

**TITLE 2**  
**TRIBAL ADMINISTRATION**

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**Chapter 1 - Due Process Procedures**

**Legislative Background:** The following statement of due process was adopted by the Tribal Council with the following explanation/preamble:

The procedures outlined here will allow for an orderly process that will assure all Tribal members of fair and equitable treatment in Tribal Government services.

It must be noted that all grants and contracts have regulations that are imposed by the funding agency. These regulations must be followed in regard to all expenditures of the grant or contract. Most Tribal Programs have assurances for due process contained within these regulations. The due process contained in these regulations will apply in addition to the following process.

**§ 101 - Due Process Procedures**

If a Tribal member feels that he or she has been treated unfairly in his or her application for services or in dealings with the governmental services, the following procedures may be followed:

- (a) Fill out the form, stating problem as clearly and concisely as possible. [*see form on page 93*]
- (b) Deliver form to the Tribal Governmental Center either by mail or in person.
- (c) Form will be sent to the department involved and will be resolved by telephone, letter or personal contact from department staff or will be noted as not resolved.
- (d) If not resolved at the department level, the form will be so noted and passed to the Tribal Manager for resolution. The Tribal Manager will either resolve the issue by telephone, letter, or personal contact or will note that the issue is not resolved.
- (e) If not resolved at the Tribal Manager level, the form will be so noted and passed to the Tribal Council who will review the issue at the next regularly scheduled Tribal Council meeting.
- (f) The Tribal Council will issue a finding on the issue and notify the Tribal member of their findings. The decision of the Tribal Council will be final unless otherwise provided for by

regulation. Appeals may be made through the Tribal Court system and/or through the appeals process regulated within the Grant or Contract regulations involved in the dispute.

History: Tribal Act #88-654, enacted by Tribal Council on November 19, 1988.

**DUE PROCESS COMPLAINT FORM**

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Zip Code: \_\_\_\_\_

\_\_\_\_\_

Tribal #: \_\_\_\_\_

Department involved in complaint:

Person(s) (if applicable) involved in complaint: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Complaint or concern: \_\_\_\_\_

\_\_\_\_\_

(use additional paper if necessary and attach to form)

DEPARTMENT RESOLUTION

\_\_\_\_\_ Yes \_\_\_\_\_ No

By: \_\_\_\_\_

Date: \_\_\_\_\_

How Resolved: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TRIBAL MANAGER RESOLUTION

\_\_\_\_\_ Yes \_\_\_\_\_ No

By: \_\_\_\_\_

Date: \_\_\_\_\_

How Resolved: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TRIBAL COUNCIL RESOLUTION

\_\_\_\_\_ Yes \_\_\_\_\_ No

By: \_\_\_\_\_

Date: \_\_\_\_\_

How Resolved: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Chapter 2 - GTB Bidding Code**

**§ 201 - Short Title**

This ordinance shall be known as the GTB Bidding Code. The GTB Bidding Code’s purpose is to provide a fair and equitable procedure for obtaining competitive bids pursuant to requests for bids or other bid solicitation procedures.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 202 - Application of Code**

This Code shall apply to the expenditure of Tribal funds for 1) the purchase of vehicles, software or equipment when the unit value is over five thousand dollars (\$5,000.) and 2) the purchase of personal or professional services when the contract is over ten thousand dollars (\$10,000.). When a contract involves the expenditure of federal, state or private funds, the bid shall be conducted in accordance with applicable federal, state or private grantor agency law and regulation.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 203 – Definition: Invitation for Bids**

“Invitation for bids” means all documents, including those attached or incorporated by reference, utilized for soliciting sealed bids.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 204 – Definition: Responsible Bidder**

“Responsible bidder” means a bidder who submits a responsive bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction or items of tangible personal property described in the invitation for bids.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 205 – Definition: Responsive Bid**

“Responsive bid” means a bid which conforms in all material respects to the requirements set forth in the invitation for bids. Material respects of a bid include but are not limited to price, quality, quantity or delivery requirements.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 206 – Definition: Tribal Preference**

“Tribal preference” means, in order of preference, 1) any business that is at least fifty-one percent (51%) owned by an individual who is a member of the Grand Traverse Band of Ottawa and Chippewa Indians (“GTB member business”) and 2) any business that is at least fifty-one percent (51%) owned by an individual who is a member of a federally recognized tribe (“Indian owned business”).

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 207 - Competitive Sealed Bids: Invitation for Bids**

- (a) An invitation for bids shall be issued and shall include the specifications for the services, construction or items of tangible personal property to be procured, all contractual terms and conditions applicable to the procurement including minimum/maximum time limits for bid submission, the location where bids are to be received and the date, time and place of the bid opening. The invitation for bids shall state that Tribal preference will apply and that proof of tribal membership is required.
- (b) The invitation for bids or a notice thereof shall be published in the Tribal newsletter, (if time permits) and a local newspaper. The invitation for bids or a notice thereof shall also be posted at a public place in the GTB Administration Office and the GTB/EDC Office not less than ten (10) calendar days prior to the date set forth for the opening of bids.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 208 - (Reserved)**

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 209 - Competitive Sealed Bids: Receipt and Acceptance of Bids**

Bids shall be unconditionally accepted for consideration for award without alteration or correction, except as authorized in the Bidding Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which requirements may include criteria to determine acceptability such as inspection, testing quality, workmanship, delivery and suitability for a particular purpose. Those criteria such as discounts, transportation costs and total or life-cycle costs that will affect the bid price shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. If the lowest responsible bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest bidder may negotiate with the purchaser for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid was up to ten percent (10%) higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than ten percent (10%) over budgeted project funds.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 210 - Competitive Sealed Bids: Correction or Withdrawal of Bids**

- (a) A bid containing a mistake discovered before bid opening may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written, electronic, or fax notice to the location designated in the invitation for bids as the place where bids are to be received. After bid opening, no modifications in bid prices or other provisions of bids shall be permitted. A low bidder alleging a material mistake of fact which makes his bid nonresponsive may be permitted to withdraw its bid if:
- (1) the mistake is clearly evident on the face of the bid document; or
  - (2) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.
- (b) Any decision by the Purchasing Manager or his/her authorized representative to permit or deny the withdrawal of a bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 211 - Competitive Sealed Bids: Tribal Preference**

Tribal Preference shall be provided first to responsible GTB member businesses and second to other responsible Indian owned businesses. Their quotation or bid shall be considered the lowest

responsible bidder if their quotation or bid is no more than the appropriate percentage over the quotation or bid of the lowest responsible bidder in accordance with Chart A – “GTB BID CRITERIA.” The amount of the Tribal preference shall not exceed the dollar values listed for each level of bids.

**Chart A - GTB Bid Criteria**

**When the lowest responsive bid is . . .**

|  |   |
|--|---|
| Less than \$100,000                            | 10% of that bid up to \$9,000                           |
| At least \$100,000 but less than \$200,000     | 9% of that bid up to \$16,000                           |
| At least \$200,000 but less than \$300,000     | 8% of that bid up to \$21,000                           |
| At least \$300,000 but less than \$400,000     | 7% of that bid up to \$24,000                           |
| At least \$400,000 but less than \$500,000     | 6% of that bid up to \$25,000                           |
| At least \$500,000 but less than \$1 million   | 5% of that bid up to \$40,000                           |
| At least \$1 million but less than \$2 million | 4% of that bid up to \$60,000                           |
| At least \$2 million but less than \$4 million | 3% of that bid up to \$80,000                           |
| At least \$4 million but less than \$7 million | 2% of that bid up to \$105,000                          |
| \$7 million or more                            | 1.5% of the lowest responsive bid, with no dollar limit |

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 212 - Competitive Sealed Bids: Bid Opening**

Bids shall be opened publicly by the GTB Purchasing Department in the presence of one or more witnesses at the time and place designated in the invitation of bids. The amount of each bid and each bid item shall be recorded, and the record and each bid shall be open to public inspection.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 213 - Competitive Sealed Bids: Award**

A contract solicited by competitive sealed bids shall be awarded with reasonable promptness by written notice to the lowest responsible bidder.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

### **§ 214 - Competitive Sealed Bids: Identical Bids**

When competitive sealed bids are used and two or more of the bids submitted are identical in price and are the low bid, the Purchasing Manager may:

- (a) award by lottery to one of the identical low bidders if there were no GTB member businesses or Indian owned businesses. If one of the identical low bidders is a GTB member business or Indian owned business, the bid shall be awarded to (in order of preference) 1) the GTB member business or 2) the Indian owned business. If more than one GTB member business is the identical low bidder than a lottery shall be held only between the GTB member businesses; or
- (b) reject all bids and resolicit bids or proposals for the required services, construction or items of tangible personal property.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

### **§ 215 - Small Purchases**

Small purchase procedures are those relatively simple and informational procurement methods for securing services, supplies, or other property that do not have a unit cost of more than five thousand (\$5,000.) dollars. If the small purchases procedure is used, the Tribal purchasing agent or purchasing division shall procure services, construction or items of tangible personal property having a value not exceeding five thousand dollars (\$5,000.) by obtaining price or rate quotations from an adequate number of qualified sources. Documentation of efforts to obtain price or rate quotations from vendors shall be kept on file in the Purchasing Department.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

### **§ 216 - Sole Source Bid**

A contract may be awarded without competitive sealed bids regardless of the estimated cost when the Tribal purchasing agent makes a determination, after conducting a good-faith review of available sources and consulting the using Tribal division or business division, that there is only one source for the required service, construction or item of tangible personal property. The Tribal purchasing agent shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the Tribal division or Tribally-chartered entity.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

### **§ 217 - Emergency Procurements**

- (a) The Tribal purchasing agent or an authorized representative may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the selection of the particular contractor shall be included in the purchasing department files.
- (b) An emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:
  - (1) the functioning of government;
  - (2) the preservation or protection of property; or
  - (3) the health or safety of any person.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

### **§ 218 - Rejection or Cancellation of Bids or Requests for Proposals; Negotiations**

An invitation for bids or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of the Tribal division or Tribally chartered entity. A determination containing the reasons for cancellation shall be made part of the bid file. If no bids are received or if all bids received are rejected and if the invitation for bid was for any tangible personal property, construction or service, then new invitations for bids shall be requested. If upon rebidding the tangible personal property, construction or services, the bids received are unacceptable, or if no bids are secured, the purchasing office may purchase the tangible personal property, construction or services in the open market at the best obtainable price.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 219 - Irregularities in Bids or Proposals**

The Tribal purchasing agent may waive technical irregularities in the form of the bid or proposal of the low bidder or offeror which do not alter the price, quality or quantity of the services, construction or items of tangible personal property bid or offered.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**§ 220 - Responsibility of Bidders and Offerors**

If a bidder or offeror who otherwise would have been awarded a contract is found not to be a responsible bidder or offeror, a determination that the bidder or offeror is not a responsible bidder or offeror, setting forth the basis of the finding, shall be prepared by the Tribal purchasing agent who makes such a determination. The unreasonable failure of a bidder or offeror to promptly supply information, in connection with an inquiry with respect to responsibility, is grounds for a determination that the bidder or offeror is not a responsible bidder or offeror.

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**Chart B - (Reserved)**

History: Bidding Code approved by motion of Tribal Council, March 22, 1994. Amended by Tribal Act #97-15.453, enacted by Tribal Council on April 22, 1997; and by Tribal Act #07-25.1773, enacted by Tribal Council on February 28, 2007.

**Chapter 3 - Tribal Constable****§ 301 - Establishment of Tribal Constable Position**

- (a) By this resolution and the description of duties herein incorporated by reference, this Tribe does establish the position titled Tribal Constable.
- (b) The Constable is delegated responsibility and authority to enforce all Tribal laws, and applicable federal/state law on established Reservation lands.

- (c) This position in Tribal government shall be one filled by appointment by the Tribal Council and an appropriate swearing into office and oath shall be developed for the process.

History: Tribal Act #85-362, enacted by Tribal Council on December 18, 1995.

#### **Chapter 4 - Tribal Records Ordinance**

The official records of the Tribal Government are public records subject to disclosure upon the petition of a member/citizen of the Tribe. Official records shall include those to which access is not restricted or held privileged under any federal or state laws or regulations, specific tribal ordinances or policies or Generally Accepted Accounting Principles or Generally Accepted Auditing Principles.<sup>1</sup>

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

##### **§ 401. (Requested Information)**

All petitions for information shall be in writing and directed to the Tribal Department Manager that is the custodian of the information. The requested information must be described with specificity by listing the actual or approximate date of the document or documents and the type of document requested e.g., resolutions, motions, letter determination, minutes, or similar documents generated in the course of tribal public business.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

##### **§ 402. (Determination of Non-disclosure)**

The Tribal Department Manager shall determine, in consultation with the Tribal Manager and the GTB Legal Department, whether the requested information is privileged or confidential information subject to federal tribal, or state law non-disclosure rules. If the Department Manager and the GTB Legal Department determine that the information is subject to non-disclosure, then the Department Manager shall notify the petitioner that the information is subject to rules of non-disclosure. The Department Manager shall list with specificity the federal, tribal or state law that governs the non-disclosure in the denial of the release of information to the petitioner.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

##### **§ 403. (Information Subject to Disclosure)**

If the petition for information is subject to disclosure, then the custodian of records shall respond to the petition within 10 business days. If the record is a public governance document, then there

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<sup>1</sup>**Editor's Note:** Section titles, in parentheses, have been supplied editorially in this chapter.

shall be no charge for the requested information. If the record is not a public governance document, then the petitioner shall be charged a reasonable amount, reflecting the time and copy charges for the requested information, for access to the information.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

#### **§ 404. (Access to Records Room or Document Depository)**

If the petitioner is requesting access to the records room or document repository to generally review the records, then the Tribal Department Manager shall generate a sign-in and sign-out sheet to ensure that the integrity and security of the records are maintained in accord with the substantive governing federal, state, or tribal law. The Tribal Department Manager shall make a segregation of the records to ensure that matters governed by federal, state, or tribal confidentiality laws are followed. The Tribal Department Manager shall provide the petitioner a list of all segregated records and the legal rationale for the segregation.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

#### **§ 405. (Notification of Subject Person or Program)**

The person or tribal program subject to the release of information shall be notified that a citizen/member of the Tribe by name (petitioner) has requested the release of information in the control of the Tribe concerning the person or tribal program. Information released to the petitioner shall also be provided to the person or tribal program that is the subject of the release of information. The person or tribal program shall be granted an opportunity to object to the release of information. The objection must be framed in terms of federal, tribal, or state law and must state with factual specificity the grounds for the objection.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.

#### **§ 406. (Right to Redact)**

The Grand Traverse Band reserves the right to redact information that may tend to compromise the safety, security and peace of Grand Traverse Band communities or individual members of the Band prior to disclosure to any member/citizen of the Tribe.

History: Tribal Act #05-23.1545, enacted by Tribal Council on May 5, 2005.