



**Procurement Policies**

**Approved 4/12/12**

**Amended 6/14/2012 (Technical Corrections)**

**Amended 2/13/14 (Housekeeping)**

**Amended 2/12/15 (Purchasing Thresholds)**

**Amended 8/17**

**Amended 8/9/18**

**Amended 8/8/2019**

**Purpose:**

To document and practice sound procurement and purchasing policies and procedures. The Land Bank recognizes its obligations to the taxpayers as well as other funding sources, and will provide sound public administration and a comprehensive purchasing program through accepted principles and sound procurement practices whereby, through full competition on the basis of fair and equal opportunity, those interested in selling to the Land Bank may provide the supplies, goods materials and equipment necessary for Land Bank operations at competitive prices, with consideration to quality, time factors, and probability of performance.

**References:**

2 CFR Chapter 1, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

**Standards of Conduct:**

All Land Bank employees, board members, volunteers and interns are to understand this policy before engaging in any procurement. In this document, staff means any person involved in purchasing or procurement on behalf of the Land Bank. In the case of grant funds, Land Bank procurement policies are to be followed, except when grant policy, guidelines, regulations, or rules are more restrictive. The most restrictive policy is to be followed.

No employee or board member shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved.

No employee or board member shall either solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

Whenever feasible, procurement and purchasing shall be through local vendors.

**Procedure:**

The following shall be in effect when procuring goods and services:

All service providers are required to have general liability insurance in an amount no less than \$1,000,000 and workers compensation insurance as required by law when performing work on behalf of the Land Bank. Insurance certificates showing the Land Bank as an additional insured shall be presented before any work commences.

All purchases and procurement for the benefit of the Land Bank shall be tax exempt.

When purchasing goods and services up to \$2,999.99 (\$1,999.99 if Davis-Bacon applies)

Procurement does not have to be by competition. Items \$2,000 and over must be approved by Executive Director, or designee. Vendor selection and pricing should be reviewed at least annually for convenience and cost savings.

When purchasing goods and services \$3,000 to \$99,999.99 (\$2,000 if Davis Bacon applies)

Procurement must be by competition. A minimum of two (2) quotes are required. The quotes may be verbal or in writing or through the use of an RFP. When the Land Bank determines that it is prudent, the Land Bank may provide a not to exceed number as part of the quote solicitation process. The quotes must be documented by staff with purchasing paperwork. If staff wishes to use a specific vendor, without obtaining quotes, a written justification must be made, and approved by the Executive Director or designee. The justification and approval must be kept with purchasing paperwork.

When purchasing goods or services \$100,000 and over

Purchases must be by formal "Invitation for Bid" (IFB), or "Request for Proposal" (RFP) and shall be posted on the Land Bank website and sent to all applicable current bidders on the current bid list. Further, advertisements for all bids are at the discretion of the Executive Director, or designee. Evaluation criteria must be included in the solicitation.

**Exceptions:**

The competition requirement may be waived if the procurement meets the sole source definition provided in this policy. All sole source purchases must be approved, in writing, by the Executive Director, or designee, prior to the purchase being made. Documentation of the sole source approval will be maintained with the purchasing paperwork.

When the Land Bank is contracted by the Treasurer's Office to perform services for hire, the Land Bank shall procure as instructed by the Treasurer.

**Bid Solicitation:**

Files will be maintained for each bid solicitation. Each file shall contain, at a minimum, a copy of the IFB/RFP, a list of who the bid was sent to, a list of responding bidders, bid tabulation, and documentation of the winning bid or why the bid was not awarded.

**Formal IFB or RFP (Purchases \$100,000 and over)**

Bid solicitations shall be distributed directly to bidders on the current qualified bidders list and posted on the Land Bank website. Advertisements for the bid may be published at the discretion of the Executive Director, or designee.

If it becomes necessary to make changes to the bid document, a written addendum shall be posted on the Land Bank website and forwarded to all bidders, who must acknowledge receipt of said addendum in writing on their bid form.

Addendums shall be noted at all pre-bid meetings. Email addresses will be collected by the Land Bank at all pre-bid meetings. Contractors who provide email addresses will be emailed any addendums.

If necessary, bids may be cancelled prior to the bid opening date. Any bids received shall be returned unopened to the bidders.

The bid opening may be postponed, if necessary, to allow bidders to revise their bids if an addendum has been sent out, or for the convenience of the Land Bank. If a bidder has already submitted their bid when the bid opening has been postponed because of an addendum to the original bid or for another reason, the bid may be returned to the bidder for appropriate changes or the changes may be submitted in a separately sealed envelope.

At a minimum, bids shall consist of the following:

1. Description of what is being bid;
2. Directions on when, where and how to submit the bid document;
3. Bid opening details;
4. Payment procedures;
5. Withdrawal of bid instructions;
6. Length of time the bid must be held after bid opening;
7. Instructions on alternate bids;

8. Type of contract to be issued;
9. Indemnification statement;
10. Termination of contract provision;
11. Waiver;
12. Specifications;
13. Bid submission form;
14. Insurance language; and
15. Non-discrimination language.
16. Potential conflicts of interest

For construction contracts, the following will be included:

1. Performance Bonds and Payment (Labor and Material) Bonds for construction projection paid in whole or in part by federal funds; and
2. Performance Bonds and Payment (Labor and Material) Bonds for construction projects exceeding \$50,000, regardless of funding source.

Bonds shall be paid for by the contractor and are required for all construction, rehabilitation, or alterations. The bonds shall be for at least 25% of the contract amount and may be required in an amount up to 100% of the project amount depending on the needs of the project, and shall be through a surety company authorized to do business in the State of Michigan. Bonds shall be payable to and kept on file with the Land Bank. No contract shall be awarded until required bonds have been received. Cancellation of required bond is a breach of contract and is cause to cancel the contract.

Bids may be received by United States postal mail or in person at the Land Bank office. At time of receipt, bids shall be date and time stamped. Bids received after the date and time specified in the bid shall not be opened.

Bid tabulation is the recording of bids and bidding data for the purpose of comparison, analysis, and record keeping. The tabulation may be completed at bid opening, or as soon as possible after the bid opening.

Bids shall be awarded to the responsive, responsible bidder who best meets the criteria set forth in the bid which includes any and all threshold requirements. In the event of tie bids where the criteria set forth are met by multiple bidders, the award may be made to the local bidder or to a minority bidder to break the tie. Volume discounts will be considered if more than one project is being bid and the successful bidder can demonstrate capacity.

Bids may be rejected for the following reasons:

1. Failure of the bidder to respond to the requirements of the IFB/RFP.

2. Late bids.
3. Bids containing mistakes and errors. If the bidder discovers the mistake or error after submitting the bid, before the bid opening, the bid may be withdrawn. If time permits, a new bid may be submitted. Corrections generally cannot be made once the bid is opened. Obvious errors may be corrected by the Executive Director, or designee, and initialed.
4. Debarment or suspension or other exclusion from, or ineligibility to participate in, Federal Programs
5. Failure to demonstrate the threshold requirements have been met.

If the bidder makes an unintentional mistake or error in judgment that is not correctable, and if the bid is so low that the bidder will incur severe loss if the bid is accepted, the Land Bank may permit the bid to be withdrawn without penalty. Such withdrawal must be accompanied by documented evidence of the error and potential loss.

The waiver of any deviation which gives a bidder unfair advantage over their competitor is not permitted. If a potential waiver does not impair the bidding system, alter the requirements of the solicitation, or offer an unfair advantage, then a waiver may be acceptable. Waivers are granted at the sole discretion of the Executive Director, or designee.

Unless specifically requested, any alternate bid, or changes insertions or omissions to the terms and conditions, specifications or any other requirement of the bid may be considered non-responsive, and may be rejected.

If only one bid is received, it may be rejected on the grounds of poor market conditions or restrictive specifications. If the Land Bank decides to proceed with the sole bidder, negotiations may be considered, and a price analysis may be done to determine bid reasonableness.

Collusion, conflict of interest and contingent fees may result in bid rejection. The bidder must certify the following, or the bid may be rejected:

1. Non-collusion – The prices were arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other offeror or competitor.
2. Conflict of Interest – That no Land Bank employee or board member shall benefit directly or indirectly in any contract or purchase resulting from the bid. If a potential Conflict of Interest is known, the bidder is to specify the potential conflict in their bid. When a potential Conflict of Interest arises, Land Bank staff will evaluate, and proceed

accordingly. Land Bank employees and board members are not to evaluate, award, or manage contracts with immediate family members.

3. Contingent Fee – That the bidder has not employed or retained any company or person to solicit or secure a contract and has not paid or agreed to pay any company, person or firm any fee commission, etc., contingent upon or resulting from the award of the potential contract.

Bidders may be required to submit proprietary information, trade secrets and the like with their bids. The use and disclosure of such information may be restricted provided the bidder identifies the information as “confidential.”

Bidders who wish to protest, appeal, or make a complaint about the bidding process may file a written complaint with the Executive Director. The Executive Director will respond to all protests, appeals, or complaints within 15 working days. If the complaint is not resolved, the bidder may escalate their complaint to the Board Chair, who will respond in writing within 15 working days. If the issue is still not resolved, the bidder may make a written complaint to the. The board will decide at that meeting how to proceed with the complaint, and their decisions are final.

#### **Request for Proposal:**

A Request for Proposals (RFP's) shall be issued to qualified respondents and posted on the Land Bank website describing the work to be performed and inviting interested respondents to submit a proposal and cost estimate. RFPs will indicate scoring criteria. After receiving the proposals, a selection committee will evaluate the proposals based on the scoring criteria.

In the event that it appears that only two or three qualified respondents appear capable of providing needed services to the Land Bank, the Executive Director, or designee, may approve the negotiation with these firms without first issuing an RFP.

Respondents who wish to protest, appeal, or make a complaint about the RFP process may file a written complaint with Executive Director. The Executive Director will respond to all protests, appeals, or complaints within 15 working days. If the complaint is not resolved, the respondent may escalate their complaint to the Board Chair, who will respond in writing within 15 working days. If the issue is still not resolved, the respondent may make a written complaint to the whole board, who take-up the complaint at the next regularly scheduled board meeting. The board will decide at that meeting how to proceed with the complaint, and their decisions are final.

**Contract Administration:**

All contracts entered into through either an IFB or RFP process will be governed by the terms and conditions set forth in the bid documents as well as the contract.

**Bidders List:**

The Administrative Assistant shall keep a current list of bidders which shall be amended upon receipt of completed applications and reviewed annually each July for needed updates.

The Land Bank may also use bidders lists provided by local units of government and/or partners in the community. A bidder may qualify for inclusion under more than one good or service.

In order to generate more bidders on the -list, the Land Bank will provide a Bid List Application form on its website. Information submitted by applicants via this form will be reviewed by the Administrative Assistant before an applicant is placed on the bidders list.

Removal from the bidder file shall take place after one or more of the following takes place:

1. No response to invitation for bid, with no request to be kept active;
2. No order placed with bidder in five (5) years;
3. Being in violation of State or Federal law, or Land Bank policy;
4. Non-performance of part or all of a contract; or
5. Debarment or suspension or other exclusion from, or ineligibility to participate in, Federal Assistance Programs.

If a bidder is removed from the list, the bidder shall be informed. The reason for removal shall be noted in the bidders list file. When a bidder has been removed from the file for inactivity, a written notice from the bidder to the Administrative Assistant stating that the bidder would like to be kept on the list shall be reason for reinstatement on the list. In the event that the bidder has been removed from the file for debarment or suspension, a written notification to the Administrative Assistant that the debarment or suspension has been lifted shall be sufficient to return the bidder to the list.

**Minority & Women Owned Business:**

It is the policy of the Land Bank that women and minority owned businesses shall have the maximum feasible opportunity to participate in providing goods and services to the Land Bank.

A minority owned business is one where 51% or more of the voting shares and interest in the business is held by minority individuals, and the minority owner(s) has the responsibility of day-to-day operations of the business and the power to make policy decisions. An individual is considered a minority if that person is African American, Hispanic, American Indian or Alaskan native, or Asian or Pacific Islander.

A woman owned business is one where the 51% or more of the voting shares and interest in the business is held by a female(s) and the female owner(s) has the responsibility of day-to-day operations of the business and the power to make policy decisions.

**Cooperative Purchasing:**

Whenever in the best interest of the Land Bank, cooperative purchasing may be entered into. When entering into cooperative purchasing, the following shall apply:

1. Each party shall agree to the specifications, terms and conditions of the product or service to be purchased.
2. The jurisdiction assuming administrative responsibility for the cooperative purchasing shall conduct its purchasing operations according to the principles of open competition.
3. Purchasing and bidding shall be done in compliance with the procedures established in this document.
4. Contracts entered into as a result of cooperative purchasing shall be issued by the Land Bank, as policy requires, for the goods or services it will receive and pay for.
5. Participation in one purchase or contract does not require participation in subsequent procurement actions or contracts.

**Supplies:**

Supplies with an initial cost between \$1,000 and \$4,999.99, as well as all computer supplies and equipment less than \$1,000 in initial cost, are to be inventoried by the Finance Manager, or designee. These supplies are to be inventoried at least annually. The inventory list will contain, at a minimum, a description, location, initial cost, and serial number (if applicable) of the supply. After disposal of the supply, the date and method of disposal shall be added to the list.

**Capital Equipment:**

All items with an initial cost of \$5,000 or more are considered Capital Equipment, and are to have an asset tag placed on the item at the time of purchase. The Finance Manager, or designee, is responsible for the asset tag placement, and tracking. Capital equipment is to be inventoried by the Finance, or designee, at least annually. The inventory list will contain, at a minimum, a description, location, initial cost, and serial number (if applicable) of the equipment. After disposal of the supply, the date and method of disposal shall be added to the list. Capital asset tags are to be removed before disposal of the equipment.

**Definitions:**

For the purpose of these policies, the following words/terms are defined as:



1. Cooperative purchasing – The combining of requirements of two or more entities in order to obtain the benefits of volume purchases and/or reduction of administrative expenses.
2. Immediate family – a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis, or any other person living in the household of that person and related to that person by blood, marriage, or adoption. .
3. Invitation for bid – All documents whether attached or incorporated by reference, utilized for soliciting sealed bids. No confidential or proprietary data shall be solicited in any invitation for bid.
4. Minority business – Any business which is more than 51% owned by any minority or member of a protected class.
5. Nonresponsive bid – A bid that does not conform to the essential requirements of the invitation for bid; nonconforming bid, unresponsive bid.
6. Performance bond – A contract of guarantee, executed subsequent to award by a successful bidder, to protect the Land Bank from loss due to their inability to complete the contract as agreed.
7. Prequalification of bidders – The screening of potential vendors in which the Land Bank considers such factors as financial capability, reputation, management, etc., in order to develop a listing of bidders to qualify to bid on contracts.
8. Qualified bidder – A bidder determined by the Land Bank to meet minimum standards of business competence, reputation, financial ability and product quality for placement on the bidder list.
9. Request for Proposal – All documents, whether attached or incorporated by reference, utilized for solicitation of proposals.
10. Responsible bidder – A person or business who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience and integrity, reliability, capacity, facilities, equipment and credit which will assure good faith performance.
11. Responsive bidder – A bidder whose bid conforms in all material respects to specifications and terms set up by the Land Bank in the invitation for bid.
12. Sealed bid – A bid which has been submitted in a sealed envelope to prevent dissemination of the contents before the deadline of all bids; usually required to assure fair competition among bidders.
13. Sole source purchase – A noncompetitive procurement process used when an item or service is only available from a single source, an emergency situation exists and time does not allow for competition, competition is determined to be inadequate after completion of initial solicitation process, or in the case of grant awards, the funding source has provided prior written approval of the procurement.
14. Unsuccessful bidder - A bidder whose bid is not accepted.

 8/13/19

Mary Balkema, Board Chair

