

**CALHOUN COUNTY LAND BANK AUTHORITY
POLICY STATEMENT**

SUBJECT: PURCHASING	DATE APPROVED	EFFECTIVE	POLICY NO. 2010-2
		REPLACES N/A	

I. PURPOSE

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the Calhoun County Land Bank Authority, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

II GENERAL POLICY

All purchasing shall be executed in a manner consistent with the intent to promote maximum competition among suppliers, to assure the greatest economy consistent with quality requirements, and to avoid any appearance of impropriety, favoritism or conflict of interest on the part of responsible officials or employees. This policy shall be interpreted to accomplish these objectives.

A. Application

This Policy applies to contracts for the procurement of supplies, services, and construction, entered into by the Calhoun County Land Bank Authority after the effective date of this Policy, unless the parties agree to its application to contracts entered into prior to the effective date. It shall apply to every expenditure of public funds, irrespective of the source of the funds, by any board member and staff of the Calhoun County Land Bank Authority. When the procurement involves the expenditure of Federal or State assistance or contracts, the procurement shall be conducted in accordance with any mandatory applicable Federal or State laws and regulations. This Policy shall not prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

B. Administration

All purchasing as specified in section II(A) shall be the responsibility of the Executive Director under the direct supervision of the board members of the Calhoun County Land Bank Authority.

C. Documentation

Provided the interests of the Calhoun County Land Bank Authority are adequately protected and applicable purchasing policies are complied with, purchase orders may be deemed sufficient documentation of a purchase transaction.

D. Public Access to Procurement Information

Procurement information shall be a public record to the extent provided in the provisions of Public Act No. 446 of 1976 known as the "Freedom of Information Act" and shall be available to the public as provided in such statute.

III. POSITION OF EXECUTIVE DIRECTOR

A. Establishment, Appointment, and Tenure

1. Establishment of the Position of the Executive Director. There is hereby created the position of Executive Director, who shall be the Calhoun County Land Bank Authority's principle public purchasing official.
2. The Executive Director shall be appointed by the Calhoun County Land Bank Authority with the approval of the Calhoun County Land Bank Authority Board.

B. Authority and Duties

1. Principle Public Purchasing Official

Except as otherwise provided herein, the Executive Director shall serve as the principle public purchasing official for the Calhoun County Land Bank Authority, and shall be responsible for the procurement of supplies, services, and construction in accordance with this Policy, as well as the management and disposal of supplies.

2. Duties

In accordance with this Policy, and subject to the supervision of the Calhoun County Land Bank Authority, the Executive Director shall:

- a. procure or supervise over the procurement of all supplies, services, and construction needed by the Calhoun County Land Bank Authority ;
- b. exercise direct supervision over inventories of supplies belonging to the Calhoun County Land Bank Authority;
- c. sell, trade, or otherwise dispose of surplus supplies belonging to the Calhoun County Land Bank Authority; and

- d. establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.

3. Operational Procedures

Consistent with this Policy, and with the approval of the Calhoun County Land Bank Authority, the Executive Director may adopt operational procedures relating to the execution of his/her duties.

- C. Delegation to Other Calhoun County Land Bank Authority Officials

With the approval of the Calhoun County Land Bank Authority the Executive Director may delegate authority to purchase certain supplies, services, or construction items to other Calhoun County Land Bank Authority officials, if such delegation is deemed necessary for the effective procurement of those items.

IV. SOURCE SELECTION AND CONTRACT FORMATION

- A. Local Business, Section 3 Business & Minority/Women Owned Business Enterprise Preference

1. All factors being equal and to the extent authorized by law, the Calhoun County Land Bank Authority shall prefer suppliers and contractors located in Calhoun County or utilizing labor from Calhoun County in the award of contracts.
2. Minority/women-owned business enterprises are encouraged to bid. The land bank staff will ensure in every possible way that minority and women-owned and small business firms shall have every opportunity to participate in providing materials and services to the Calhoun County Land Bank Authority without being discriminated against on the grounds of race, religion, sex, age or national origin.

3. Definition of Local Business

- a. A local business, bidder or contractor is an individual or business entity with a principal office or locally taxable distribution points within the boundaries of Calhoun County with a Calhoun County business address which is not a post office box. When proof of status is required the local bidder or contractor must provide proof of a principal place of business to the Land Bank in order to receive a preference provided herein.

- b. The local business shall have established a place of business at least six months prior to the public notice of the bid document.
 - c. In order to qualify for the local preference authorized by this section, the vendor seeking same shall be required to submit with its bid a statement containing relevant information which demonstrates compliance with the provisions of this section. This statement shall be on a form provided by the Land Bank and shall be signed under penalty of perjury.
4. Definition of Section 3 Business
- a) “Section 3” refers to Section 3 of the Housing and Urban Development Act of 1969, which has as its purpose, “to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, state and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons” (24CFR part 135.1 (a)). Section 3 is a preference that must be given to low- and very low-income persons or business concerns residing in the community where the project is located.
 - b) A Section 3 resident must meet the qualifications of the position to be filled. A Section 3 business concern must have the ability and capacity to perform successfully under the terms and conditions of the proposed contract.
 - c) In order to qualify for the local preference authorized by this section, the vendor seeking same shall be required to submit with its bid a statement containing relevant information which demonstrates compliance with the provisions of this section. This statement shall be on a form provided by the Land Bank and shall be signed under penalty of perjury.

B. Employment of Local Labor

- 1. The Calhoun County Land Bank Authority of Calhoun is committed to the use of local labor and responsible contractors (as defined in Section IV. C) and will make this commitment a requirement when awarding any new construction contract in excess of two hundred and fifty thousand dollars (\$250,000). New construction is defined as; the creation of a new facility or the addition, expansion, or extension of an existing facility that adds to the building’s overall gross square footage. Prior to the award of the contract successful bidders will be required to provide a written statement concerning their plans to hire responsible contractors from the labor

supply residing in Calhoun County.

2. In the event that specific skills are not available from residents within Calhoun County, the Calhoun County Land Bank Authority will consider a request from the successful bidder to waive the local labor requirement, upon written documentation substantiating efforts to obtain employees with said specific skills. It is understood that the contractor can provide supervision from nonresident employees. Subcontractors not including suppliers of materials shall be covered by the same provisions as are applicable to the prime contractor. This policy shall not be applicable when there is conflict with State or Federal regulations.

C. Responsible Contractor

1. The Calhoun County Land Bank Authority desires to utilize contractors on new construction projects that implement acceptable techniques and business practices and use satisfactory materials, equipment and workers.
2. The Calhoun County Land Bank Authority wants capable, qualified and quality contractors and tradesman performing work on Calhoun County Land Bank Authority construction projects and shall consider any or all of the selection criteria listed below in determining whether a contractor is a responsible contractor. Prior to contract award, contractors and subcontractors may be required to provide;
 - a. General information about the contractor's company, its principals, and its history, including state and date of incorporation.
 - b. Trade categories and information regarding the state and local licenses and license numbers held by the contractor, where required by law. The successful bidder will certify that all contractors, subcontractors, and employees who will be working on the project maintain current applicable licenses with the Michigan Bureau of Construction Codes and Fire Safety for all occupations and professions required to be licensed.
 - c. A list of projects completed within the past five (5) years, including dates, clients, approximate dollar value, and size.
 - d. A copy of the contractor's written safety/training program (MIOSHA approved) and a signed corporate agreement to fully comply with any project-wide safety programs.
 - e. Information regarding the ratio of master to journey persons to apprentices in the company and proposed for use on the project(s).
 - f. Information regarding the apprenticeship-training program in which any less than a full journey persons utilized on the project site will be participants.
 - h. A disclosure of any litigation resulting in a judgment or decision

against the company within the past five (5) years, including an explanation of each and how each was resolved.

- i. Proof of certificates of insurance, confirming current worker's compensation coverage, public liability and property damage insurance according to the scope of the construction project and/or as required by law.

D. Payment of Prevailing Wage

1. Any Calhoun County Land Bank Authority new construction project in an initial amount of two hundred and fifty thousand dollars (\$250,000) or more, involving craftsmen, mechanics and laborers employed directly upon the site of the work, shall be entered into, approved or executed through a contract, agreement, understanding or arrangement that provides and requires that all craftsmen, mechanics and laborers so employed are to receive at least the prevailing wages and fringe benefits of the building trades industry for corresponding classes of craftsmen, mechanics and laborers, as determined and published as of the time of execution of the contract by the Davis-Bacon Division of the United States Department of Labor for the greater Battle Creek area. New construction is defined as; the creation of a new facility or the addition, expansion, or extension of an existing facility that adds to the building's overall gross square footage. In addition, such contract, agreement, understanding or arrangement, shall provide that all subcontractors entered into by the contractor shall contain the payment of prevailing wage condition as set forth in this provision with respect to the contractor, and all such contracts shall provide that all contractors and subcontractors engaged in the performance of services or work for the Calhoun County Land Bank Authority, to which this provision applies, shall furnish payroll records to the Calhoun County Land Bank Authority as required.
2. This provision shall not govern contracts subject to Federal and State of Michigan prevailing wage law or Federal Davis-Bacon Act requirements, which contracts shall be enforced pursuant to State or Federal law.

E. Competitive Sealed Bidding

1. Conditions for Use

All contracts of the Calhoun County Land Bank Authority shall be awarded by competitive sealed bidding when estimated costs of the contemplated purchase exceed \$20,000, unless specifically waived by the Calhoun County Land Bank Authority Board (except as otherwise provided in sections IV(E), IV(F), and IV(G) of this Policy).

2. Invitation for Bids.

An Invitation for Bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.

3. Public Notice

Adequate public notice of the Invitation for Bids shall be not less than fourteen (14) calendar days prior to the date set forth therein for the opening of bids. Such notice shall include posting on the Calhoun County Land Bank Authority website and in designated areas within Calhoun County Land Bank Authority facilities. The public notice shall state the place, date, and time of bid opening.

4. Solicitation of Bids

Bids shall be solicited from suppliers on the list of bidders for the appropriate category, in addition to any other suppliers the Executive Director deems appropriate.

5. Bid Bonding

When deemed necessary by the Executive Director, a bid deposit not exceeding five percent (5%) of the bid amount may be required of bidders. Such deposits may be made by posting cash, an appropriate bid bond, or a certified check payable to Calhoun County Land Bank Authority. No other form of a bid bond shall be acceptable. Bid deposits of bidders who refuse or otherwise fail to enter into a contract tendered to them shall be forfeited to the Calhoun County Land Bank Authority as liquidated damages, unless the Land Bank Board shall waive such forfeiture.

6. Sealed Bids

Bids shall be received by Land Bank staff only in sealed envelopes clearly marked "Sealed Bids" and only prior to the last time for submitting bids as designated by the "Invitation for Bids". When received, the Land Bank staff or designate shall mark the sealed bid envelope with the date and time of such receipt.

7. Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as the Executive Director

deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with section II(D).

8. Bid Acceptance and Bid Evaluation

Properly submitted bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used.

9. Recommendation

The Executive Director shall notify and may recommend to the Calhoun County Land Bank Authority Board, for their approval, all contracts to be awarded to the most responsible bidder when these formal procedures are applicable and when such expenditures fall within the approved appropriation, except as otherwise specified herein or otherwise specified by State law.

10. Cancellation, Correction or Withdrawal of Bids

Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation for Bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interests of the Calhoun County Land Bank Authority or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- a. the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- b. the bidder submits evidence which clearly and convincingly demonstrates

that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Executive Director.

11. Award

Upon approval by the Calhoun County Land Bank Authority Board, the contract shall be awarded with reasonable promptness by appropriate written notice to the most responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids.

12. Multi-Step Sealed Bidding

When it is considered impractical to prepare initially a purchase description to support an award based on price, an Invitation for Bids may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

F. Competitive Sealed Proposals

1. Conditions for Use

When the Executive Director determines that the use of competitive sealed bidding is either not practicable or not advantageous to the Calhoun County Land Bank Authority, a contract may be entered into by the competitive sealed proposals method.

2. Request for Proposals

Proposals shall be solicited through a Request for Proposals.

3. Public Notice

Adequate public notice of the Request for Proposals shall be given in the same manner as provided in section IV(D.3); provided, the minimum time shall be fourteen (14) calendar days.

4. Receipt of Proposals

No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during

the process of negotiation. A register of proposals shall be prepared containing the name of each offeror and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after the contract award.

5. Evaluation Factors

The Request for Proposals shall state the relative importance of price and other evaluation factors.

6. Discussion with Responsible Offerors and Revisions to Proposals

As provided in the Request for Proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

7. Award

Upon approval of the Calhoun County Land Bank Authority Board, award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the Calhoun County Land Bank Authority, taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria should be used in the evaluation. The contract file shall contain the basis on which the award is made.

G. Small Purchases

1. General

Any contract not exceeding \$20,000 shall be made in accordance with the small purchase procedure authorized in this section unless specifically waived by the Calhoun County Land Bank Authority Board. Contract requirements shall not be artificially divided so as to constitute a small

purchase under this section.

2. Small Purchases Over \$500

To the extent practical for small purchases in excess of \$500, a Purchase Order is required and no less than three suppliers shall be solicited to submit quotations. Award shall be made by the Land Bank to the supplier offering the lowest acceptable quotation. The names of the suppliers submitting quotations, the date, and the amount of each quotation, shall be recorded and maintained as a public record by the Calhoun County Land Bank Authority.

3. Minor Purchases Under \$500

The Executive Director shall adopt operational procedures designed for efficiency in making small purchases of \$500 or less. Such operational procedures shall make an attempt to obtain adequate and reasonable competition for the supply, service, or construction being purchased.

H. Sole Source Procurement

A contract may be awarded without competition when the Executive Director determines, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The Executive Director shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurement shall be maintained as a public record and shall list each supplier's name, the amount and type of each contract, and a listing of the item(s) procured under each contract.

I. Emergency Procurement

Notwithstanding any other provisions of this Policy, the Executive Director may make or authorize others to make the emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the supplier's name, the amount and type of contract, and a listing of the item(s) procured under the contract.

J. Cancellation of Invitation for Bids or Request for Proposals

An Invitation for Bid, a Request for Proposal, or other formal solicitations may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of the Calhoun County Land Bank Authority. The reasons therefore shall

be made part of the contract file. Each solicitation issued by the Calhoun County Land Bank Authority shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the Calhoun County Land Bank Authority. Notice of cancellation shall be sent to all suppliers solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

V. DEBARMENT OR SUSPENSION

A. Authority to Debar or Suspend

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Executive Director, after consulting with the Calhoun County Land Bank Authority General Counsel, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the Calhoun County Land Bank Authority General Counsel, the Executive Director is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment.

B. Decision to Debar or Suspend

The Executive Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning administrative review.

C. Notice of Decision

A copy of the decision required by section V(B) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

D. Finality of Decision

A decision under section V(B) shall be final and conclusive, unless the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the Calhoun County Land Bank Authority Board or commences a timely action in court in accordance with applicable law.

VI. APPEALS AND REMEDIES

A. Bid Protests

1. Right to Protest

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Calhoun County Land Bank Authority Board. Protestors are urged to seek resolution of their complaints initially with the Executive Director. A protest with respect to an Invitation for Bid or Request for Proposal shall be submitted in writing prior to the opening of bids or proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within seven (7) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

2. Stay of Procurement During Protests

In the event of a timely protest under subsection (1) of this section, the Executive Director shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the Calhoun County Land Bank Authority General Counsel makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the Calhoun County Land Bank Authority.

B. Contract Claims

1. Decision of the Executive Director

All claims by a contractor against the Calhoun County Land Bank Authority relating to a contract, except bid protests, shall be submitted in writing to the Executive Director for a decision. The contractor may request a conference with the Executive Director on the claim. Claims include, without limitations; disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

2. Notice to the Contractor of the Executive Director's Decision

The decision of the Executive Director shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor of its appeal rights under subsection (3) of this section.

3. Finality of Executive Director's Decision; Contractor's Right to Appeal

The Executive Director's decision shall be final and conclusive unless, within seven (7) calendar days from the date of receipt of the decision, the contractor mails or delivers a written appeal to the Calhoun County Land Bank Authority General Counsel or commences an action in a court of competent jurisdiction.

4. Failure to Render Timely Decision

If the Executive Director does not issue a written decision regarding any contract controversy within fourteen (14) days after written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been received.

VII. ETHICS IN PUBLIC CONTRACTING

A. Criminal Penalties

Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this policy shall not be impaired.

B. Conflict of Interest

It shall be unethical for any Calhoun County Land Bank Authority employee, official or member of a Calhoun County Land Bank Authority board to participate directly or indirectly in a procurement contract when the Calhoun County Land Bank Authority employee knows that:

1. the Calhoun County Land Bank Authority employee, official or committee member or any member of their immediate families has a financial interest pertaining to the procurement contract; or
2. any other person, business, or organization with whom the Calhoun County Land Bank Authority employee, official or board member or any member of their immediate families is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

C. Gratuities and Kickbacks

1. It shall be unethical for any person to offer, give, or agree to give any Calhoun County Land Bank Authority employee, or for any Calhoun County Land Bank Authority employee to solicit, demand, accept, or agree

to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal.

2. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or any person associated therewith, as an inducement for the award of a subcontract or order.

D. Contemporaneous Employment Prohibited

It shall be unethical for any Calhoun County Land Bank Authority employee who is participating directly or indirectly in the procurement process to become or to be, while such a Calhoun County Land Bank Authority employee, the employee of any person contracting with the Calhoun County Land Bank Authority by whom the employee is employed.

E. Waivers of Conflicts of Interest

The Calhoun County Land Bank Authority Board may grant a waiver from the employee conflict of interest provision upon making a determination that;

1. the contemporaneous employment or financial interest of the Calhoun County Land Bank Authority employee has been publicly disclosed;
2. the Calhoun County Land Bank Authority employee will be able to perform their procurement functions without actual or apparent bias or favoritism; and
3. the award will be in the best interest of the Calhoun County Land Bank Authority.

F. Use of Confidential Information

It shall be unethical for any employee knowingly to use confidential information for actual or anticipated personal gain.

G. Sanctions

1. Employees

The Calhoun County Land Bank Authority Board may impose any one or more of the following sanctions on a Calhoun County Land Bank

Authority employee for violations of the ethical standards in this Article:

- a. oral or written warnings or reprimands;
- b. suspension with or without pay for specified periods of time; or
- c. termination of employment.

2. Non-employees

The Calhoun County Land Bank Authority Board may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards:

- a. written warnings or reprimands;
- b. termination of contracts; or
- c. debarment or suspension as provided in section 4-101.