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**Subject: STATEMENT OF PROCUREMENT POLICY**

**Source: Performance Standard:**  
45 CFR 74.40 through 45 CFR 74.48 and 45 CFR 92.36.

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**STATEMENT OF PROCUREMENT POLICY**

**Established for the North Texas Parent & Child Development, Inc.**  
**Adopted February, 2003**  
**Updated 5/20/2009**

This statement of Procurement Policy includes all requirements under the federal regulations, in 45 CFR 74.40 through 45 CFR 74.48 and 45 CFR 92.36.

**1.0 General**

**1.1 Purpose.** The purpose of the Statement of Procurement Policy is to assure that goods, services and construction contracts are procured efficiently, effectively, at the most favorable prices available to the NTPCDI; promoting full and open competition in contracting; providing safeguards for maintaining a system of quality and integrity; and to assure that NTPCDI purchasing actions are in full compliance with the applicable regulations and state and local laws.

**1.2 Application.** This Statement of Procurement Policy applies to all contracts for the procurement of supplies, services and construction entered into by the NTPCDI after the effective date of this Statement. It shall apply to every expenditure of funds by the NTPCDI for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds; however, nothing in this Statement shall prevent the NTPCDI from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law. The term "procurement", as used in this Statement, includes both contracts and modifications, including change orders, for construction or services, as well as purchase, lease, or rental of supplies and equipment.

**1.3 Public Access to Procurement Information.** Procurement information shall be a matter of public record to the extent provided which permits citizens to inspect and copy public writings.

**2.0 Procurement Authority and Administration**

**2.1 Authority.** The Executive Director of NTPCDI or any other individual that he/she has authorized in writing, to act on his/her behalf, shall administer the procurement policy. The Executive Director shall be responsible for developing

operational procedures to implement this procurement policy. The Executive Director shall also establish a system of sanctions for violations of ethical standards.

**2.2 Assurances.** The Executive Director or his/her designee shall ensure:

2.2.1 The procurements are adequately and timely planned;

2.2.2 Contracts and modifications in writing, clearly specifying the desired supplies, services or construction, and are supported by sufficient documentation regarding the history of the procurement, including as 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 type;

2.2.3 Public notice for all procurements above the small purchase limit, shall be given in at least one local newspaper of general circulation, for a period of not less than one day. Such notices shall be honored to the maximum extent possible as deemed necessary to insure competition;

2.2.4 Contractors that develop or draft grant applications, or contract specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements.

2.2.5 Awards shall be made to the bidder or offer or whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered.

**2.2.6** 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 of the responses received for all procurements;

2.2.7 Contract awards are made to the responsive and responsible bidders that offers the lowest price for sealed bid contracts, or a bidder whose proposal offers the greatest value to the NTPCDI, considering price, technical and other factors as specified in the solicitation for competitive proposals. Unsuccessful firms will be notified within ten (10) days after contract award;

**2.2.8** NTPCDI avoids purchasing unnecessary items;

2.2.9 Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for NTPCDI;

**2.2.10** Cost or price analysis is performed and documented in the procurement files in connection with every procurements action;

2.2.11 There are sufficient identified 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; and,

2.2.12 The NTPCDI complies with applicable review requirements, as provided in the operational procedures supplementing this Statement.

**2.3 Solicitations.** Solicitations for goods and services will provide for all of the following:

**2.3.1** A clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

**2.3.2** Requirements which the bidder/offer or must fulfill and all other factors to be used in evaluating bids or proposals.

**2.3.3** A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

**2.3.4** The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

**2.3.5** The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

**2.3.6** Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

**2.4 Pre-Award Review.** NTPCDI will, on request, make available to the Health and Human Services Agency, Administration for Children and Families, pre-award review, procurements documents such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

**2.4.1** If these procurements procedures or operations fail to comply with the procurement standards of 45 CFR 74.44.

**2.4.2** The procurement is expected to exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently \$100,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

**2.4.3** The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product.

**2.4.4** The proposed award over the simplified acquisition threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

**2.4.5** A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the simplified acquisition threshold.

**2.5 Contract Provisions.** NTPCDI will include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontractors:

2.5.1 Contracts in excess of the simplified acquisition threshold will contain contractual provisions or conditions that allow for administrative, contractual, and legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

2.5.2 All contracts in excess of the simplified acquisition threshold, \$100,000, shall contain suitable provisions for termination by the recipient, including the manner by which termination will be effected and the basis for settlement. In addition, such contracts will describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

2.5.3 Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for NTPCDI to follow its own requirements relating to bid guarantees, performance bonds, and payments bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, NTPCDI needs to insure the federal government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- (a.) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" will consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his/her bid, execute such contractual documents as may be required within the time specified.
- (b.) A performance bond on the part of the contractor for 100 percent 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.
- (c.) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.
  - (d.) Where bonds are required in the situations described herein, the bonds will be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, " Surety Companies Doing Business with the United States."

2.5.4 All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by NTPCDI will include a provision to the effect that NTPCDI, ACF, the U.S. Comptroller General, or any of their duly authorized representatives, will have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

**2.6 Governing Body Approval.** This Statement and any later changes shall be submitted to the Governing Body of NTPCDI for approval. The Board appoints and

delegates procurement authority to the Executive Director and is responsible for insuring that any procurement policies adopted are appropriate for the NTPCDI.

### 3.0 Procurement Methods

**3.1 Selection of Method.** The NTPCDI shall select one of the following procurement methods, based on the nature and anticipated dollar value of the total requirement. Any and all bids or offers may be rejected when it is in the recipient's interest to do so regardless of the procurement method utilized.

#### 3.2 Small Purchase Procedures

**3.2.1 General.** Any contract not exceeding \$100,000.00 may be made in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

**3.2.2 Petty Cash Purchases.** Small purchase under \$50.00 that can be satisfied by local sources may be processed through the use of a petty cash account. This account shall be periodically reconciled and replenished by submission of a voucher to the NTPCDI Finance Manager; and, the account shall periodically be audited by the same or his/her designee to validate proper use and to verify that the account total equals cash on hand plus the total accumulated vouchers.

**3.2.3 Small Purchases under \$3000.00.** Small purchased items under 3000.00 per item will not require price quotes. Purchases over \$3000.00 per item will require no less than three price quotes. Price quote shall be solicited. Price quotes may be obtained orally, by telephone or in writing. Award shall be made to the bidder providing the lowest, acceptable quote. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the bidder or/ and persons contacted, and the date and amount of each quotation shall be recorded and maintained as public record.

**3.2.4 Request for Written Quotation.** For purchases in excess o\$10,000.001 but not exceeding \$100,000.90 a formal request for written price quotation (RFQ) shall be solicited by notification to supplier/contractors on the NTPCDI Vendor Bid List, by formal advertisement in a newspaper of general circulation and by public notice posted on the bulletin board at the NTPCDI Office. No less than three written quotes shall be obtained. Award shall be made to the offer or providing the lowest acceptable quotation unless justified in writing based on price and other special factors. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the offer ors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as public record.

**3.3 Sealed Bidding.** For purchases in excess of \$100,000.00, an invitation for bid (IFB) shall be issued including specifications and, all' contractual terms and conditions applicable to the procurement, including a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements set forth in the invitation for bids. The IFB shall state the time and place, for both the receipt of bids and the public bid opening. Bids shall be publicly solicited by notification to suppliers/contractors on the NTPCDI Vendor Bid List, by formal advertisement in a newspaper of general circulation, and by public notice posted on the bulletin board at the NTPCDI Office. All bids received shall be time/date stamped, and maintained unopened in a secure place until bid opening. A bidder may withdraw his/her bid at any time prior to bid opening. Bids shall be publicly opened in the presence of at least one witness. An abstract of bids shall be recorded and the bids shall be made available for public inspection. Award shall be made as provided in the IFB by written notice, to the successful bidder. If equal low bids are received from responsible bidders, award shall be made by drawing lots or similar random method. 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. The results of all sealed bid purchases shall be reported to the NTPCDI Board at the next regularly scheduled Board Meeting following the contract date of the sealed bid purchase.

**3.4 Competitive Proposals.** The competitive proposal method shall be used when sealed bidding is not feasible.

3.4.1 Services in general, shall be procured on the basis of competitive proposals. The request for proposal (RFP) shall clearly identify the evaluation factors and their relative importance. Proposals shall be publicly solicited by notification to suppliers/contractors on the NTPCDI Vendor Bid List, by formal advertisement in a newspaper of general circulation, and by public notice posted on the bulletin board of the NTPCDI Office. The proposals shall be evaluated only on the criteria identified in the RFP. Negotiations shall be conducted with bidders who submit proposals determined to be in the competitive range. Best and final offers shall be requested and delivered at a date and time specified by the Contracting Officer. A final round of technical and cost evaluations shall occur and the award shall be made to the bidder whose qualifications, price and other factors considered, are most advantageous to the NTPCDI.

3.4.2 Architectural/Engineering services in excess of \$10,000.00 shall be obtained through qualification based procurement. The RFP shall identify the evaluation factors, where price is not used as a selection factor. The most qualified competitor shall be selected on the basis of such evaluation subject to the negotiation of a fair and reasonable compensation. Architectural/Engineering services less than \$10,000.00 will be obtained using Small Purchase Procedures, Section 3.2.

**3.5 Non-Competitive Proposals.** Procurement by Non-Competitive Proposals shall be used only when procurement by the aforementioned methods are infeasible. This involves emergency situations endangering life or property, sole source procurement and not receiving responses to solicitations. Sole Source procurement should be adequately documented to insure adequate attempts were made to secure the required number of bids. The proposed award of contracts by this method shall always be based on a thorough cost analysis. The cost analysis requires verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits. The proposed award will be available to be submitted to ACF for concurrence, if requested. In addition to the other methods of procurement being deemed infeasible, the one of the following circumstances must apply:

- (a.) The item is available only from a single source;
- (b.) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (c.) The awarding agency authorizes noncompetitive proposal; or
- (d.) After solicitation of a number of sources, competition is determined inadequate.

**4.0 Cost and Price Analysis.** A cost or price analysis shall be performed and documented in the procurement files on all procurement actions, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. Price analysis will be accomplished by the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

**5.0 Contract Administration.** A contract administration system designed to insure that contractors perform in accordance with their contract shall be maintained. The operational procedures required by Section 2.0 above shall contain guidelines for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on construction contracts, and other related matters.

**6.0 Appeals and Remedies.**

**6.1** The resolution of disputes arising from the solicitation and award of contracts, bid protests, and contract performance claims shall be conducted in full compliance with the applicable regulations. Efforts shall be made to resolve all disputes at the NTPCDI level.

6.2 In the event a bidder or offer or protests an award or decision to award a contract and files that protest in writing within ten working days after the award, the Executive Director will respond to such protest by certified mail, return receipt requested, within ten days from the date of receipt of the written protest. The response will state the reasons for the action taken and advise the protestor that all records concerning the disputed award are available for inspection. The decision may be appealed within thirty days of receipt by written notice to the Executive Director.

### **7.0 Geographical Preferences.**

In accordance with the standards established in 45 CFR 92.36, geographical preferences are prohibited.

**8.0 Bidders List.** Interested businesses shall be given an opportunity to be included on the NTPCDI bidder's list. Any lists of persons, firms, or products that are used in the procurement of supplies or services shall be kept current and shall include enough sources to assure competition. NTPCDI will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Firms shall not be precluded from being added to the list during the solicitation period. Solicitation mailing lists of potential contractors shall include, but not be limited to such suppliers. The NTPCDI bidder's list shall be open for public inspection.

**9.0 Documentation.** All procurement of equipment, supplies and non-personal services shall be documented. Procurement records and files for purchases in excess of the simplified acquisition threshold shall include the following: a basis for contractor selection, justification for lack of competition when competitive bids or offers are not obtained, and basis for award cost or price. Expenditures reimbursed from the petty cash fund shall not exceed \$50.00. All other purchases shall be made by a standard purchase

order. Each purchase, except purchases reimbursed by the petty cash fund shall be supported by a purchase requisition approved by the Executive Director or other individual authorized by him/her in writing. Purchase requisitions shall be filed, with all other related purchasing documents, in the Finance Department.

**10.0 Affirmative Action Plan.** Consistent with Presidential Executive Orders 11625, 12138 and 12432, positive efforts shall be made by the Executive Director or his/her designee, to use small, minority-owned and women-owned businesses, whenever possible. Such efforts shall include, but not be limited to:

**10.1** Including such firms, when qualified, on the NTPCDI bidders list;

**10.2** Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;



10.3 Using the services and assistance of the Small Business Administration and other similar organizations which encourage and support such firms;

10.4 Requiring prime contractors, when subcontracting is anticipated, to take the affirmative action steps described in 24 CFR 85.36.

## **11.0 Code of Conduct**

11.1 No employee, Board Member, Policy Council Member, officer, or agent of the NTPCDI shall participate in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a substantial financial or other interest in a firm selected for award is held by:

- (a) an employee, officer, or agent involved in making the award;
- (b) any member or his/her immediate family (as defined in the NTPCDI Personnel Policy Book);
- (c) his/her partner; or,
- (d) an organization which employs or is about to employ any of the parties listed in (a) through (c).

11.2 NTPCDI officers, employees or agent; shall not solicit or accept gratuities, favors or anything of monetary value from vendors, contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.