems) or specify the most expensive system as the base bid and list additive or deductive alternates in priority order. In the event that the bids are higher than the cost estimates (i.e., which may result in a budget overrun), CIHAD may choose an alternate bid which is equal to or less than the available funds.

- 9) Addendum to Bid Package. The contracting department shall issue changes to the standard bid package in the form of an addendum. The Contracts/Procurement Officer shall not interpret the meaning of bid documents except by addendum. Each addendum shall be numbered sequentially by the contracting department who will provide a copy to each bidder of record to each place where bidding documents are on file and, if necessary, to the funding agency (when the Contracts/Procurement Officer is required to submit construction and bid documents before advertisement). The addendum also shall specify, if applicable, the revised deadline date for submission of bids. If the Addenda is issued within five (5) working days of the date of the bid submission date, the bid closing date shall be moved at least five (5) days from the date of the issued Addenda.
- 10) Control Record. The Contracts/Procurement Officer shall maintain a record of all bidding documents. This record shall identify the following for each individual or firm that requested a bid package:
 - The Bid package control number,
 - The name of the company,
 - The address and telephone number of the company,
 - The contact person,
 - The date and time of bid package receipt,
 - The number of any addendum sent to the company and date sent,
 - The amount and date of any deposits received, and
 - The date the bidder (i.e., contact person) was notified as to the successful low bidder.

d. Bid Opening and Evaluation.

- 1) Restricted Solicitations. If the solicitation is restricted to Indian-owned economic enterprises and organizations, and two (2) or more (or a greater number determined by the Contracts/Procurement Officer and stated in the invitation) qualified Indian-owned economic enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If equal low bids are received, drawing lots or similar random method shall make award, unless otherwise provided by state or tribal law.

If fewer than the minimum number of qualified Indian-owned economic enterprises or organizations submit responsive bids, all bids shall be rejected, and CIHAD shall cancel the solicitation and re-solicit, inviting bids from non-Indian as well as Indian-owned economic enterprises and organizations.

CIHAD may accept a single bid received from a responsible bidder in unusual circumstances (i.e., CIHAD determines that the delays caused by re-solicitation would result in higher construction costs and the bid is considered fair and reasonable based on the cost or price analysis prepared by CIHAD).

- 2) Unrestricted Solicitations. If the solicitation is not restricted to Indian-owned economic enterprises and organizations, award shall be made to the qualified Indian-owned economic enterprise or organization with the lowest responsive bid, if that bid is within the maximum total contract price established for the specific project or activity being solicited and the bid is within the range specified in the policy statement. If equal low bids are received from qualified Indian-owned economic enterprises or organizations, award shall be made by drawing lots or similar random method, unless otherwise provided in state, tribal or tribal law.

If no responsive bid by a qualified Indian-owned economic enterprise or organization is within this range, award shall be made to the lowest responsive bidder after applying any additional Indian Preference requirements or procedures described in Section 1 of this Policy.

- 3) Bid Opening. Upon receipt of each bid, the contracting department shall mark the date and time on the envelope and keep it unopened in a secure place. At the date and time specified in the IFB, the bids shall be opened in public and read aloud by the Contracts/ Procurement Officer with an additional CIHAD representative present. The Contracts/Procurement Officer shall record all bids on a spreadsheet, copies of which will be forwarded to the CEO and Finance Director along with the bids.
- 4) Securing Certified Checks. The Finance Director will secure all certified or cashier's checks in the safe. The use of a facsimile machine to communicate the bids to CIHAD is not considered acceptable when sealed bids are requested.
- 5) Late Bids. Any bids received after the date and time specified in the IFB shall be returned unopened to the bidder with a letter indicating that the bid was not received by the deadline.

- 6) Bid Rejection or Withdrawal. After the public opening, the Contracts/Procurement Officer may allow a bidder to withdraw a bid only if it is apparent that the bidder has made a mistake.
- 7) Withdrawal. If a bidder seeks to withdraw a bid before the end of the bid acceptance period or the execution date of the contract, whichever is earlier, the Contracts/Procurement Officer shall secure the following before approving or disapproving the withdrawal request:
 - A notarized statement from the bidder indicating that an error was made with an explanation of how it occurred, and
 - A copy of the bidder's cost estimating worksheets or other evidence provided by the bidder in support of the withdrawal request.

The Contracts/Procurement Officer shall inform CIHAD legal counsel of the withdrawal decision.

- 8) Rejection. The Contracts/Procurement Officer shall reject any bid that is incomplete (i.e., the bid bond is not submitted with the bid or the bid fails to conform to the essential items of the IFB). If CIHAD proposes to reject the lowest bidder for reasons other than an incomplete bid, CIHAD shall give the bidder an opportunity, within a time specified in the bid documents, to delete objectionable conditions from a bid only if the conditions do not concern the substance of the bid (such as the price, quantity, quality or delivery of items offered). After a specified time, CIHAD shall make a final decision on whether or not to reject the offer.
- 9) Bidder Notification. The Contracts/Procurement Officer shall notify the bidder, not later than the specified bid holding period, as to whether the withdrawal request has been approved or disapproved or whether the bid has been rejected. If appropriate, the Contracts/Procurement Officer also shall return the bid bond to the bidder.
- 10) Rejection of All Bids. The Contracts/Procurement Officer may decide to reject all bids. Possible reasons may include the following:
 - The bids received were higher than the funds available to procure the contract or
 - None of the bids received met the bid requirements (i.e., technically).

- 11) Reasons for Rejection. The CEO and the Contracts/Procurement Officer shall review the bids received to determine the reason that the contract cannot be awarded. The purpose of this review is to ascertain that:
 - The bid amount exceeds the approved budget amount;
 - The bids are unreasonably high due to unusual circumstances affecting construction in the housing market area,
 - The project is over-designed, or
 - The award cannot be made for other identified causes. If only one responsive bid is received from a responsible bidder, award shall not be made unless a cost or price analysis verifies the reasonableness of the price.
- 12) Over-Design. If it is determined that the high bids are due to the project over-design, the Contracts/Procurement Officer and the architect shall identify design modifications that would likely result in lower bids. The architect shall be held responsible for making any design modifications under the terms of the architect's contract.
- 13) Invitation for Bids. Upon the approval of the revised construction documents, the Contracts/Procurement Officer shall be authorized to issue a subsequent IFB.
- 14) Re-Solicitations. May be re-bid for a shorter period of time, but no less than twenty-one (21) days.
- 15) Bid Protests. See Appeals & Remedies Section of this Policy.
- 16) Award. The Contracts/Procurement Officer shall provide the Finance Director with a bid spreadsheet and the file containing the documentation for the bid that the Contracts/Procurement Officer proposes to accept. The CEO, using the Contract File Checklist, shall review the Contracts/Procurement Officer's acceptance recommendation. The checklist should contain a list of required documents to award the contract.

17) General Requirements. When prior funding agency review and approval are required before contract award, the Contracts/Procurement Officer shall perform the following procedures after bid opening:

- The bid spreadsheet, certified to completeness by the Contracts/Procurement Officer and identifying the following for each bid received:
 - The name and address of the bidder,
 - The amount of the bid,
 - The amounts of any alternates, and
 - The amount and type of bid bondand
- The bid documents for the proposed award, including a copy of the bid bond and the non-collusive affidavit.

e. CONTRACT AWARD.

- 1) Notice of Award. The Contracts/Procurement Officer shall prepare a notice of award letter and forward it to the CEO. If acceptable, the CEO shall sign the notice of award letter and return it to the Contracts/Procurement Officer for mailing. The Contracts/Procurement Officer must request that the contractor provide the assurance of completion (bonding) in the amount identified in the bid (and as specified in the general conditions of the contract). Before executing the contract, the Contracts/Procurement Officer shall ensure that the assurance of completion meets the requirements of CIHAD.
- 2) Distribution of Executed Documents.
 - The Finance Director shall retain one (1) original copy of the performance and payment bond (or other assurance), the power of attorney, and a signed set of the contract documents for his/her files.
 - The Contracts/Procurement Officer shall retain the contractor's copy for attachment to CIHAD's notice to proceed.
- 3) Pre-Construction Conference Minutes. If a pre-construction meeting is held, the minutes of the meeting and a list of attendees shall be prepared and kept in the contract file in the labor standards enforcement section. The CEO should review the minutes.

- 4) Notice to Proceed. The Contracts/Procurement Officer shall prepare two (2) original copies of the notice to proceed to be issued to the contractor together with the contractor's set of the executed contract documents. The notice to proceed is the official CIHAD order directing the contractor to start work. For all federally-assisted labor contracts, work is not allowed to begin until the notice to proceed has been issued and signed by all required parties. The date of completion is counted from the date of the notice to proceed. The contractor shall be requested to sign the notice to proceed, designating receipt and acceptance, and return the signed original to CIHAD. The signed original is to be kept in the contract file. A copy shall be sent to the Department of Labor for all federally funded contracts involving labor over \$2,000.

- 5) Assurance of Completion. For construction contracts more than \$100,000, each contractor shall be required to provide bid guarantees and adequate assurance of performance and payment acceptable to CIHAD and in compliance with 24 CFR 85.36(h). The following methods may be used to provide performance and payment assurance:
 - 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, a 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.

 - A performance bond on the part of the contractor for one hundred percent (100%) 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.

 - A payment bond on the part of the contractor for one hundred percent (100%) 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.

- 6) Use of a Surety. If the contractor uses a surety company, the surety must be a guarantee or surety company acceptable to the government. US Treasury Circular No. 570, entitled Companies Holding Certificate of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, is published annually in the Federal Register. This circular lists companies approved to act as a surety on bonds securing government contracts. It also provides the maximum underwriting limits on each contract bonded and the states in which each company is licensed to do business. CIHAD must refer to this circular when a surety is used. The circular can be obtained by contacting the Surety Bond Branch of the Financial Management Service (Department of Treasury).

8. COMPETITIVE PROPOSALS.

- a. In accordance with 24 CFR 85.36(d)(3), competitive proposals (including turnkey proposals for development) may be used if there is an adequate method of evaluating technical proposals and an adequate number of qualified sources to be solicited and when CIHAD determines that conditions are not appropriate to use the sealed bidding procurement process (i.e., there is not a complete, adequate and realistic specification or purchase description available and selection of the successful bidder cannot be made principally on the basis of price).
- b. Architect/Engineer Services. Architect/engineering services in excess of the small purchase limitation may be obtained by either the competitive proposal process or qualifications-based selection procedures. Sealed bidding, however, shall not be used to obtain architect/engineer services. Under qualifications-based selection procedures, a competitor's qualifications are evaluated and the most qualified competitor is selected, subject to the negotiation of a fair and reasonable contract amount. Price is not used as a selection factor under this method.
- c. Qualifications-based selection procedures shall not be used to purchase other types of services (even though architect-engineer firms are potential sources.)
- d. Procedures for management improvement contracts and other professional services utilizing competitive proposals.
 - 1) Determination of Need. The CEO, working in cooperation with the Board, shall determine the need for management improvements and other professional services.

2) Solicitation. CIHAD shall prepare a Request for Proposal (“RFP”), which clearly identifies the relative importance of price and other evaluation factors and sub-factors on the award decision (i.e., the weight given to each technical factor and sub-factor). A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established by CIHAD before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offers, identity of the offers and the contents of the proposals. The proposals shall be evaluated only on the criteria stated in the RFP solicitation.

3) Evaluation Factors.

- The RFP for the procurement of management improvement contracts and other professional services shall include evaluation factors that clearly identify the criteria that are going to be used in the award decision. The proposals shall be evaluated only on the criteria stated in the request for proposals. Such determining factors may include Indian Ownership, Indian training and employment opportunities, availability of materials, ability to meet the delivery schedule, shipping methods, price, etc. When this method is used, prior to the issuance of the solicitation, scoring criteria shall be developed, as part of the solicitation packet, which outlines the criteria and their respective weights that will be used to determine contract award.
- The scoring criteria shall be made an integral part of the RFP packet that is distributed to an adequate number of possible respondents.

4) Restrictions.

- The RFP may be restricted to qualified Indian-owned economic enterprises and Indian organizations if CIHAD has a reasonable expectation of receiving offers from two (2) (or a greater number stated in the RFP) such entities.
- CIHAD shall solicit proposals for non-Indian as well as Indian-owned economic enterprises and Indian organizations if:
 - CIHAD prefers not to restrict the RFP.
 - There are an insufficient number of qualified Indian-owned economic enterprises or Indian organizations to be able to satisfactorily respond to a restricted RFP, or
 - A single proposal is received but not accepted.

e. CIHAD Preparation of RFP.

1) The CIHAD contracting department shall prepare the RFP. The RFP shall contain at least the following information:

- A brief description of CIHAD and the project contemplated.
- The specific professional services required,
- The time frame for provision of the services,
- The evaluation factors and their relative importance in the award of the contract,
- The submission deadline, and
- The name of CIHAD's contact person.

2) The RFP shall request that the respondent provide a proposal that:

- Demonstrates an understanding of the required services needed and the firm's or individual's ability to perform the services in a timely and effective manner (including a profile of the firm's principles, staff and facilities),
- Provides a cost estimate to perform the work, and
- Includes any forms required by CIHAD.

f. Advertisement of RFP. The Procurement Department shall advertise the RFP through public announcement in local newspapers and, if appropriate, trade publications, direct requests to qualified respondents in CIHAD's files which CIHAD or other authorities have previously retained, and/or direct requests to local associations of minority respondents. The advertisement shall run in the legal section for a period to be determined by CIHAD, thus allowing firms adequate time for preparation of bids or proposals. The Procurement Department shall furnish all interested parties with a copy of the RFP.

g. Pre-Proposal Conference. The Contracts/Procurement Officer may hold pre-proposal conferences to inform the proposers about the requirements of the scope of work and also give a walkthrough of the proposed project, if applicable.

- h. Addendum to RFP. The contracting department shall issue changes to the standard RFP package in the form of an addendum. The Contracts/Procurement Officer shall not interpret the meaning of RFP documents except by addendum. Each addendum shall be numbered sequentially by the contracting department, who will provide a copy to each proposer of record to each place where RFP documents are on file. The addendum also shall specify, if applicable, the revised deadline date for submission of proposals. If the addenda are issued within ten (10) working days of the date of the RFP submission date, the RFP closing date shall be moved at least ten (10) days from the date of the issued addenda.
- i. RFP Submission Date.
 - 1) Upon receipt of each proposal, the contracting department shall mark the date and time on the envelope and keep it unopened in a secure place. At the date and time specified in the RFP, it shall be noted that the time for submission has occurred and a list of firms submitting proposals shall be compiled for the public record, copies of which will be forwarded to the CEO and Finance Director along with the proposals.
 - 2) Any RFPs submitted after the date and time specified in the RFP shall be date and time stamped and returned, unopened, to the Proposer with a letter indicating that the proposal was not received by the deadline.
- j. Review of Proposals Received.
 - 1) After the request period has ended, the Contracts/Procurement Officer will perform a completeness review of all proposals received utilizing a checklist made up of items listed under the "Minimum Submission Requirement" section of the RFP. Dependent on the necessity of the document requested to the RFP, any omissions may render the proposal incomplete and, therefore, non-responsive. Once the review has been completed, the Contracts/Procurement Officer shall notify the CEO and the Procurement Department of the results, select the review committee and schedule the pre-review conference to discuss the technical review process, the evaluation factors and the objective of the resultant contract award.

- 2) The review committee shall independently review all proposals in accordance with the Evaluation Factors for the RFP. Each reviewer shall score each proposal in accordance with the rating points established for each evaluation factor and sub-factor. Once all members of the review committee have completed the review of all proposals, the committee will meet to review and discuss the results of the scoring. Based on final discussion, the proposals shall be ranked with the firm receiving the most points as the "Top Ranked Firm" for that RFP.

k. Negotiations.

- 1) Unless there is no need for negotiations with any of the offers, negotiations shall be conducted by the Procurement Department with offerors who submit proposals determined to have a reasonable chance of being selected for award, based on an evaluation against the technical and price factors as specified in the RFP. Such offers shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of the negotiations shall be to seek clarification of CIHAD questions and, if considered appropriate, advise the offeror of deficiencies in both the technical and price aspects of their proposals that may impact the offeror's full understanding of and conformance to the solicitation requirements. No offeror shall be provided information about any other offeror's proposal and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award.
- 2) A common deadline shall be established for receipt of proposal revisions during the negotiations. The contracting department shall determine if all required forms and/or documents are included in the submitted proposals.

l. Award.

- 1) After evaluation of the proposals and any revisions, the contract shall be awarded to the responsible firms whose qualifications, price and other factors considered are the most advantageous to CIHAD. CIHAD shall not order or agree to any changes in the contract work when prior funding agency approval is required. Contract changes shall include a description of the proposed change in work, the fixed cost (credit, debit or no change) of the change and an estimate of any additional time required to complete the work.

- 2) For solicitations restricted to qualified Indian-owned economic enterprises and Indian organizations, if two (2) (or a greater number stated in the RFP) such entities submit acceptable proposals, award shall be made to the qualified Indian-owned economic enterprise or Indian organization with the best proposal, provided that the price is within the maximum total price established for the specific project or activity.
- 3) If fewer than this number of Indian-owned economic enterprises or Indian organizations submit acceptable proposals, CIHAD should consider re-soliciting the RFP without restriction to qualified Indian-owned economic enterprises and Indian organizations. CIHAD may accept the sole proposal received, subject to HUD approval, in unusual circumstances (such as when CIHAD determines that the delays caused by re-soliciting the RFP would cause higher costs or when CIHAD determines that the proposal has a fair and reasonable price).

m. Contract Review and Approval.

- 1) Once the contracting department has reviewed and approved the RFP process and award, it will prepare a contract which contains the following:
 - A clear statement of the specific services and tasks to be performed,
 - A description of the methodology to be used in carrying out the services,
 - An identification of the type and frequency of written reports to be provided to CIHAD,
 - A time frame for completion of all services,
 - A payment schedule that is related to the successful completion of specific tasks, and
 - The total cost of the project.

n. Abandonment or Termination.

- 1) In the event of abandonment of the project or termination of the contract for any cause, under the respective sections of the contract, the terms of any settlement between CIHAD and the service provider shall be subject to approval by the CEO or designee and the Director of the contracting department, if required.

- 2) CIHAD shall not disburse any monies to the service provider after the notice of abandonment or termination has been issued until the CEO or designee, the Director of the contracting department and the funding agency (if required) have approved the settlement agreement.

9. NONCOMPETITIVE PROCUREMENT PROPOSALS.

- a. Conditions for Use. Procurements shall be conducted competitively to the maximum extent possible. However, in accordance with 24 CFR 85.36(d)(4), procurement by noncompetitive proposal may be used when the award of a contract is not feasible using small purchase procedures, sealed bids or competitive proposals and one of the following applies:

- 1) The item is available only from a single source based on a good faith review of available sources,
- 2) An emergency exists that seriously threatens the public health, welfare or safety or endangers property or would otherwise cause serious injury to CIHAD, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure 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.

NOTE: The emergency procurement shall be limited to those supplies, services or construction necessary to meet the emergency. In cases where labor is involved, Davis-Bacon wage rates will apply and a determination has to be acquired if the amount of the work is over the \$2,000 threshold.

- 3) HUD authorizes the use of noncompetitive proposals, or
 - 4) After solicitation of a number of sources, competition is determined inadequate.
- b. Justification. Each procurement based on noncompetitive proposal shall be supported by a written justification for using such procedures. This justification shall be documented in writing by the Contracts/Procurement Officer and approved by the CEO.
 - c. Price Reasonableness. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis as described under the "Cost and Price Analysis" section below.

SECTION 4

COST AND PRICE ANALYSIS

1. USE OF THE COST OR PRICE ANALYSIS.

- a. In accordance with 24 CFR 85.36(f), a cost or price analysis shall be performed for all procurement actions (including contract modifications). The degree of analysis shall depend on the facts surrounding each procurement. The method of analysis shall be determined based on the criteria listed below.

1) Submission of Cost or Pricing Information.

- A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
 - CIHAD will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be 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.
 - Costs or prices based on established costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (Section 85.22 in Appendix A). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
- 2) The cost-plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.
 - 3) A comparison of prices shall be used in all cases other than those described in cost analysis above.

SECTION 5

CANCELLATION OF SOLICITATIONS

1. CANCELLATION.

- a. An Invitation for Bids (“IFB”), Request for Proposals (“RFP”), or other solicitation may be cancelled before offers are due if:
 - 1) CIHAD no longer requires the supplies, services or construction,
 - 2) CIHAD can no longer reasonably expect to fund the procurement, or
 - 3) The proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable.
- b. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:
 - 1) The supplies, services or construction are no longer required,
 - 2) Ambiguous or otherwise inadequate specifications were part of the solicitation,
 - 3) The solicitation did not provide for consideration of all factors of significance to CIHAD.
 - 4) Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds,
 - 5) There is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith, or
 - 6) For good cause of a similar nature when it is in the best interest of CIHAD.
- c. The reasons for cancellation shall be documented in the procurement file. CIHAD shall also provide the reasons for cancellation and/or rejection upon request to any offeror solicited.
- d. A notice of cancellation shall be sent to all offers solicited, which if appropriate shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.

- e. If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is received and the price is unreasonable, CIHAD shall cancel the solicitation and either:
 - 1) Re-solicit using a Request for Proposal, or
 - 2) If only one bid is received at an unreasonable price, CIHAD should consider using the noncompetitive proposals method.

SECTION 6

COOPERATIVE PURCHASING

1. AGREEMENTS.

- a. CIHAD may enter into state, regional, tribal and local intergovernmental agreements to purchase or use common goods and services. The decision to use an intergovernmental agreement or conduct a direct procurement shall be based on economy and efficiency. If used, the intergovernmental 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.
- b. CIHAD encourages the use of federal or state excess and surplus property instead of purchasing new equipment and property whenever such use is economically feasible and reduces costs.

SECTION 7

TYPES OF CONTRACTS AND CLAUSES

1. CONTRACT TYPES.

- a. Any type of contract which is appropriate to the procurement and which will promote the best interests of CIHAD may be used, provided that the cost plus a percentage of cost and percentage of construction cost methods are prohibited.
- b. All procurements shall include the clauses and provisions necessary to define the rights and responsibilities of the parties. A cost reimbursement contract shall not be used unless it is likely to be less costly or it is impracticable to satisfy CIHAD's needs otherwise.
- c. A time and materials contract should only be used if a written determination is made that no other contract type is suitable and the contract includes limits or prices that the contractor exceeds at its own risk.

2. OPTIONS. Options for additional quantities or performance periods may be included in contracts, provided that:

- a. The option is contained in the solicitation,
- b. The option is a unilateral right of CIHAD,
- c. The contract states a limit on the additional quantities and the overall term of the contract,
- d. The options are evaluated as part of the initial competition,
- e. The contract states the period within which the options may be exercised,
- f. The options may be exercised only at the price specified in or reasonably determinable from the contract, and
- g. The options may be exercised only if determined to be more advantageous to CIHAD than conducting a new procurement.

3. SPECIFICATIONS.

a. General.

- 1) All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying CIHAD's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items.
- 2) Functional or performance specifications are preferred. Detailed product specifications should be avoided whenever possible.
- 3) Consideration shall be given to consolidating or breaking out procurements to obtain a more economical result. For equipment purchases, a lease versus purchase analysis should be performed to determine the more economical form of procurement.

b. The following specification limitations shall be avoided:

- 1) Geographic restrictions not mandated or encouraged by applicable federal law (except for architect-engineer contracts, which may include geographic location as a selection factor if adequate competition is available),
- 2) Unnecessary bonding or experience requirements,
- 3) Brand name specification (unless a written determination is made that only the identified items will satisfy CIHAD's needs), and
- 4) Brand name or equal specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this procurement policy shall preempt any applicable licensing laws. Specifications shall be scrutinized to ensure that organizational conflicts of interest do not occur (for example, having a consultant perform a study of CIHAD's computer needs and then allowing that consultant to compete for the subsequent contract for the computers).

4. CONTRACT PROVISIONS. All of the contract provisions at 24 CFR 85.36(i) should be included in all contracts.

SECTION 8

APPEALS AND REMEDIES

1. **GENERAL.** It is CIHAD's policy to resolve all procurement or contractual issues informally at the CIHAD level without litigation. When appropriate, CIHAD may consider the use of informal discussions between the parties by individuals who did not participate substantially in the matter in dispute to help resolve any differences.
2. **BID PROTESTS.**
 - a. Any actual or prospective individual or contractor may protest the solicitation or award of a contract for serious violations of the principles of these procedures.
 - b. Any protest against a solicitation must be received before the due date for receipt of bids or proposals and any protest against the award of a contract must be received within 20 calendar days after contract award, or the protest will not be considered.
 - c. All bid protests shall be in writing, submitted to the Contracts/Procurement Officer, who shall issue a written decision on the matter.
 - d. The Contracting Officer may, at his or her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.
3. **PROTESTS INVOLVING INDIAN PREFERENCES.** Complaints arising out of any of the methods of providing for Indian preference shall be handled in accordance with the procedures in 24 CFR 1000.54.

SECTION 9

ASSISTANCE TO SMALL AND OTHER BUSINESSES

1. REGULATIONS AND LAW.

- a. In accordance with 24 CFR 85.36(e) and the HUD Act of 1968, CIHAD shall make efforts to ensure that small and minority-owned businesses, women's business enterprises, labor surplus area businesses and individuals or firms located in or owned in substantial part by persons residing in the area of a CIHAD project are used when possible. Such efforts include, but shall not be limited to:
 - 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists,
 - 2) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources,
 - 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises,
 - 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises,
 - 5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and
 - 6) Including in contracts a clause requiring contractors, to the greatest extent feasible, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which are located in, or owned in substantial part by persons residing in the area of the project, as described in 24 CFR 135, pursuant to Section 3 of the HUD Act of 1968. The requirements of Section 3 apply only to projects or activities for which the amount of assistance exceeds \$200,000 as described at 24 CFR 1000.42.
 - 7) Requiring prime contractors, which subcontracting is anticipated, to take the steps listed above.

2. DEFINITIONS.

- a. A small business is defined as a business which is:
 - 1) Independently owned,
 - 2) Non-dominant in its field of operation, and
 - 3) Not an affiliate or subsidiary of a business dominant in its field of operation.

The size standards in 13 CFR 121 shall be used unless CIHAD determines that their use is inappropriate.

- b. A minority-owned business is defined as a business which is at least 51% owned by one or more minority group members, or in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals.
- c. A women's business enterprise is defined as a business that is at least 51% owned by a woman or women who are United States citizens and who also control or operate the business.
- d. A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the US Department of Labor in 20 CFR 654, Subpart A, and in lists of labor surplus areas published by the Employment and Training Administration.
- e. A business concern located in the area of the project is defined as an individual or firm located within the relevant Section 3 covered project area, as determined pursuant to 24 CFR 135.15, listed on HUD's registry of eligible business concerns, and meeting the definition of small business above. A business concern owned in substantial part by persons residing in the area of the project is defined as a business concern which is 51% or more owned by persons residing within the Section 3 covered project, owned by persons considered by the US Small Business Administration to be socially or economically disadvantaged, listed on HUD's registry of eligible business concerns and meeting the definition of small business above.

SECTION 10

ETHICS IN PROCUREMENT

A Conflict of Interest/Code of Conduct Policy has been established by the Board of Commissioners for Cocopah Indian Housing and Development employees. The entire policy is available for review at the corporate headquarters. Each employee is required to sign a Conflict of Interest Agreement at the time of his/her hire and at the beginning of each subsequent fiscal year. This policy includes procedures for resolving any potential or actual conflicts of interest. Each employee will retain a copy of the policy.

APPENDIX A

PROCESSING PURCHASE ORDERS ***OPEN PURCHASE ORDER ACCOUNTS***

The following steps are required for completing the small procurement purchase process for ***open*** Purchase Order accounts:

REQUEST TO PURCHASE (“RTP”):

1. Requestor: Complete an RTP, filling in the following information:
 - Requestor’s Name
 - Vendor Name
 - Job Number (if applicable)
 - Open Purchase Order Number
 - Date Material Required
 - Delivery Address
 - Description of Item
 - Part/Item Number
 - Substitution Allowed (yes/no)
 - Unit (e.g., each, box, carton, etc.)
 - Quantity
 - Price Per Item
 - Total Costs

2. Department Director:
 - Review completed RTP to ensure it is compliant with the annual budget and the goals and objectives of CIHAD.
 - If the RTP *is not approved*, the Director will indicate the reason for non-approval in the Comments section of the RTP and will return it to the Requestor.
 - If the RTP *is approved*, the Director will sign and date the RTP and will return it to the Requestor for further processing.

3. Requestor:
 - RTP *not approved* by Director:
 - Write “VOID” in red across the original non-approved RTP and send it to the Procurement Clerk for recordkeeping purposes.
 - File a copy of the voided non-approved RTP in the department’s purchasing files.

- RTP **approved** by Director:
 - Place the order with the vendor.
 - Make a copy of the RTP for the department's purchasing files.
 - Forward the original RTP and a copy of the order confirmation/ backup documentation to the Bookkeeper.

- 4. Bookkeeper:
 - Place the original RTP with backup in a suspense file, awaiting invoice receipt.

- 5. Receiver of Goods:
 - Inspect package for exterior damage.
 - Match items received to accompanying documentation. Document any deviations.
 - Document any visible damage to contents.
 - Send the package, notes regarding deviations/damage, bill of lading, shipping slip and/or any other documents supplied by the vendor to the Requestor

- 6. Requestor:
 - Upon receipt of supplies/materials, review notes from Receiver regarding deviations/damage and verify items received match what was ordered.
 - Document resolution of any problems.
 - Send copies of the Receiver notes, bill of lading, shipping slip, other vendor documents and documentation of problem resolutions to the Bookkeeper for inclusion in his/her suspense file.

- 7. Admin Assistant. Upon receipt of a mailed invoice:
 - Stamp date of receipt on the front of the first page of the incoming invoice.
 - Send invoice to the appropriate Department Director.

8. Department Director:

- Review invoice for accuracy.
 - If not accurate, resolve any discrepancies or attach an explanation for any differences to the RTP prior to sending the invoice to the Finance Director for payment.
 - If accurate, initial and date the invoice to indicate approval to pay.
- Send initialed invoice to Finance Director.

9. Finance Director:

- Review invoice and send to Bookkeeper.

10. Bookkeeper:

- Match invoice to corresponding original RTP in suspense file.
- Enter invoice into Sage Accounting Software, using the Accounts Payable Encumbrance Segment.
- Place invoice and backup in suspense file, awaiting payment.
- Once payment is made, attach the check remittance statement to the invoice, a *copy* of the RTP and the RTP backup. Send this completed packet to Procurement Clerk.
- Send the original RTP separately to the Procurement Clerk.

11. Procurement Clerk:

- Place completed packet in Master Vendor files.
- Place original RTP in Master Purchase Order files behind corresponding Purchase Order.

APPENDIX B

PROCESSING PURCHASE ORDERS
NEW PURCHASE ORDER ACCOUNTS

The following steps are required for completing the small procurement purchase process for **new** Purchase Order accounts (e.g., emergency or special circumstance):

PRE-APPROVAL OF PURCHASE:

1. Requestor:
 - Prepare a memorandum which documents the emergency or special circumstance.
 - Obtain signature of department Director.
 - Send memorandum to CEO for review.

2. CEO:
 - Review memorandum.
 - If initially **not approved**:
 - Request clarification/additional information from department Director.
 - If **still not approved**, indicate reason for rejection and return the memorandum to the Requestor.
 - If **approved**, sign and return memorandum to Requestor for further processing.
 - If initially **approved**, sign and return memorandum to Requestor for further processing.

3. Requestor:
 - If the Memorandum is **not approved** by CEO:
 - File non-approved memorandum in the department's purchasing files. No further action is needed.
 - If the Memorandum is **approved** by CEO:
 - Begin procurement process.

REQUEST TO PURCHASE (“RTP”):

4. Requestor: Assemble supporting documentation (copy of newspaper ad, Indian preference documentation, bid comparisons, etc.) and complete an RTP, filling in the following information.
 - Requestor’s Name
 - Vendor Name
 - Job Number (if applicable)
 - Date Material Required
 - Delivery Address
 - Description of Item
 - Part/Item Number
 - Unit (e.g., each, box, carton, etc.)
 - Quantity
 - Price per Item
 - Total Costs

5. Department Director:
 - Review completed RTP to ensure it is compliant with CIHAD procurement policy and procedures.
 - If initially **not approved**:
 - Request clarification/additional information from Requestor.
 - If **still not approved**, indicate reason for rejection and return the memorandum to the Requestor.
 - When **approved**, sign and return RTP to Requestor for further processing.
 - If initially **approved**, the Director will sign and date the RTP and return it to the Requestor for further processing.

6. Requestor:
 - RTP **not approved** by Director: Follow instructions on rejection notice (e.g., attach additional information, re-advertise).
 - RTP **approved** by Director:
 - Make a copy of the RTP for the department’s purchasing files.
 - Send original RTP with a copy of any backup documentation to Procurement Clerk.

PURCHASE ORDER

7. Procurement Clerk:
 - Create a Purchase Order in the Sage Accounting program Encumbrance Segment.
 - Send original Purchase Order with all backup to CEO for review.
8. CEO:
 - Sign the original Purchase Order.
 - Return original Purchase Order to Procurement Clerk.
9. Procurement Clerk:
 - Write new Purchase Order number on original RTP.
 - Make a copy of the original RTP and send the copy to Requestor.
 - Send the original RTP and backup to Bookkeeper.
 - File the original Purchase Order in the Master Purchase Order files.
10. Requestor:
 - Place order with vendor.
 - Send a copy of the order confirmation/backup documentation to the Bookkeeper.
11. Bookkeeper:
 - Place the original RTP with backup in a suspense file, awaiting invoice receipt.
 - Match order confirmation/backup documentation to original RTP in suspense file.
12. Receiver of Goods:
 - Inspect package for exterior damage.
 - Match items received to accompanying documentation. Document any deviations.
 - Document any visible damage to contents.
 - Send the package, notes regarding deviations/damage, bill of lading, shipping slip and/or any other documents supplied by the vendor to the Requestor.

13. Requestor:
 - Upon receipt of supplies/materials, review notes from Receiver regarding deviations/damage and verify items received match what was ordered.
 - Document resolution of any problems.
 - Send copies of the Receiver notes, bill of lading, shipping slip, other vendor documents and documentation of problem resolutions to the Bookkeeper for inclusion in his/her suspense file.
12. Admin Assistant. Upon receipt of the invoice:
 - Stamp date of receipt on front of the first page of the incoming invoice.
 - Send invoice to the appropriate department Director.
13. Department Director:
 - Review invoice for accuracy.
 - If not accurate, resolve any discrepancies or attach an explanation for any differences to the RTP prior to sending the invoice to the Finance Director for payment.
 - If accurate, initial invoice to indicate approval to pay.
 - Send initialed invoice to Finance Director.
14. Finance Director:
 - Review invoice and send to Bookkeeper.
15. Bookkeeper:
 - Match invoice to corresponding original RTP in suspense file.
 - Enter invoice into Sage Accounting Software, using the Accounts Payable Encumbrance Segment.
 - Place invoice and backup in suspense file, awaiting payment.
 - Once payment is made, attach the check remittance statement to the invoice, a copy of the RTP and the RTP backup. Send this completed packet to Procurement Clerk.
 - Send the original RTP separately to the Procurement Clerk.
16. Procurement Clerk:
 - Place completed packet in Master Vendor files.
 - Place original RTP in Master Purchase Order files behind corresponding Purchase Order.