

Procurement Policy

I. Authority

The New Mexico Health Insurance Exchange Act (the "Act") established the New Mexico Health Insurance Exchange (NMHIX) as a non-profit public corporation that is governed by a Board of Directors ("Board"). The Act, as amended by SB 294 in 2019, further provides that NMHIX is subject to the New Mexico Procurement Code. The Board adopts this Procurement Policy to ensure that NMHIX is a conscientious steward of public money involved in the operations of the NMHIX.

II. Procurement Policy

A. General.

The NMHIX generates operational funds necessary for its administrative expenses as provided in the Act and in accordance with NMSA 1978, § 59A-23F-4. It is the policy of NMHIX to efficiently expend funds for the procurement of services and items of tangible personal property in a manner consistent with all applicable state and federal rules, including the New Mexico Procurement Code.

B. Authority to Contract Delegated to Chief Executive Officer.

The NMHIX Board delegates authority to procure services and items of tangible personal property to the Chief Executive Officer (CEO) of the NMHIX, who shall work in conjunction with NMHIX staff members who are certified as procurement officers by the New Mexico State Purchasing Division.

1. In accordance with Section 4.10 of the NMHIX Plan of Operation, as it may be amended from time to time, the CEO may contract with vendors and procure services and items of tangible personal property necessary to meet NMHIX obligations and directives. This authority is subject to oversight of the Board, must be exercised in accordance with the New Mexico Procurement Code, and shall not be exercised in excess of any limitations and restrictions imposed by the Board.

C. Limitations and Restrictions.

1. The CEO shall regularly report all procurement to the Board. The report shall be made at all Board meetings and shall include: (1) a list of current contracts, identifying the contractor, amount spent

on the contract to date, term of the contract, and maximum amount payable under the contract, if any, and (2) a register of checks issued by the NMHIX to make payments pursuant to the current contracts.

2. The CEO, working in conjunction with the staff members certified as procurement officers by the New Mexico General Services Department, may procure services and items of tangible personal property in an amount not exceeding or not expected to exceed sixty thousand dollars (\$60,000) without prior Board authorization. Any contract that exceeds or is expected to exceed sixty thousand dollars (\$60,000) over the lifetime of the contract shall be approved by the Board before execution of the contract. Before a contract is amended to exceed sixty thousand dollars (\$60,000) the amendment shall be approved by the Board.
3. After consultation with the Finance Committee, and in compliance with the New Mexico Procurement Code, the CEO may make purchases to address emergency conditions in excess of the limitations of this Policy, and without prior Board authorization, if the CEO determines that such a purchase is necessary to avoid or prevent a threat to public health, welfare, safety, or property. The determination shall be in writing and shall be included in the procurement file. The CEO shall use due diligence in determining the basis for the emergency procurement, in the selection of the contractor, and in establishing the terms of the contract. The CEO shall inform the Board of the emergency procurement at the next scheduled Board meeting.
4. Procurements of services and items of tangible personal property expected to be valued at over sixty thousand dollars (\$60,000) shall be made by competitive bid (e.g. request for proposal, invitation to bid), in compliance with the New Mexico Procurement Code.
5. Contracts shall generally be for an initial term of one year or less, with the possibility of additional terms, in accordance with the New Mexico Procurement Code. A contract may have a term of more than one year, provided that the reason for the extended term is documented in the procurement file.
6. NMHIX Board members and staff shall not serve as references for an offeror.

7. The limitations and restrictions in sections II(A)(2-4) above shall not apply to procurement that is exempt from the Procurement Code, including purchases of advertising in all media, including radio, television, print, and electronic, as set forth in NMSA 1978, § 13-1-98(v).

D. Procurement Measures Consistent with Federal Rules and Regulations.

1. NMHIX shall comply with federal rules and regulations when procurement of services and tangible personal property involves the use federal funds. NMHIX shall comply with those procurement standards set forth in 45 C.F.R. 74 and 45 C.F.R. 92.36.
2. NMHIX shall determine the appropriate type of procuring instrument (e.g., hourly rate, fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) which shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The “cost- plus-a-percentage-of-cost” or “percentage of construction cost” methods of contracting shall not be used.
3. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by Executive Orders 12549 and 12689, “Debarment and Suspension.”

E. Protests and Complaints.

1. Protests shall be handled pursuant to the New Mexico Procurement Code.
2. The CEO shall periodically report to the Board regarding the resolution of procurement protests or complaints against NMHIX, to determine if the Board should take action to address significant or recurring issues.

F. Conflict of Interest.

NMHIX hereby enacts the following standards of conduct governing the performance of its employees engaged in the award and administration of contracts:

1. No employee, officer, or agent of NMHIX shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. For the purposes of this Policy, such a conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of NMHIX shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements, unless the gift is an unsolicited item of nominal value. Disciplinary action, up to and including dismissal, may result from violations of these standards by NMHIX officers, employees, or agents.

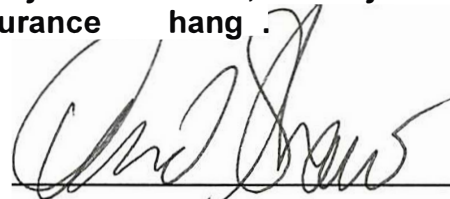
G. Non-Discrimination.

NMHIX will not discriminate against any prospective contractor because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in the particular work, national origin, ancestry, or sexual orientation.

H. Interpretation.

This Policy shall be construed and applied to promote NMHIX's compliance with applicable federal and state laws, rules, and regulations, including the New Mexico Procurement Code. This Policy establishes internal guidelines for the benefit of NMHIX and its officers, directors, employees, representatives, and agents, and does not confer any right or other benefit on any third party. The provisions of this Policy may not be used by any third party in any action or other proceeding against NMHIX or its interests.

PASSED, APPROVED, AND ADOPTED this 17th day of November, 2023 by the Board of Directors of the New Mexico Health Insurance Exchange.



David Shaw, Chair