

**PROCUREMENT POLICY
OF
BAY MILLS INDIAN COMMUNITY**

GOVERNMENT GRANTS AND CONTRACTS

This Policy is intended to comply with the procurement standards of the OMB Uniform Guidance (2 CFR §200).

I. GENERAL PROVISIONS

A. PURPOSE

The purpose of this Policy is to provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Bay Mills Indian Community (BMIC); assure that supplies, services and construction are procured efficiently, effectively, and at the most favorable prices available to BMIC; promote competition in contracting; provide safeguards for maintaining a procurement system of quality and integrity; and assure that BMIC purchasing actions are in full compliance with applicable Federal standards, Tribal, and local laws. To the extent that a particular matter is not covered specifically by this policy, the provisions of OMB Uniform Guidance (2 CFR §200) shall apply.

B. APPLICATION

All funds utilized for the procurement of supplies, services, equipment, and materials which are funded by direct Federal grant or contract dollars, in whole or in part, and entered into by BMIC after the effective date of this Policy, shall be in accordance with this Policy. When both Federal and non-Federal funds are used for a project, the work to be accomplished with the funds should be separately identified. Indian preference regulations shall be applied to all projects. The term "procurement", as used in this Policy, includes both contracts and modifications (including change orders) for construction services, as well as the purchase, lease, or rental of supplies and equipment.

BMIC may apply this policy to its to its governmental programs which are not funded by direct Federal grant or contract dollars, when deemed appropriate by the Executive Council.

II. **PROCUREMENT AUTHORITY AND ADMINISTRATION**

- A. All procurement transactions shall be administered by the Tribal Manager, or such other individual that he or she has authorized.
- B. The Tribal Manager or his/her designee shall ensure that:
 - 1. procurement requirements are subject to an annual planning process to assure efficient and economical purchasing.
 - 2. solicitation procedures for construction contracts are conducted in full compliance with Federal standards, OMB Uniform Guidance (2 CFR §200), and Indian preference requirements.
 - 3. 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 BMIC, considering price, technical, and other factors as specified in the solicitation, including Indian Preference; unsuccessful firms are notified within ten days (or other time period required by Tribal or local law) after contract award.
 - 4. procedures for inventory control, storage and protection of goods and supplies, and issuance of, or other disposition of, supplies and equipment are established in accordance with applicable Federal regulations.
 - 5. This Policy and any later changes shall be submitted to the Executive Council for approval.

III. **PROCUREMENT METHODS**

A. **SELECTION OF METHOD**

BMIC shall choose one of the following procurement methods, based on the nature and anticipated dollar value of the total requirement.

B. **MICRO-PURCHASES (< \$10,000)**

Micro-purchases, \$10,000 or less, or construction awards of \$2,000 or less subject to the Davis-Bacon Act, do not require competition or a cost/price analysis, but must be distributed equitably among qualified suppliers (to the extent practicable). Purchase orders or

check requests may be issued without soliciting competitive quotations if BMIC considers the price to be reasonable. To the extent practicable, distribution of micro-purchases should be made equitably among qualified suppliers. Splitting procurements to avoid competition is prohibited.

C. SMALL PURCHASES (\$10,000 - \$250,000)

1. The Tribal Manager or his/her designee shall solicit quotations from a reasonable number of qualified sources to ensure that the acquisition of supplies, materials, and tangible goods obtained with a purchase order or check request is advantageous to BMIC, with price and other factors considered, including administrative costs associated with the purchase.
2. Quotes should be received and maintained in written or digital form. Generally, solicitations should be limited to three suppliers. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations.
3. Generally, quotations should not be solicited orally; however, an oral quote can be considered for budgetary purposes. A quote should be formally put in writing before being compared to other quotes and accepted.
4. The bid or quote that is selected must be provided to Grants Management to check the "Excluded Parties List." All the quotes should be included, with information on the rationale for the selection, as discussed further in section D.
5. The following items influence the number of quotations required in connection with any particular purchase:
 - a. The nature of the article or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or is relatively non-competitive;
 - b. Information obtained in making recent purchases of same or similar item;
 - c. The urgency of the proposed purchase;
 - d. The dollar value of the proposed purchase;

- e. Past experience concerning specific dealer's prices.
- 5. Notification to unsuccessful suppliers shall be given only if requested.

D. DATA TO SUPPORT SMALL PURCHASES (\$10,000 - \$250,000)

- 1. The determination that a proposed price is reasonable should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included with the purchase order request giving the basis of the determination of fair and reasonable price. No cost/price analysis is required.
- 2. If only one source is solicited, an additional notation shall be made to explain the absence of competition, except for acquisition of utility services available from only one source or of educational services from nonprofit institutions.
- 3. Written records of solicitations may be limited to notes or abstracts to show prices, delivery, references to printed price lists used, the vendor or vendors contacted, and other pertinent data. Written solicitations on a company letterhead, or with an official estimate document, is a best practice. A hand written estimate should be signed and dated for it to be considered. Oral quotes may only be used for budget considerations, as was referenced in section C-3 of this policy.
- 4. The Grants Management Department shall retain the data supporting small purchases in a vendor file to the minimum extent and duration necessary for management review purposes. This information should be uploaded to the Grants Management program for data retention purposes.

E. SMALL CONTRACT PROCEDURES (\$10,000 to \$250,000)

- 1. General. Any procurement via contract for the purchase of supplies, materials, tangible goods, or services not exceeding \$250,000 may be conducted in accordance with the procedures authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this policy. Common for

purchases of property or services using small purchase methods, but price or rate quotes are required from an adequate number of sources.

2. Indian Preference. BMIC shall provide preference to Indian-owned (including Indian management of a company) economic enterprises and Indian organizations. BMIC will insist contractors provide Indian preference in subcontracting, training, and employment.
3. Obtaining Quotes. BMIC shall solicit price quotations by telephone, letter, or other informal procedure that allows participation by a reasonable number of competitive sources. When soliciting quotations, BMIC shall inform the sources solicited of the specific item being procured, the time by which quotations must be submitted, and the information required to be submitted with each quotation. The quotation will be written and shall include the names, addresses, and/or telephone numbers of the offerors, and the date and amount of the quotation.
4. Competition. BMIC shall attempt to obtain quotations from a minimum of three qualified sources and document the procurement file with a justification whenever it has been unable to obtain at least three quotations. Solicitation of fewer than three sources is acceptable, if BMIC has attempted but has been unable to obtain at least three quotations. The sole quotation received may be accepted only in unusual circumstances (such as an emergency threatening public health and safety).
5. Award.
 - a. Award Based on Price. For small purchases awarded based on price and fixed specifications (i.e., not subject to negotiation), BMIC shall make award to the qualified Indian-owned (including Indian management of a company) economic enterprise or organization with the lowest responsive quotation if it is reasonable and no more than 5% higher than the lowest responsive quotation received. If no responsive quotation from a qualified Indian-owned (including Indian management of a company) economic enterprise or organization received is within 5% of the lowest responsive quotation from any qualified

source, then award shall be made to the source with the lowest quotation.

- b. Award Based on Factors Other Than Price. For small purchases to be awarded based on factors other than price, formal solicitation (request for proposals or request for quotations) shall be issued, including evaluation factors and rating system to evaluate each proposal or quotation. The solicitation shall identify all evaluation factors, including cost or price. Award shall be made to the best proposal or quotation in accordance with the stated rating system.

F. SEALED BIDS PURCHASES GREATER THAN SIMPLIFIED ACQUISITION THRESHOLD (>\$250,000)

1. General. BMIC shall use the procurement method of sealed bids in accordance with the applicable Federal regulations or donor guidelines. Common for construction projects. Formal solicitation is required, and the fixed price (lump sum or unit price) is awarded to the responsible bidder that conformed to all material terms and is the lowest in price.
2. Conditions for Use. 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 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 professional service contracts, sealed bidding should not be used. Professional service contracts will follow the small contract procedures contained in §III.E, above.
3. Solicitation and Receipt of Bids.
 - a. Issuance and Amendment. An invitation for bids shall be issued including specifications and all contractual terms and conditions applicable to the procurement. Any amendments to the invitation shall be in writing, and if it is necessary to issue an amendment within seven days of the bid opening, the bid opening shall be postponed until at least seven days after the

issuance of the amendment. The invitation for bids shall state the time and place for both the receipt of bids and the public bid opening. All bids received shall be time-stamped but not opened and shall be stored in a secure place until bid opening. A bidder may withdraw its bid at any time prior to bid opening.

- b. Restricting Solicitations. The invitation may be restricted to qualified Indian-owned (including Indian management of a company) economic enterprises and Indian organizations if BMIC has a reasonable expectation of receiving the minimum number of bids from them. BMIC shall solicit bids from non-Indian as well as Indian-owned (including Indian management of a company) economic enterprises and Indian organizations if BMIC decides not to restrict the solicitation; or, an insufficient number of qualified Indian-owned (including Indian management of a company) economic enterprises or organizations submit responsive bids in response to a solicitation; or, a single bid is not accepted.
4. Bid-Opening. Bids shall be opened publicly and in the presence of at least one witness. An abstract of bids shall be recorded and bids shall be available for public inspection.
5. Award. Award shall be made as provided in the invitation for bids by written notice to the successful bidder, as follows:
 - a. Restricted Solicitations. If the solicitation is restricted to Indian-owned (including Indian management of a company) economic enterprises and organizations, and two or more (or a greater number determined by BMIC as stated in the invitation) qualified Indian-owned (including Indian management of a company) 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, award shall be made by drawing lots or similar random method, unless otherwise provided in Tribal or local law. If fewer than the minimum number of qualified Indian-owned (including Indian management of a company) economic enterprises or organizations submit responsive bids, all bids shall be rejected, and BMIC shall cancel the solicitation and re-solicit, inviting bids

from non-Indian as well as Indian-owned (including Indian management of a company) economic enterprises and organizations. BMIC may accept a single bid received from a responsible bidder, subject to funding agency approval, in unusual circumstances, such as if BMIC determines that, based on a cost or price analysis, the bid price is fair and reasonable, or BMIC determines that the delay of re-soliciting would subject the project to higher construction costs.

- b. Unrestricted Solicitations. If the solicitation is not restricted to Indian-owned (including Indian management of a company) economic enterprises and organizations, award shall be made to the qualified Indian-owned (including Indian management of a company) economic enterprise or organization with the lowest responsive bid, whose bid is not 5% more than the lowest responsive bid and within the maximum total contract price established for the specific project or activity being solicited. If equal low bids are received from qualified Indian-owned (including Indian management of a company) economic enterprise or organizations, award shall be made by drawing lots or similar random method, unless otherwise provided in Tribal or local law. If no responsive bid by a qualified Indian-owned (including Indian management of a company) economic enterprise or organization is within this range, award shall be made to the lowest responsible, responsive bidder.

6. Mistakes in Bids.

- a. Correction or withdrawal of inadvertently erroneous bids may be permitted, where appropriate, before bid opening 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 if the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a non-judgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid

document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made.

- b. All decisions to allow correction or withdrawal of bid mistakes shall be supported by a written determination signed by the Tribal Manager. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of BMIC or fair competition shall be permitted.

G. COMPETITIVE PROPOSALS PURCHASES GREATER THAN SIMPLIFIED ACQUISITION THRESHOLD (>\$250,000)

1. General. BMIC shall use the procurement method of Competitive Proposals in accordance with the applicable Federal regulations (2 CFR §200) or donor guidelines. This requires formal solicitation, fixed-price, or cost-reimbursement contracts, and is used when sealed bids are not appropriate. The contract should be awarded based on the most advantageous to the program, with the price being one of the various factors.
2. Conditions for Use. Procurements shall be conducted competitively to the maximum extent possible. Procurement for competitive proposals may be used, regardless of contract amount, upon determination that:
 - a. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (i.e., bidding is not feasible) and,
 - b. The services to be procured are professional in nature.
3. Solicitation of Competitive Proposals
 - a. Proposals will be solicited through newspaper advertisement; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe the services needed and identify factors to be considered in the

evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor.

- b. Award must be made to the offeror whose proposal is determined in writing by the BMIC to be the most advantageous to BMIC. Evaluations must be based on factors set forth in the RFP and a written evaluation of each response prepared. The Tribal Manager may contact the firms regarding their proposals for the purpose of clarification and record in writing the name of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.
 - c. For the procurement of certain professional services, an alternative to RFP's may be used. BMIC may publish a Request for Qualifications. RFQ's are handled in a similar method to RFP's with the exception that cost is not a factor in the initial evaluation. The Tribal Manager will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and selected person/firm will negotiate the cost. If the Tribal Manager is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The Tribal Manager will maintain a written record of all such negotiations. BMIC may request the proposed cost of the services to be included with the submission of the RFQ. This information should be sealed until the RFQ submissions are considered.
4. Justification. Each procurement based on competitive proposals shall be supported by a written justification signed by the Tribal Manager for using such procedures.

H. NONCOMPETITIVE PROPOSALS

1. Conditions for Use. Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using small purchase procedures or sealed bids, and one of the following applies:
 - a. An emergency exists that seriously threatens public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to BMIC, 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, and the emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency; or
 - b. Only one source of supplies is available, and the Tribal Manager so certifies in writing; or
 - c. After solicitation of a number of sources, competition is determined inadequate; or
 - d. A funding agency specifically authorizes the use of noncompetitive proposals.
2. Justification. Each procurement based on noncompetitive proposals shall be supported by a written justification signed by the Tribal Manager for using such procedures.

I. CANCELLATION OF SOLICITATIONS

1. An invitation for bids, request for proposals, or other solicitation may be canceled before offers are due if: (a) BMIC no longer requires the supplies, services or construction; or, (b) BMIC can no longer reasonably expect to fund the procurement; or, (c) proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or (d) similar reasons.
2. A solicitation may be canceled and all bids or proposals that

have already been received may be rejected if: (a) the supplies, services, or construction are no longer required; or (b) ambiguous or otherwise inadequate specifications were part of the solicitation; or, (c) the solicitation did not provide for consideration of all factors of significance to BMIC; or, (d) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds; or, (e) 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, (f) for good cause of a similar nature when it is in the best interest of BMIC.

3. The reasons for cancellations shall be documented in the procurement file and the reasons for cancellations and/or rejection shall be provided upon request to any offeror solicited.
4. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.
5. For solicitations that are not restricted to Indian-owned (including Indian management of a company) economic enterprises or Indian organizations, 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, BMIC shall cancel the solicitation and either:
 - a. re-solicit using a request for proposals; or
 - b. by using noncompetitive proposals method; provided, that the Tribal Manager determines in writing that such action is appropriate, that all bidders are informed of BMIC's intent to negotiate, and that each responsible bidder is given a reasonable opportunity to negotiate.

J. COOPERATIVE PURCHASING

BMIC may enter into 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.

IV. CONTRACTOR QUALIFICATIONS AND DUTIES

A. CONTRACTOR RESPONSIBILITY

Procurements shall be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity.

Before awarding a contract, BMIC shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity (including a review of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs published by the U.S. General Services Administration), compliance with public policy, record of past performance (including contacting previous clients of the contractor), and financial, administrative, and technical capability to perform contract work of the size and type involved and within the time provided under the contract.

If a prospective contractor is found to be nonresponsible, a written determination of nonresponsibility shall be prepared and included in the procurement file, and the prospective contractor shall be advised of the reasons for the determination.

B. DEBARMENT AND SUSPENSION

No contract shall be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

C. BONDING REQUIREMENTS GREATER THAN SIMPLIFIED ACQUISITION THRESHOLD (>\$250,000)

For construction or facility improvement contracts or subcontracts exceeding \$250,000, BMIC shall require assurance of performance and payment. Acceptable forms of assurance include:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of this bid, execute such contractual documents as may be required within the time specified.
2. 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.
3. 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.
4. Where bonds are required in the situations described herein, the bonds shall 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."

V. TYPES OF CONTRACTS, CLAUSES, AND CONTRACT ADMINISTRATION

A. CONTRACT TYPES

Any type of contract (pricing arrangement) which is appropriate to the procurement and which will promote the best interests of BMIC may be used, provided that the cost-plus-a-percentage-of cost and percentage of construction costs methods are prohibited. All procurements shall include the clauses and provisions necessary to define the rights and responsibilities of the parties.

B. OPTIONS

Options for additional quantities or performance periods may be included in contracts, provided that: (1) the option is contained in the solicitation; (2) the option is a unilateral right of BMIC; (3) the contract states a limit on the additional quantities and the overall

term of the contract; (4) the options may be exercised only at the price specified in or reasonably determinable from the contract; and (5) the options may be exercised only if determined to be more advantageous to BMIC than conducting a new procurement.

C. CONTRACT CLAUSES

In addition to containing a clause for identifying the contract type, all contracts shall include any clauses required by Federal statutes, executive orders, and their implementing regulations, such as the following:

1. Administrative, contracted, or legal remedies in instances where contractors violate or breach terms, and provide for such sanctions and penalties as may be appropriate.
2. Termination for cause and for convenience.
3. Termination for default.
4. Equal Employment Opportunity.
5. Copeland "Anti-Kickback" Act.
6. Davis-Bacon Act.
7. Contract Work Hours and Safety Standards Act.
8. Reporting requirements.
9. Patent rights.
10. Rights in data and copyrights.
11. Examination of records by Comptroller General.
12. Retention of records as required by the funding agency.
13. Clear Air Act and the Federal Water Pollution Control Act.
14. Energy efficient standards.
15. Bid protests and contract claims.
16. Value engineering.

17. Byrd Anti-Lobbying Amendment.
18. Payment of funds to influence certain federal transactions.
19. Rights to Inventions made under a Contract or Agreement.

If all required clauses are not included on the contract form, then BMIC shall attach any additional clauses to the contract forms used in contract documents.

D. CONTRACT ADMINISTRATION

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases.

VI. SPECIFICATIONS

A. GENERAL

All specifications shall be drafted so as to promote overall economy or the purposes intended and to encourage competition in satisfying BMIC's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplication items. Detailed product specifications shall be avoided whenever possible, except if BMIC is attempting to standardize equipment for maintenance ease and/or inventory convenience. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase.

B. LIMITATIONS

The following specification limitations shall be avoided: 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); unnecessary bonding or experience requirements; brand name specifications (unless a written determination is made that only the identified item will satisfy BMIC's needs); 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 Tribal or local licensing laws.

VII. APPEALS AND REMEDIES

A. GENERAL

It is BMIC's policy to resolve all contractual issues informally, without litigation. If disputes are unable to be resolved, they shall be subject to suit.

B. BID PROTESTS

Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this Policy. Any protest against a solicitation must be received within ten (10) calendar days after contract award, or the protest will not be considered. All bid protests shall be in writing, submitted to the Tribal Manager or designee, who shall issue a written decision on the matter. The Tribal Manager may, at his or her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.

C. CONTRACT CLAIMS

All claims by a contractor relating to the performance of a contract shall be submitted in writing to the Tribal Manager or designee for a written decision. The contractor may request a conference on the claim. The Tribal Manager's decision shall inform the contractor of its appeal rights.

D. PROTESTS INVOLVING INDIAN PREFERENCE

Complaints arising out of any of the methods of providing for Indian preference shall be handled in accordance with these procedures. Each complaint shall be in writing, signed, and filed with BMIC. A complaint must be filed with BMIC no later than 20 calendar days from the date of the action (or omission) upon which the complaint is based. Upon receipt of a complaint, BMIC shall promptly stamp the date and time of the receipt upon complaint, and immediately acknowledge its receipt. Within 20 calendar days of receipt of a complaint, BMIC shall either meet, or communicate by mail or telephone, with the complainant in an effort to resolve the matter. The Tribal Manager shall make a determination on a complaint and notify the complainant, in writing, within 30 calendar days of the submittal of the complaint to BMIC. If the protest is still unresolved,

the complainant may, within 20 days, appeal in writing to the Executive Director. The Board shall review the written record of the case and may, where warranted, meet at the next regular or call a special board meeting to consider the complaint and render a decision. A final decision by the Executive Director will be determined by a majority vote with a quorum present. The decision of the Executive Director of BMIC shall constitute final administrative action on the complaint.

VIII. ETHICS IN PUBLIC CONTRACTING

A. GENERAL

BMIC shall adhere to the following code of conduct, consistent with applicable Tribal or local law.

B. CONFLICT OF INTEREST

No employee, officer or agent of BMIC shall participate directly or indirectly in the selection of, or in the award of, or administration of any contract supported by Federal funds if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

1. an employee, officer, or agent involved in making the award;
2. his/her relative (including father, mother, son, daughter, brother, sister)
3. his/her partner; or,
4. an organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

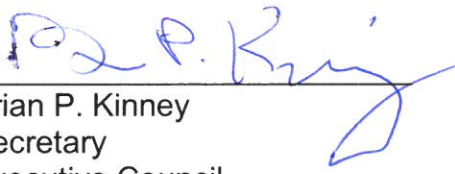
As BMIC is a federally recognized Indian Tribe written standards for organizational conflicts of interest are not required.

C. GRATUITIES

No Council Member, employee, or agent of BMIC will solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors.

1. However, BMIC may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
2. Any employee or agent found accepting gratuities or favors from a contractor or subcontractor will be terminated from employment. Any Council member found accepting gratuities or favors from a contract or subcontractor will be up for a recall vote for removal from office.

The above Policy was adopted at a meeting of the Executive Council held on the 13th day of August, 2018, by a vote of 3 in favor, 0 opposed, 1 absent, and 1 abstaining. As per the provisions of the Bay Mills Constitution, the President must abstain except in event of a tie.



Brian P. Kinney
Secretary
Executive Council