

**APPENDIX E**

**FISCAL MANAGEMENT POLICIES**

**PUEBLO OF LAGUNA  
FISCAL MANAGEMENT POLICIES  
PART VII  
PROCUREMENT**

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**Section 1. Purpose.**

To set forth uniform policies and standards for the acquisition of goods and services by the Pueblo of Laguna.

**Section 2. Scope.**

This policy is applicable to the procurement of goods and services of the Pueblo of Laguna.

Pursuant to the Constitution, the Tribal Council is the governing body and has all authority to engage in and do business on behalf of the Pueblo of Laguna. The Tribal Council has the authority to approve the expenditure of funds and to obligate the Pueblo of Laguna. The Tribal Council delegates the authority to expend funds and to obligate the Pueblo of Laguna as contained herein and through any other approved actions of the Tribal Council.

Pursuant to the Budget, Finance and Appropriations Policy the authority for the obligation and expenditure of funds is contingent upon available budget appropriations and other available funds provided to the Pueblo of Laguna through other funding sources.

**Section 3. Conformance with Applicable Laws, Regulations and Requirements.**

In general, procedures set forth pursuant to this policy shall conform to applicable laws, regulations and requirements. The provisions of Office of Management and Budget Circular A-102 (Common Rule - Section 36) and A-87 Cost Principles, as it pertains to procurement activities are hereby adopted and incorporated in the policy by reference. In addition, any employee or official responsible for initiating or authorizing procurement shall be responsible for compliance with any applicable laws, regulations and requirements which are a condition of the funding source. To the extent that the requirements associated with any outside funding source are in conflict with this policy, the requirements of the funding source shall apply.

**Section 4. General Policy on Efficient Use of Resources.**

Each employee or official authorized to acquire goods and services on behalf of the Pueblo of Laguna shall take all due care to ensure that all costs incurred are reasonable and that all procurement actions are taken in a fair and equitable manner, and in compliance with these policies. To the extent possible the procurement of goods and services should include efforts to achieve the greatest economies of scale.

**Section 5. Tribal Preference.**

(a) In the acquisition of goods and services, preference shall be afforded to businesses owned by Tribal Members or other Indians who have the ability to provide/deliver the necessary quality and quantity of goods or services within required time frame(s).

(b) Goods and services to be acquired shall, when practical, be specified in sufficient detail to make price the deciding factor in selection of the successful bidder. All prospective bidders shall be put on notice of the bidding preference policy, as follows:

- (1) Preference shall be given first to businesses 100% owned by Pueblo of Laguna members; second to businesses 51% or more owned by Pueblo of Laguna members; and third to other Indian businesses residing within the Pueblo of Laguna's general service area.
- (2) Contracts shall be awarded under preference to a qualified business when its bid is responsive to all other conditions and does not exceed the lowest bid by the following percentages, when the lowest bid is:
  - (A) between \$0 and \$10,000: 10%
  - (B) between \$10,001 and \$50,000: 7%
  - (C) between \$50,001 and \$100,000: 5%
  - (D) \$100,001 or more: 2%

(c) Preference is not required to be afforded businesses having a poor record or performance.

**Section 6. Procurement Authority.**

(a) Procurement authority vested with the Tribal Council, for procurements not exceeding \$100,000, is hereby delegated as follows: The Governor for procurements not exceeding \$100,000; The Treasurer for procurements not exceeding \$75,000; The Chief Financial Officer for procurements not exceeding \$50,000. In addition to the above delegations, the Tribal Council may also delegate procurement authorities by approved action of the Tribal Council. The Tribal Council reserves approval authority to itself for the following:

- (1) Selection and engagement of Legal Counsel.
- (2) Selection and engagement of Independent Auditors.
- (3) Selection and engagement of other professional advisors to the Tribal Council for which an ongoing relationship is anticipated.

(b) The Tribal Council reserves to itself approval of all procurement actions exceeding \$100,000.

(c) Donations, gifts and charitable contributions made from approved Tribal governmental program budgets exceeding \$5,000 shall be authorized only by the Tribal Council or the Governor.

(d) The above employees and officials may delegate all or any portion of his/her authority to employees under his/her direction, provided that such delegation shall:

- (1) Be in writing and shall specify the specific authority and limits of authority which are individually delegated and period of delegation;

- (2) Be made only to individuals who meet necessary educational and experience requirements for such delegation, and are fully advised as to Tribal policies;
- (3) Be made only to employees of the Pueblo of Laguna and shall expire upon termination of delegated period and or suspension or termination of employment;
- (4) Be withdrawn based on failure of the employee to follow established policies and procedures; and
- (5) Put the employee on notice that failure to follow established procedures shall result in withdrawal of such authority and/or other disciplinary action dependent on the severity of the issue.

#### **Section 7. Waiver of Procurement Policies.**

(a) The Governor or his authorized designee shall have the authority to waive the provisions of any policies and procedures established to carry out this policy to the extent an emergency exists involving the need for protection of life, property and the reputation and integrity of the Tribe. In such event, care shall be taken to ensure fairness, efficiency and compliance with established Tribal Policies as the circumstances dictate. As soon as is feasible after taking such action, the Governor will provide a written report to the Tribal Council outlining the circumstances and actions taken under the waiver.

(b) The provisions of this policy may be waived by action of the Tribal Council when in its judgment the circumstances warrant.

#### **Section 8. Procurement Office.**

(a) The Pueblo of Laguna Accounting Office shall designate a "procurement manager" who shall be responsible to acquire for use of the organization such goods and services as are needed on an ongoing basis and are common to the organization.

(b) A requisition process shall be in place to enable operating departments and programs to access goods and services through the procurement office. Requisitions shall be the instrument by which budget spending authority for assigned budgets is passed from the departments and programs to the procurement office.

#### **Section 9. Procurement Methods.**

(a) Simplified purchasing procedures are procedures not requiring formal bidding procedures or formal proposals and may be utilized for procurements under \$100,000 as follows:

- (1) Procurements of up to \$5,000 may be authorized with or without quotations and or competition.
- (2) Procurements of \$5,001 to \$25,000 shall be authorized on the basis of competitive quotations provided verbally or in written form.
- (3) Procurements of \$25,001 to \$100,000 shall be authorized on the basis of competitive quotations provided in writing.

(b) Formal bidding procedures will be utilized for procurements exceeding \$100,000.

(c) The Pueblo of Laguna may include but not be limited to the following criteria in determining procurements: Price, preference, past experience, capacity, delivery time, quality, availability and needs.

(d) The Pueblo of Laguna may use force account for construction type projects in order to maximize Tribal resources and to improve the overall effectiveness and efficiency of the project as long as it is not in conflict with any funding source requirements.

**Section 10. Sole Source.**

The employees and officials as identified above shall have the authority to approve sole source awards up to \$100,000 when the circumstances dictate, and it is in the best interest of the Pueblo of Laguna to do so. Sole source procurements in excess of \$50,000 must be approved by the Governor and sole source procurements in excess of \$100,000 must be approved by the Tribal Council.

**Section 11. Procurement Records.**

Records shall be maintained for all procurements indicating the quotations received, other factors considered and the reason for selection of the person or entity to which the award is made. Each official shall be responsible to ensure that the record of each procurement justifies the selection and award on the basis of fairness and efficient use of resources.

**Section 12. Contractual Agreements/Independent Service Agreements.**

Contracted and consultant services may be procured through contractual and independent service agreements. Procurements less than \$5,000 may be completed through a simple independent service agreement with procurements in excess of \$5,000 must use a formal independent service agreement. For the purpose of this Part, purchase orders are included as contracts.

**Section 13. Business Practices.**

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

**Section 14. Conflicts of Interest.**

No individual shall participate in or act upon any procurement in which he/she has a conflict of interest as described within Section 36 of the Common Rule (OMB Circular A-102) or as may be defined by the Governor.

**Section 15. Dispute Resolution.**

The Governor shall establish dispute resolution procedures to ensure that disputes arising from procurement actions are resolved timely and with fairness to all parties, while preserving the Pueblo of Laguna's interests.

**Section 16. Business Licenses and Leases.**

Reference is made to the Pueblo of Laguna Business Ordinance No. 200-87 which requires the supplier or contractor to obtain a license from the Tribal Council for the privilege of doing business on Pueblo lands.

**Section 17. Unauthorized Procurement.**

Employees or officials who violate this procurement policy, will be held accountable and financially responsible for the expense incurred in such violations and could become subject to disciplinary actions per the Personnel Policies.

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**APPENDIX E HISTORY**

At duly called meeting of the Pueblo of Laguna Council held on the 24th day of October, 2006 the following resolution was adopted:

Resolution No. 52-06:

**WHEREAS**, the Pueblo Council has as its objective to update the Procurement Policy for the Pueblo of Laguna, and

**WHEREAS**, the Pueblo Council has as its objective the standardization of policies and procedures in producing quality goods and services for the Pueblo of Laguna in order to fully maximize Tribal resources while achieving the greatest economies of scale, and

**WHEREAS**, the Tribal Council has considered the changes in current practices and the progress that will be achieved through implementation of the Procurement Policy.

**NOW, THEREFORE, BE IT RESOLVED**, that the Pueblo of Laguna Tribal Council hereby enacts the attached Procurement Policy.

**BE IT FURTHER RESOLVED**, that the Treasurer is hereby directed to implement the provisions of the Policy effective October 24th, 2006.

**BE IT FURTHER RESOLVED**, that this Policy supersedes the provisions of any previous Procurement Policies.

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