

Albuquerque Housing Authority

Resolution 11-07

WHEREAS, the Housing Authority shall provide a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by the AHA; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to the AHA; promote competition in contract; and assure that AHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State and local laws.

THEREFORE, be it resolved that the attached hereto Exhibit A, shall be the approved interim Procurement Policy for the Albuquerque Housing Authority.

RESOLVED this 20th day of July, 2011



Dolly Newman, Secretary



Stephen Vogel, Chairman of the Board

PROCUREMENT POLICY

ALBUQUERQUE HOUSING AUTHORITY

This Procurement Policy complies with the Annual Contributions Contract (ACC) between Albuquerque Housing Authority (AHA) and the HUD, Federal Regulations at **24 CFR 85.36**, the procurement standards of the Procurement Handbook for PHAs, HUD Handbook 7460.8, Rev 2, and applicable State and Local laws.

GENERAL PROVISIONS

General

The AHA shall: provide for a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by the AHA; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to the AHA; promote competition in contracting; and assure that AHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State, and local laws.

Application

This Procurement Policy applies to all procurement actions of the Authority, regardless of the source of funds, except as noted under “exclusions,” below. However, nothing in this Policy shall prevent the AHA from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law. When both HUD and non-Federal grant funds are used for a project, the work to be accomplished with the funds should be separately identified prior to procurement so that appropriate requirements can be applied, if necessary. If it is not possible to separate the funds, HUD procurement regulations shall be applied to the total project. If funds and work can be separated and work can be completed by a new contract, then regulations applicable to the source of funding may be followed.

Definition

The term “procurement,” as used in this Policy, includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction and maintenance; consultant services, (3) Architectural and Engineering (A/E) services, (4) Social Services, and (5) other services.

Exclusions

This policy does not govern administrative fees earned under the Section 8 voucher program, the award of vouchers under the Section 8 program, the execution of landlord Housing Assistance Payments contracts under that program, or non-program income, e.g., fee-for-service revenue under 24 CFR Part 990. These excluded areas are subject to applicable State and local requirements.

Changes in Laws and Regulations

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with these Policies, automatically supersede these Policies.

Public Access to Procurement Information

Most procurement information that is not proprietary is a matter of public record and shall be available

to the public to the extent provided in the New Mexico Freedom of Information Act.

ETHICS IN PUBLIC CONTRACTING

General

The AHA hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct, etc., is consistent with applicable Federal, State, or local law.

Conflicts of Interest

No employee, officer, Board member, or agent of the AHA shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:

- A. An employee, officer, Board member, or agent involved in making the award;
- B. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
- C. His/her partner; or
- D. An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

Prohibition Against Contingent Fees

Contractors wanting to do business with the AHA must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies.

PROCUREMENT PLANNING

Planning is essential to managing the procurement function properly. Hence, the AHA will periodically review its record of prior purchases, as well as future needs, to: find patterns of procurement actions that could be performed more efficiently or economically; maximize competition and competitive pricing among contracts and decrease the AHA's procurement costs; reduce AHA administrative costs; ensure that supplies and services are obtained without any need for re-procurement, e.g., resolving bid protests; and minimize errors that occur when there is inadequate lead time. Consideration should be given to storage, security, and handling requirements when planning the most appropriate purchasing actions.

PURCHASING METHODS

Petty Cash Purchases

Purchases under \$50 may be handled through the use of a petty cash account. Petty Cash Accounts may be established in an amount sufficient to cover small purchases made during a reasonable period, e.g., one month. For all Petty Cash Accounts, the AHA shall ensure that security is maintained and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically.

Small Purchase Procedures

For any amounts above the Petty Cash ceiling, but not exceeding \$100,000, the AHA may use small purchase procedures. Under small purchase procedures, the AHA shall obtain a reasonable number of quotes (preferably three); however, for purchases of less than \$2,000, also known as Micro Purchases, only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotes may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to the AHA. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. The AHA shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold.

Sealed Bids

Sealed bidding shall be used for all contracts that exceed the small purchase threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this document. Under sealed bids, the PHA publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the IFB, is the lowest in price. Sealed bidding is the preferred method for procuring construction, supply, and non-complex service contracts that are expected to exceed \$100,000.

- A. **Conditions for Using Sealed Bids.** AHA shall use the sealed bid method if the following conditions are present: a complete, adequate, and realistic statement of work, specification, or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; the contract can be awarded based on a firm fixed price; and the selection of the successful bidder can be made principally on the lowest price.
- B. **Solicitation and Receipt of Bids.** An IFB is issued which includes the specifications and all contractual terms and conditions applicable to the procurement, and a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation. The IFB must state the time and place for both receiving the bids and the public bid opening. All bids received will be date and time-stamped and stored **unopened** in a secure place until the public bid opening. A bidder may withdraw the bid at any time prior to the bid opening.
- C. **Bid Opening and Award.** Bids shall be opened publicly. All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection. If equal low bids are received from responsible bidders, selection shall be made by drawing lots or other similar random method. The method for doing this shall be stated in the IFB. If only one responsive bid is received from a responsible bidder, award shall **not** be made unless the price can be determined to be reasonable, based on a cost or price analysis.

- D. **Mistakes in Bids.** Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written or telegraphic notice received in the office designated in the IFB prior to the time set for bid opening. After bid opening, corrections in bids may be permitted only if 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. A low bidder alleging a nonjudgmental 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. All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Contracting Officer. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the AHA or fair competition shall not be permitted.

Competitive Proposals

Unlike sealed bidding, the competitive proposal method permits: consideration of technical factors other than price; discussion with offerors concerning offers submitted; negotiation of contract price or estimated cost and other contract terms and conditions; revision of proposals before the final contractor selection; and the withdrawal of an offer at any time up until the point of award. Award is normally made on the basis of the proposal that represents the best overall value to the PHA, considering price and other factors, e.g., technical expertise, past experience, quality of proposed staffing, etc., set forth in the solicitation and not solely the lowest price.

- A. **Conditions for Use.** Where conditions are not appropriate for the use of sealed bidding, competitive proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the small purchase threshold.
- B. **Form of Solicitation.** Other than A/E services, competitive proposals shall be solicited through the issuance of a RFP. The RFP shall clearly identify the importance and relative value of each of the evaluation factors as well as any sub factors and price. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established **before** the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals until after award. The AHA may assign price a specific weight in the evaluation criteria or the AHA may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.
- C. **Evaluation.** The proposals shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, the AHA shall establish an Evaluation Plan for each RFP. Generally, all RFPs shall be evaluated by an appropriately appointed Evaluation Committee. The Evaluation Committee shall be required to disclose any potential conflicts of interest and to sign a Non-Disclosure statement. An Evaluation Report, summarizing the results of the evaluation, shall be prepared prior to award of a contract.
- D. **Negotiations.** Negotiations shall be conducted with all offerors who submit a proposal determined to have a reasonable chance of being selected for award, unless it is determined that negotiations are not needed with any of the offerors. This determination is based on the relative score of the proposals as they are evaluated and rated in accordance with the technical and price factors specified in the RFP. These offerors shall be treated fairly and equally with respect to any opportunity for negotiation and revision of their proposals. No offeror shall be given any information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. A common deadline shall be established for receipt of proposal revisions based on negotiations. Negotiations are exchanges (in either competitive or

sole source environment) between the PHA and offerors that are undertaken with the intent of allowing the offeror to revise its proposal. These negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract or other terms of a proposed contract. When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. Discussions are tailored to each offeror's proposal, and shall be conducted by the contracting officer with each offeror within the competitive range. The primary object of discussions is to maximize the AHA's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The contracting officer shall indicate to, or discuss with, each offeror still being considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposer's potential for award. The scope and extent of discussions are a matter of the contracting officer's judgment. The contracting officer may inform an offeror that its price is considered by the PHA to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible to indicate to all offerors the cost or price that the government's price analysis, market research, and other reviews have identified as reasonable. "Auctioning" (revealing one offeror's price in an attempt to get another offeror to lower their price) is prohibited.

- E. **Award.** After evaluation of the revised proposals, if any, the contract shall be awarded to the responsible firm whose technical approach to the project, qualifications, price and/or any other factors considered, are most advantageous to the AHA provided that the price is within the maximum total project budgeted amount established for the specific property or activity.
- F. **A/E Services.** The AHA must contract for A/E services using QBS procedures, utilizing a RFQ. Sealed bidding shall not be used for A/E solicitations. Under QBS procedures, competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method. QBS procedures **shall not** be used to purchase other types of services, though architectural/engineering firms are potential sources.

Noncompetitive Proposals

- A. **Conditions for Use.** Procurement by noncompetitive proposals (sole-source) may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, cooperative purchasing, or competitive proposals, **and** if one of the following applies:
1. The item is available only from a single source, based on a good faith review of available sources;
 2. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the AHA, 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 of the other procurement methods, and the emergency procurement shall be limited to those supplies, services, or construction necessary simply to meet the emergency;
 3. HUD authorizes the use of noncompetitive proposals; or
 4. After solicitation of a number of sources, competition is determined inadequate.

B. Justification. Each procurement based on noncompetitive proposals shall be supported by a written justification for the selection of this method. The justification shall be approved in writing by the responsible Contracting Officer. Poor planning or lack of planning is not justification for emergency or sole-source procurements. The justification, to be included in the procurement file, should include the following information:

1. Description of the requirement;
2. History of prior purchases and their nature (competitive vs. noncompetitive);
3. The specific exception in **24 CFR 85.36(d)(4)(i)(A)** through **(D)** which applies;
4. Statement as to the unique circumstances that require award by noncompetitive proposals;
5. Description of the efforts made to find competitive sources (advertisement in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation, etc.);
6. Statement as to efforts that will be taken in the future to promote competition for the requirement;
7. Signature by the Contracting Officer's supervisor (or someone above the level of the Contracting Officer); and
8. Price Reasonableness. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this Policy.

Cooperative Purchasing/Intergovernmental Agreements

The AHA may enter into State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the interagency 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. The AHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with **24 CFR 85.36**.

ICE (Independent Cost Estimate)

For all purchases above the Micro Purchase threshold, the AHA shall prepare an ICE prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased.

COST AND PRICE ANALYSIS

The AHA shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

Petty Cash and Micro Purchases

No formal cost or price analysis is required. Rather, the execution of a contract by the Contracting Officer (through a Purchase Order or other means) shall serve as the Contracting Officer's determination that the price obtained is reasonable, which may be based on the Contracting Officer's

prior experience or other factors.

Small Purchases

A comparison with other offers shall generally be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes is not obtained to establish reasonableness through price competition, the Contracting Officer shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the Contracting Officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

Sealed Bids

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, and when the bid received is substantially more than the ICE, and where the AHA cannot reasonably determine price reasonableness, the AHA must conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable.

Competitive Proposals

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, the AHA must compare the price with the ICE. For competitive proposals where prices cannot be easily compared among offerors, where there is not adequate competition, or where the price is substantially greater than the ICE, the AHA must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.

Contract Modifications

A cost analysis, consistent with federal guidelines, shall be conducted for all contract modifications for projects that were procured through Sealed Bids, Competitive Proposals, or Non-Competitive Proposals, or for projects originally procured through Small Purchase procedures and the amount of the contract modification will result in a total contract price in excess of \$100,000.

SOLICITATION AND ADVERTISING

Method of Solicitation

- A. **Petty Cash and Micro Purchases.** The AHA may contact only one source if the price is considered reasonable.
- B. **Small Purchases.** Quotes may be solicited orally, through fax, or by any other reasonable method.
- C. **Sealed Bids and Competitive Proposals.** Solicitation must be done publicly. The AHA must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.
 1. Advertising in newspapers or other print mediums of local or general circulations.
 2. Advertising in various trade journals or publications (for construction).
 3. E-Procurement. The AHA may conduct its public procurements through the Internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with **24 CFR 85.36**, State and local requirements, and the Authority's procurement policy.

Time Frame

For purchases of more than \$100,000, the public notice should run not less than once each week for two consecutive weeks.

Form

Notices/advertisements should state, at a minimum, the place, date, and time that the bids or proposals are due, the solicitation number, a contact that can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s).

Time Period for Submission of Bids

A minimum of 30 days shall generally be provided for preparation and submission of sealed bids and 15 days for competitive proposals. However, the Executive Director may allow for a shorter period under extraordinary circumstances.

Cancellation of Solicitations

- A. An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:
1. The supplies, services or construction is no longer required;
 2. The funds are no longer available;
 3. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
 4. Other similar reasons.
- B. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:
1. The supplies or services (including construction) are no longer required;
 2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
 3. All factors of significance to the AHA were not considered;
 4. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 5. There is reason to believe that bids or proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith; or
 6. For good cause of a similar nature when it is in the best interest of the AHA.
- C. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request.
- D. A notice of cancellation shall be sent to all bidders/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.
- E. If all otherwise acceptable bids received in response to an IFB are at unreasonable prices an analysis

should be conducted to see if there is a problem in either the specifications or the AHA's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, the Contracting Officer may cancel the solicitation and either

1. Re-solicit using an RFP; or
 2. Complete the procurement by using the competitive proposal method. The Contracting Officer must determine, in writing, that such action is appropriate, must inform all bidders of the AHA's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.
- F. If problems are found with the specifications; AHA should cancel the solicitation, revise the specifications and re-solicit using an IFB.

Credit (or Purchasing) Cards

Credit card usage should follow the rules for all other small purchases. For example, the Contracting Officer may use a credit card for Micro Purchases without obtaining additional quotes provided the price is considered reasonable. However, for amounts above the Micro Purchase level, the Contracting Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card.

When using credit cards, the AHA should adopt reasonable safeguards to assure that they are used only for intended purposes (for instance, limiting the types of purchases or the amount of purchases that are permitted with credit cards).

BONDING REQUIREMENTS

The standards under this section apply to construction contracts that exceed \$100,000. There are no bonding requirements for small purchases or for competitive proposals. The AHA may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.

- A. Bid Bonds. For construction contracts exceeding \$100,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.
- B. Payment Bonds. For construction contracts exceeding \$100,000, the successful bidder shall furnish an assurance of completion. This assurance may be any one of the following four:
 1. A performance and payment bond in a penal sum of 100% of the contract price; or
 2. Separate performance and payment bonds, each for 50 % or more of the contract price; or
 3. A 20 % cash escrow; or
 4. A 25 % irrevocable letter of credit.
- C. These bonds must be obtained from guarantee or surety companies acceptable to the U. S. Government and authorized to do business in the State where the work is to be performed. Individual sureties shall not be considered. U. S. Treasury Circular Number 570 lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies on this circular is mandatory.

CONTRACTOR QUALIFICATIONS AND DUTIES

Contractor Responsibility

PHAs shall not award any contract until the prospective contractor, i.e., low responsive bidder, or successful offeror, has been determined to be responsible. A responsible bidder/offeror must:

- A. Have adequate financial resources to perform the contract, or the ability to obtain them;
- B. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the bidder's/offeror's existing commercial and governmental business commitments;
- C. Have a satisfactory performance record;
- D. Have a satisfactory record of integrity and business ethics;
- E. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
- F. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
- G. Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended, debarred or under a HUD-imposed LDP.

If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the official contract file, and the prospective contractor shall be advised of the reasons for the determination.

Suspension and Debarment

Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined to be ineligible by HUD in accordance with HUD regulations (**24 CFR Part 24**) or by other Federal agencies, e.g., Dept of Labor for violation of labor regulations, when necessary to protect housing authorities in their business dealings.

Vendor Lists

All interested businesses shall be given the opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough sources to ensure competition.

CONTRACT PRICING ARRANGEMENTS

Contract Types

Any type of contract which is appropriate to the procurement and which will promote the best interests of the AHA may be used, **provided the cost -plus-a-percentage-of-cost and percentage-of-construction-cost methods are not used**. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and AHA.

For all cost reimbursement contracts, AHA must include a written determination as to why no other contract type is suitable. Further, the contract must include a ceiling price that the contractor exceeds at its own risk.

Options

Options for additional quantities or performance periods may be included in contracts, provided that:

- A. The option is contained in the solicitation;
- B. The option is a unilateral right of the Authority;
- C. The contract states a limit on the additional quantities and the overall term of the contract;
- D. The options are evaluated as part of the initial competition;
- E. The contract states the period within which the options may be exercised;
- F. The options may be exercised only at the price specified in or reasonably determinable from the contract; and
- G. The options may be exercised only if determined to be more advantageous to AHA than conducting a new procurement.

CONTRACT CLAUSES

All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the AHA.

Additionally, the forms HUD-5369, 5369-A, 5369-B, 5369, 5370, 5370-C, and 51915-A , which contain all HUD-required clauses and certifications for contracts of more than \$100,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by this Authority.

CONTRACT ADMINISTRATION

The AHA shall maintain a system of contract administration designed to ensure that contractors perform in accordance with their contracts. These systems shall provide for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on major projects including construction contracts, and similar matters. For cost-reimbursement contracts, costs are allowable only to the extent that they are consistent with the cost principles in HUD Handbook 2210.18.

SPECIFICATIONS

General

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying AHA needs. Specifications shall be reviewed prior to issuing any solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items. Function or performance specifications are preferred. Detailed product specifications shall be avoided whenever possible. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

Limitation

The following types of specifications shall be avoided:

- A. geographic restrictions not mandated or encouraged by applicable Federal law (except for A/E Contracts, which may include geographic location as a selection factor if adequate competition is available);
- B. brand name specifications (unless the specifications 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 State licensing laws. Specifications shall be reviewed to ensure that organizational conflicts of interest do not occur.

APPEALS AND REMEDIES

General

It is AHA policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.

Informal Appeals Procedure

The AHA shall adopt an informal bid protest/appeal procedure for contracts of \$100,000 or less. Under these procedures, the bidder/contractor may request to meet with the appropriate Contract Officer.

Formal Appeals Procedure

A formal appeals procedure shall be established for solicitations/contracts of more than \$100,000.

- A. **Bid Protest.** 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 before the due date for the receipt of bids or proposals, and any protest against the award of a contract must be received within ten (10) calendar days after the contract receives notice of the contract award, or the protest will not be considered. All bid protests shall be in writing, submitted to the Contracting Officer or designee, who shall issue a written decision on the matter. The Contracting Officer may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant.
- B. **Contractor Claims.** All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer for a written decision. The contractor may request a conference on the claim. The Contracting Officer's decision shall inform the contractor of its appeal rights to the next higher level of authority in AHA. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

ASSISTANCE TO SMALL AND OTHER BUSINESSES

Required Efforts

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, all feasible efforts shall be made to ensure that small and minority-owned businesses, women's business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of the AHA project are used when possible. Such efforts shall include, but shall not be limited to:

- A. Including such firms, when qualified, on solicitation mailing lists;

- B. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- F. Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in **24 CFR Part 135** (so-called Section 3 businesses); and
- G. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

Goals shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business enterprises, labor surplus area businesses, and Section 3 business concerns in AHA prime contracts and subcontracting opportunities.

Definitions

1. A **small business** is defined as a business that is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in **13 CFR Part 121** should be used to determine business size.
2. A **minority-owned business** is defined as a business which is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. Minority group members include, but are not limited to Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.
3. A **women's business enterprise** is defined as a business that is at least 51% owned by a woman or women who are U.S. citizens and who control and operate the business.
4. A "**Section 3 business concern**" is as defined under **24 CFR Part 135**.
5. A **labor surplus area business** is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in **20 CFR Part 654**, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

BOARD APPROVAL OF PROCUREMENT ACTIONS

Other than approval of this Procurement Policy, approval by the Board of Commissioners is not

required for any procurement action, as permitted under State and local law. Rather, it is the responsibility of the Executive Director to make sure that all procurement actions are conducted in accordance with the policies contained herein.

DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that the AHA's procurements comply with this Policy, the Executive Director may delegate all procurement authority as is necessary and appropriate to conduct the business of the Agency.

Further, and in accordance with this delegation of authority, the Executive Director shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy. The Executive Director shall also establish a system of sanctions for violations of the ethical standards described in Section III below, consistent with Federal, State, or local law.

DOCUMENTATION

The AHA must maintain records sufficient to detail the significant history of each procurement action. These records **shall** include, but **shall not** necessarily be limited to, the following:

- A. Rationale for the method of procurement (if not self-evident);
- B. Rationale of contract pricing arrangement (also if not self-evident);
- C. Reason for accepting or rejecting the bids or offers;
- D. Basis for the contract price (as prescribed in this handbook);
- E. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- F. Basis for contract modifications; and
- G. Related contract administration actions.

The level of documentation should be commensurate with the value of the procurement.

Records are to be retained for a period of three years after final payment and all matters pertaining to the contact are closed.

DISPOSITION OF SURPLUS PROPERTY

Property no longer necessary for the AHA's purposes (non-real property) shall be transferred, sold, or disposed of in accordance with applicable Federal, state, and local laws and regulations.

FUNDING AVAILABILITY

Before initiating any contract, the AHA shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.

SELF-CERTIFICATION

The AHA self-certifies that this Procurement Policy, complies with all applicable Federal regulations and, as such, the AHA is exempt from prior HUD review and approval of individual procurement action.

PROCUREMENT FILE CHECKLIST

The following table lists the types of documentation that generally should be included in the contract file for each procurement. Note, however, that the circumstances of each procurement will dictate the documentation required. For example, an RFP for Property Management Services would not necessarily require a separate cost analysis if there were an ample number of price proposals and the costs (management fees) were within the range established in the ICE. Similarly, for small purchases, the issuance of a purchase order will likely serve as a Notice to Proceed; however, for some very technical services acquired under small purchases, the PHA might want to hold a post-award meeting and then issue a Notice to Proceed. In all, the contract file should contain all significant documentation relating to the specific procurement. Any shaded item would generally not apply for that type of purchase.

Item	Micro Purchase	Small Purchase	Sealed Bid	Competitive Proposals	Non-Competitive Proposals
Pre-Solicitation					
Independent Cost Estimate					
Individual Procurement Plan					
Rationale for Contract Method (if not apparent)					
Rationale for Contract Type (if not apparent)					
Evaluation Plan					
Solicitation					
Sources (mailing lists, advertisements, etc.)					
Solicitation Notice and Amendments					
IFB/RFP					
Notes of Pre-Bid/Proposal Conferences					
IFB/RFP Correspondences					
Record of Bids/RFPs Requested					
Quotes, Bids or Proposals Received					
Justification for Other than Full/Open Competition					
Evaluation					
Bid Opening					
Evaluation Panel Disclosures and Ethics Statement					
Technical Evaluation					
Price Evaluation					
Competitive Range Determinations					
Evaluation Report					
Memo of Negotiation and Selection Decision					
Pre-award Survey and Responsibility Determinations					

Award					
Contract and Award Documents					
Notification to Unsuccessful Bidders					
Appeals (all correspondence)					
Post-Award and Contract Administration					
Insurance and Bonding Requirements					
Records of Post-Award Conferences					
Notice to Proceed					
Contract Modifications and Supporting Documentation					
Receiving Reports					
General Contract Correspondence					
Payment Record/Documentation					
Inspections and Field Reports					
Completion Certificate					

INVITATION TO BID

The **Albuquerque Housing Authority (AHA)** invites sealed bids from contractors for:

_____ at

Name and address of facility

Description of work:

Bids are subject to State Law.

Bids will be received until **2:00 P.M.** on **MM/DD/YY** and publicly opened, forthwith at Albuquerque Housing Authority, (address), Albuquerque, NM 87106.

A bid package will be available for pick-up from _____ at (place) after **2:00 p.m.**, **MM/DD/YY**. Cost of plans and specifications is \$ _____. Company checks are required.

THE JOB SITE AND/OR EXISTING BUILDING WILL BE AVAILABLE FOR A WALK THROUGH ON MM/DD/YY AT 10:00 A.M. AT (property), (address). PROSPECTIVE BIDDERS SHOULD MEET AT THE ABOVE-MENTIONED ADDRESS.

IFB COVER SHEET

IFB Number: _____

Date of Issuance: _____

Sealed bids will be accepted at the Albuquerque Housing Authority (AHA), Administrative Office, until the date and time noted below. Bids will be publicly opened and recorded immediately thereafter in the Conference Room, 1840 University Blvd, SE, Albuquerque, NM 87106.

Item up for bid

Pre-Bid Meeting will be held: _____ (date) _____ (time)

Bid Opening: _____ (date) _____ (time)

Albuquerque Housing Authority
1840 University Blvd., SE
Albuquerque, NM 87106

Point of Contact: _____

Table of Contents:

- A. Bid/Price Form
- B. Specifications/Scope of Work
- C. Instructions to Bidders
- D. Required Certifications
- E. General Contract
- F. Other Attachments

SOLICITATION AMENDMENT

ALBUQUERQUE HOUSING AUTHORITY
1840 University Blvd, SE
Albuquerque, NM 87106

1. Amendment number:
2. Issued by:
3. Amendment of solicitation number: _____ dated: _____
4. The hour and date specified for receipt of bids/proposals is _____ is not _____ extended to the following new hour and date:
5. The above-numbered solicitation is amended as set forth below. Bidders/offerors must acknowledge receipt of this amendment prior to the hour and date specified for receipt of bids/proposals, by signing this form below or by completing the acknowledgement on the form titled "Solicitation, Bid/Proposal and Award."
6. Description of amendment:
{Cite specific sections and/or pages of the solicitation that are being amended.}
Except as provided herein, all terms and conditions of the solicitation remain unchanged and in full force and effect.
7. Name and title of signer:

Signature and date:

CONTRACT AWARD

ALBUQUERQUE HOUSING AUTHORITY
1840 University Blvd., SE
Albuquerque, NM 87106

1. Contract Number: _____ 2. Effective Date: _____

3. Solicitation Number/ Project Title: _____

4. Name & Address of Contractor: _____

5. Contract Amount: \$ _____

6. Accounting Code: _____

7. Table of Contents:

Page	SECTION Description	Page	SECTION Description
___	A. CONTRACT AWARD FORM	___	F. DELIVERIES OR PERFORMANCE
___	B. SUPPLY/SERVICE & PRICES	___	G. CONTRACT ADMINISTRATION DATA
___	C. STATEMENT OF WORK/SPECS	___	H. SPECIAL CONTRACT REQUIREMENTS
___	D. PACKAGING & MARKING	___	I. CONTRACT CLAUSES
___	E. INSPECTION & ACCEPTANCE	___	J. LIST OF ATTACHMENTS

8. **Award:** Your bid/offer on Solicitation Number _____ including additions or changes made by you, which additions or changes are set forth in full within the sections listed above, is hereby accepted as to the items listed in Section B and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the PHA's solicitation, (b) your bid/offer, and (c) this award document/contract. No further contract document is necessary.

9. **Name of Contracting Officer:** _____

Signature of Contracting Officer: _____

Date Signed: _____

10. **Name/Title of Authorized Signer/Contract Representative:**

Signature of Contracting Representative: _____

Date Signed: _____

NOTICE TO UNSUCCESSFUL BIDDERS

(Letterhead)

Re: IFB# _____

1. Receipt of your bid is acknowledged in response to our invitation for bid referenced above.
2. The contract was awarded after competition by sealed bidding to the lowest responsive and responsible bidder. The total amount of the awarded contract was \$_____. The award was made to:

(Insert Bidder Name)

3. Enclosed is the bid bond your company submitted for the above-referenced solicitation.
4. The Albuquerque Housing Authority appreciates your time and effort in preparing and submitting your bid. We hope that your firm will participate in future solicitations.

Name
Contracting Officer Date

SAMPLE PROCEDURES FOR EVALUATION COMMITTEES

(FOR AMOUNTS ABOVE THE FEDERAL SMALL PURCHASE THRESHOLD)

INTRODUCTION

This document establishes the procedures for the evaluation review process and shall apply to the evaluation of all competitive proposals. The evaluation process must be impartial, consistent and fair.

Establishment of an Evaluation Panel

- A. A committee will be appointed by the Contracting Officer to evaluate technical proposals in accordance with a written evaluation plan. The Contracting Officer may serve as a panel member.
- B. A minimum of three persons (or a larger group having an odd number of designated voting members) must be selected.
- C. A designated chairperson shall be responsible for the deliberations of the committee and other duties as outlined below. The Contracting Officer may serve as Chairperson.
- D. Panel members who have a conflict of interest or relationship, financial or otherwise, or that may be construed as a conflict of interest, must disclose the existence of the conflict and, if necessary, excuse themselves from the panel.

Establishment of a Written Plan

Prior to the issuance of the RFP, a written plan for evaluating technical and cost proposals should be established. However, where practical, the evaluation criteria set forth in the RFP can serve as the written plan for the evaluation.

The evaluation criteria as set forth in the RFP shall be the basis for all evaluations. Factors not specified in the RFP shall not be considered.

Conduct of Evaluation

Prior to a formal meeting to discuss the proposals and evaluations, the Contracting Officer shall provide each evaluator with a copy of each qualified proposal, a rating sheet and a nondisclosure certificate, which must be executed by the panel member and returned to the Chairperson. The rating sheet will list each evaluation criterion and the weights assigned to it, as reflected in the RFP. The rating sheets should require the evaluator to assign both an adjectival rating for each evaluation criterion and a narrative justification to support the ratings given.

The evaluation committee will then meet to discuss the proposals. Initially the proposals should be compared on an individual basis, separately, against the requirements stated in the RFP, not analyzed in comparison with each other. During the evaluation, the committee members should only evaluate the content of the proposals; personal knowledge that is not based on the proposer's written submission, except for relevant past performance information, should not be part of the initial technical evaluation.

The evaluation committee members will perform the following functions: 1) review all of the proposals using as the standard the evaluation criteria as set forth in the RFP; 2) meet to discuss the evaluations, the ratings of each evaluator and the reasons for such ratings; and 3) complete the ratings sheet including both an adjectival and narrative justifications for each proposal submitted.

The chairperson is responsible for collecting the individual rating sheets from each committee member, preparing a summary rating sheet which reflects an overall adjectival rating for each rating criterion, and preparing a formal written report to the Contracting Officer regarding the evaluation committee meeting and discussions (such as the minutes from the evaluation committee meeting). This written report shall rank the proposers and shall describe how the scores were determined. The chairperson shall then forward the individual rating sheets, the summary rating sheet and the written narrative report to the Contracting Officer.

Negotiations

If necessary, negotiations will be conducted with all proposers in the competitive range. The extent of involvement of committee members in these negotiations will be determined by the Contracting Officer. These negotiations will be conducted in accordance with applicable agency policies/procedures.

Disclosure of Information

The evaluators shall not disclose any information included in any of the proposals (such as the names and number of proposers or rating scores) to anyone during the solicitation and evaluation period. Proposers submit proposals in confidence and expect their proposals and proprietary information contained therein to be protected from disclosure to other proposers or individuals. At the appropriate time, the Contracting Officer and/or his designee shall discuss information regarding the solicitation and award.

CERTIFICATION OF NONDISCLOSURE

(FOR USE IN COMPETITIVE PROPOSALS METHOD OF PROCUREMENT)

As a condition of serving as an evaluator of offers under _____ [*insert solicitation number or other identification, e.g., task order number*], I hereby certify that I will:

- (1) Use the information¹ provided to me for the intended evaluation purposes only and will not disclose this information to any individual outside of the evaluation panel, including my supervisor or manager, without the express authorization of the evaluation panel chairperson or the Contracting Officer;
- (2) Not solicit or accept any information other than that provided to me by the evaluation panel chairperson or the Contracting Officer;
- (3) Report to the evaluation panel chairperson or the Contracting Officer any attempt by other parties to obtain from or provide to me any information described in this certification;
- (4) Honor any authorized restrictive legends placed on the information by prospective contractors or subcontractors or by the PHA and apply them to any reproductions or abstracts I may make or order to be made; and,
- (5) Return all copies of the information whether originally provided to me by the HA or made or ordered by me in the course of my evaluation, and any abstract thereof, to the evaluation panel chairperson.

I understand that my unauthorized release of information may result in the termination of my participation in this procurement and/or administrative, civil and criminal penalties. I also understand that this certification will be made part of the source selection record and the official contract file and does not relieve me of the responsibility for any other disclosure or certification required by law, regulation or other directive.

Typed or Printed Name

Signature

Date

Information includes but is not limited to the acquisition strategy, acquisition timeline, source selection criteria, evaluation plan, identity and number of offers, contents of offers, evaluation results and other documentation resulting from the evaluation process.

**CHECKLIST FOR
DETERMINATION OF CONTRACTOR RESPONSIBILITY**

Public Housing Agency Name: _____

Solicitation Number: _____

Contractor Name and Address: _____

Circle all applicable statements:

1. A review of the GSA and HUD websites data dated _____ has been conducted and the contractor does/ does not appear as suspended, debarred or operating under a LDP.

2. The Contractor has/ has not performed satisfactorily on other contract(s) awarded by this PHA.

3. A survey of other agencies and companies doing business with the contractor was performed. Adverse/ no adverse information has been received that would bring the contractor's present responsibility and technical capability into question. List the agencies/companies contacted, dated contacted and person providing information.

4. A review of the Contractor's financial and technical resources indicates/ does not indicate that it is capable of performing the contract. List documentation reviewed.

5. State/local government agencies were contacted, and the contractor does/ does not have a record of any outstanding code violations, improper business practices, or similar history of non-compliance with public policy. List agencies contacted.

6. Other pertinent information received does/ does not affect the Contractor's responsibility. List parties contacted and results of contact (e.g., Better Business Bureau, Business Licenses, Dunn and Bradstreet, other credit agencies).

In accordance with **24 CFR 85.36 (b)(8)**, the contractor is considered to be responsible/ non-responsible and possesses/ does not possess the ability to successfully perform under the terms and conditions of this contract.

Name Signature Date
Contracting Officer

LEGAL SERVICES ENGAGEMENT LETTER

The United States Department of HUD urges inclusion of the following provisions into all legal services contracts executed and/or administered by PHAs, unless no federally provided funds will be used to administer the contract.

ADDENDUM TO ENGAGEMENT AGREEMENT

1. The Albuquerque Housing Authority and [name of legal service individual or firm] Legal Service Personnel (LSP) engaged to provide professional legal services to the PHA in connection with [briefly and precisely describe the nature, scope and limits of the legal services to be provided by the LSP] agree that the provisions of this Addendum to the Engagement Agreement are hereby incorporated into PHA and LSP's engagement agreement as if they had been set forth at length therein.
2. During the pendency of the legal services engagement, LSP shall not, without HUD approval, represent any officer or employee of PHA, in her/his individual capacity, in connection with potential civil liability or criminal conduct issues related to PHA operations.
3. LSP has an obligation not to, and shall not, interfere with, disrupt, or inappropriately delay or hinder any authorized monitoring, review, audit, or investigative activity of HUD (including the Office of Inspector General), the General Accounting Office (GAO), or the officers and employees of HUD and GAO. Any and all representation by LSP cannot be inconsistent with the foregoing obligation. Specifically, LSP shall not deny access to HUD, GAO, or the officers and employees of HUD and GAO, to PHA records in response to document demands by HUD, GAO, or the officers and employees of HUD and GAO, notwithstanding possible discovery privileges that would otherwise be available to PHA. HUD requires PHAs to provide HUD, GAO, or the officers and agents of HUD and GAO, with "full and free" access to all their books, documents, papers and records. See **24 CFR 85.42(e)(1)**.
4. PHA and LSP shall make available for inspection and copying, by HUD (including the Office of Inspector General), GAO, and the officers and employees of HUD and GAO, all invoices, detailed billing statements, and evidence of payment thereof relating to LSP's engagement. Such records constitute "PHA records" and are subject to section 3, above.
5. If HUD or PHA determines that LSP is violating any provision of this Addendum to the Engagement Agreement, it shall timely notify LSP of such violation. LSP will have 48 hours following its receipt of the notice of violation to cease and desist from further violation of the addendum. If LSP fails to adequately cure the noticed violation within 48 hours: (A) HUD, in its discretion, may demand that PHA terminate the professional legal services engagement for breach, or, henceforth, satisfy all costs associated with the engagement with non-Federal funds; and/or (B) PHA, in its discretion, may terminate the professional legal services engagement for breach. Additionally, HUD may sanction LSP pursuant to **24 CFR Part 24**.
6. Should any part, term, or provision of this Addendum to the Engagement Agreement be declared or determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms, and provisions shall not be affected.

Date: [Enter date]

[Enter name of PHA Exec. Dir.]

[Enter name of LSP key partner]

GUIDELINES FOR CONDUCTING COST ANALYSIS

A cost or price analysis must be performed in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. An independent estimate must be made before receiving bids or proposals.

- When evaluating competitive proposals;
- When there is a sole source (or non-competitive proposal);
- When after soliciting bids, only one bid is received, the PHA does not have sufficient data on costs to establish price reasonableness (such as prior purchases of similar nature), and the PHA is considering making an award to the sole bidder;
- When negotiating modifications to contracts that impact the price or estimated cost;
- When terminating a contract and the contractor is entitled to payment of reasonable costs incurred as a result of termination; or
- When awarding a cost-reimbursement contract.

The following lists the basic steps in conducting a cost analysis (please refer to chapter 10 for more when a cost analysis is required):

- A. Verify cost and price information, including:
 1. The necessity for, and reasonableness of, the proposed cost;
 2. Technical evaluation or appraisal of the proposed direct cost elements;
 3. Application of audited or pre-negotiated indirect cost rates, direct labor rates, etc.;
- B. Evaluate the effect of the offeror/contractor's current practices on future costs;
- C. Compare costs proposed by the offeror/contractor with the following:
 1. Actual costs previously incurred by the same firm;
 2. Previous cost estimates from the same firm or other firms for the same or similar items;
 3. The methodology to be used to perform the work (are the costs consistent with the technical approach being proposed?);
 4. The independent cost estimate (ICE).
- D. Verify that the offeror/contractor's cost proposal complies with the appropriate cost principles;
- E. Verify that costs are allowable, allocable, and reasonable.

The major categories of costs are:

A. Direct Costs, which include:

1. Direct Labor (personnel)
2. Equipment
3. Supplies
4. Travel and Per Diem
5. Subcontractors
6. Other Direct Costs

Cost Proposal	Cost Principle
For-Profit or commercial organization	FAR Part 31
State or local governments	OMB Circular A-87
Private, non-profit organizations	OMB Circular A-122
Educational institutions	OMB Circular A-21

B. Indirect Costs, which includes:

1. Overhead
2. General and Administrative Expenses
3. Profit (or Fee)

In the process of analyzing costs, profit should be analyzed separately. In analyzing profit, consideration should be given to:

- A. Complexity of the work to be performed;
- B. Contractor's risk in performing the contract;
- C. Contractor's investment in the contracted effort;
- D. Amount of subcontracting;
- E. Contractor's record of past performance; and
- F. Industry profit rates in the general area for similar work.

Remember: The objective is to establish overall cost reasonableness and not individual components.

NOTICE TO PROCEED

PHA NAME: _____

DATE: _____

To: Contractor name and address

Re: Contract Number

Project name/description

A. NOTICE TO PROCEED

Pursuant to the terms of the above contract, you are hereby notified to commence work at the start of business on **(date)**. The time for completion, including the starting day, as established by the contract, is **(date)**.

It is the responsibility of the contractor to meet the schedule as set forth and in accordance with the terms and conditions of the contract. Failure to comply with the schedule will result in the enforcement of the liquidated damages stated in the contract.

Please note carefully and fulfill the requirements of the contract regarding the submittal and approval of Workmen's Compensation and Manufacturers' and Contractors' Public Liability Insurance.

The contractor shall also contact the PHA in writing within three days prior to mobilization on the project to enable the PHA to coordinate this work with others.

The contractor shall within ten days after receipt of this notice send to the PHA copies of all required permits for work to be performed under this contract. Failure to comply with these instructions shall constitute a breach of contract.

Your cooperation on this construction to its conclusion is of the utmost importance to the PHA.

Sincerely,

Contracting Officer

cc: Contract File

Other PHA Files

CONTRACT MODIFICATION

1. Modification Number: _____

2. Effective Date: _____

3. Contract Number: _____ Dated: _____

4. This Modification Modifies The Contract As Described Below:

This Change Order Is Issued Pursuant To:

(Cite Contract Clause) _____

The Contract Is Modified To Reflect The Following Administrative Changes (E.G., Changes In Payment Office) _____

This Supplemental Agreement Is Entered Into Pursuant

To: _____

(Cite Contract Clause Or Mutual Agreement Of The Parties)

Other (Specify Type Of Modification And Authority):

5. The contractor ___[is] or ___[is not] required to sign this document and return ___ copies to the Contracting Officer.

6. Description Of Modification: (Include Section, Clause, Page Number, And Subject Matter)

Except As Provided Herein, All Terms And Conditions Of The Contract Remain Unchanged And In Full Force And Effect.

7. Name and Title of Signer: _____

Date: _____

8. Name and Title of Contracting Officer: _____

Date: _____

DISADVANTAGED BUSINESS ENTERPRISE RESOURCE LIST

- **Small Business Development Centers (SBDC)**

SBDC provide businesses with management, marketing and financial counseling. The centers assist in the development of business and marketing plans, improving business ownership skills, financial analysis of businesses, accessing specialized services including export and government marketing and other business management needs.

- **Women's Business Centers (WBC)**

Each women's business center provides assistance and/or training in finance, management, marketing, procurement and the internet, as well as addressing specialized topics such as home-based businesses corporate executive downsizing and welfare-to-work. All provide individual business counseling and access to the SBA's programs and services; a number of centers are also intermediaries for the SBA's MicroLoan and Loan Prequalification programs. Each WBC tailors its programs to the needs of its constituency; many offer programs and counseling in two or more languages.

- **Minority Business Development Centers (MBDC)**

The MBDC's provide business development services to aid in the creation, expansion and preservation of minority-owned businesses. It is MBDC's largest client services program and is structured to cover areas that contain approximately 80% of the country's minorities.

- **Native American Business Development Centers**

The Minority Business Development Agency established the Native American Program (NAP) to address the special problems of the Native American firms and individuals interested in entering, maintaining, or expanding their efforts in the competitive marketplace.

- To view a list of over 800 Trade Associations and similar organizations, visit the HUD OSDBU website at: www.HUD.gov/offices/OSDBU
- To locate local SBA District/Field offices, SBDC and other resources, visit SBA's website at: www.SBA.gov/regions/states.html
- To locate local MBDA regional offices, MBDCs and other resources, visit MBDA's website at: www.MBDA.gov
- The SBA, DOD, the Office of Management & Budget and GSA created an integrated database of small businesses called Central Contractor Registration (CCR). CCR can provide you with listings of small businesses that offer the products and services that you procure. Visit www.ccr.gov
- To facilitate searches for small businesses in particular industries, refer to the North American Industry Classification System (NAICS). Visit the website at: <http://naics.com>
- To assist you in advertising your contracting opportunities, include your upcoming contracting requirements in MBDA's "Opportunity Database" called Phoenix. Phoenix matches MBE's with contracts and other business opportunities via e-mail at: www.MBDA.gov

Glossary

The following is a list of key procurement and contracting terms and definitions.

Acceptance – The act of an authorized representative of the PHA acknowledging that the supplies or services delivered to or received by the PHA conform to contract requirements.

Annual Contributions Contract (ACC) – Entered into between HUD and the PHA, setting forth terms and conditions for the operation, modernization, and development of public housing. The current version of the ACC (form HUD-53012-A, 7/95) does not actually contain any specific language governing PHA procurement activity, but incorporates by reference regulations promulgated by HUD at Title 24 of the Code of Federal Regulations, as well as all applicable laws and executive orders, and regulations.

Amendment – Written revision or clarification made to a solicitation.

Anti-competitive Practices – Actions by potential contractors that improperly reduce or eliminate competition or restrain trade. Examples are: an agreement or understanding among competitors to restrain trade, such as submitting collusive bids or proposals, rotating low bids, follow-the-leader pricing, or sharing of the business. Competition may also be wrongfully discouraged by illicit business actions that have the effect of restraining trade, such as controlling the resale price of products or an improper collective refusal to bid (24 CFR 85.36(c)(1)).

Architect/Engineer (A/E) – Person (or company) usually responsible for developing the plans and specifications of a building or development and, in some cases, supervising the construction effort.

Bid – The price submitted by a bidder in the sealed bidding method of procurement.

Bidder's List – General list of persons or firms who may be interested in contracting opportunities with the PHA, and in submitting bids in response to an Invitation for Bid.

Change Order – A unilateral modification made to the contract by the Contracting Officer (Executive Director or designee) under the authority of the contract's Changes clause. Only the specific changes permitted by the particular Changes clause may be made under a change order (e.g., modify the drawings, design, specifications, method of shipping or packaging, place of inspection, delivery, acceptance, or other such contractual requirement; see form HUD-5370). All change orders must be within the scope of the contract.

Changed Conditions – Construction site or repair conditions that differ significantly from those indicated in the contract or from those ordinarily encountered in the performance of the specific type of work required by the contract.

Competitive Proposals – Also called contracting by negotiation, a method of procurement using the solicitation, evaluation, and negotiation of proposals instead of sealed bids. The competitive proposal method is used for requirements exceeding the PHA's small purchase threshold when conditions are not appropriate for sealed bidding. (Note: Under the Qualifications-Based Selection method only, a Request for Qualifications (RFQ) is used in place of the RFP.)

Competitive Range – Those proposals submitted in response to a RFP that, after technical evaluation by the PHA's selection panel and considering the proposed costs/prices, have a reasonable chance of being awarded the contract.

Consortia – These are a special kind of PHA consortium where two or more agencies join together to perform planning, reporting and other administrative functions, including, importantly, the joint preparation of a PHA Plan.

Contract – A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the PHA to pay for them. It includes all types of commitments that obligate an agency to an expenditure of funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include: contract awards and notices of awards; job orders or task letters issued under basic ordering agreements, equipment contracts, or definite- or indefinite-quantity contracts; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; bilateral (two-party) contract modifications; and various cooperative and interagency agreements. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.*

Contracting Officer – The Executive Director or an official authorized by the Executive Director to enter into and/or administer contracts and make related determinations and findings. For the purpose of this handbook, the term includes any PHA employee designated and authorized to perform the duties of a Contracting Officer.

Contract Administration – All the actions taken with regard to a contract after its award. Administration includes monitoring the contractor's performance to ensure compliance with the contract requirements, and terms and conditions.

Contract Modification – Any written alteration to a contract executed by an authorized contracting officer.

Contractor – An Offeror who is awarded a contract.

Contract Pricing Arrangements – The arrangement, as reflected in the contract, for how the vendor will be paid for services. While there are two basic contract pricing arrangements – firm fixed-price and cost-reimbursement – there are multiple variations on these models, from indefinite quantity contracts (where the exact number of deliverable items is not known at the time of contract award but where minimum and maximum quantities are stated) to cost-plus fixed-fee (where costs are reimbursed, up to an estimated amount, plus a specified fee).

Cost-Reimbursement Contract – The contractor is reimbursed for his/her allowable costs of performance up to a total estimated amount specified in the contract. The contract may provide for the payment of a fee (i.e., a type of profit) in addition to costs.

Cure Notice – A document originated by the Contracting Officer and sent to notify the contractor that the contract may be terminated for default unless performance is corrected within a specified number of days.

Excusable Delay – A failure to perform within the contract period that is beyond the control and without fault or negligence of the contractor, as determined by the Contracting Officer.

Federal Small Purchase Threshold – The maximum dollar amount for individual small purchases. The threshold is currently set at \$100,000 (41 U.S.C. 403(11)). PHAs may establish lower thresholds.

Firm Fixed Price Contract – The contractor is paid a firm fixed-price for all required work regardless of the contractor's actual costs of performance (see Chapter 10, section 10.1, for detailed guidance on fixed-price contracts).

Independent Cost Estimate (ICE) – An estimate prepared by the PHA prior to obtaining offers. The degree of analysis will depend on the size and complexity of the purchase.

Inspection – The examination and/or testing of supplies and services to determine conformance with the contract requirements.

Instrumentality- Shall mean a subsidiary branch of the PHA through which functions or policies are implemented.

Intergovernmental or Interagency Agreement – An agreement between a PHA and a Federal, State, or local government agency (including other PHAs) for the provision of supplies or services. In recent years, the terms Cooperative Agreement, Intergovernmental Agreement, Consortium Agreement, or Memorandum of Agreement have been used interchangeably and are treated the same.

Internal Controls – Safeguards that ensure contracting actions will be conducted in conformity with applicable Federal and State regulations and PHA policy.

Invitation for Bids (IFB) – Solicitation type used under the sealed bidding method of procurement. This document explains the intended purchase and invites bids from potential contractors.

Joint Venture Partner – This is a participant, other than a PHA, in a joint venture, partnership, or other business arrangement or contract for services with a PHA.

Level-of-Effort Contract – Contract (usually cost-reimbursement) that specifies the number and type of person-hours that the contractor will use in performance of the contract requirements.

Major Change – Modification to an existing contract that is beyond the general scope of the contract or a change to a substantive element of the contract that is so extensive that a new procurement should be used.

Micro Purchases – Small purchases under \$2,000 (or lower threshold established by the PHA).

Negotiation – Discussions with offerors in the competitive range regarding technical and/or price proposals when awarding a contract using the competitive proposals method of procurement or when issuing modifications to existing contracts or other required discussion with offerors for the other methods of procurement.

Noncompetitive Proposals – Procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

Offer – A response to a solicitation (IFB or RFP) that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called “bids” or “sealed bids”, responses to requests for proposals (negotiation) are offers called “proposals”; however, responses to requests for quotations (small purchases) are “quotations,” not offers. Small purchases become binding contracts once the vendor accepts the order (e.g., by signature or substantial performance of the order). Offers submitted under the Qualifications-Based Selection (QBS) method are called “qualifications”.

Offeror - The general term for the entity that submits a response to a solicitation. For the purposes of this handbook, offeror may be used interchangeably with bidder, proposer, or respondent.

Procurement – The acquiring by contract of supplies and services (including construction) with the PHA’s Federal program grant funds through purchase, lease, or other means. Procurement begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract

performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Proposal – The offer submitted by a potential contractor in the competitive or noncompetitive proposals method of procurement.

Qualification Based Selection (QBS) – A form of procurement of architect-engineering (A/E) or development services by competitive proposals in which price is not requested in the Request for Qualifications (RFQ) or used as an evaluation factor. Instead, technical qualifications only are reviewed negotiations are conducted with the best-qualified firm. Only A/E services and development partners may be procured by this method.

Quotation – The price or cost submitted by a vendor in the small purchase procedures method.

Request for Proposals (RFP) – Solicitation method used under both the competitive or non-competitive methods of procurement. Proposal evaluation and contractor selection are based on the evaluation criteria and factors for award as stated in the RFP. Contract award is based on the best proposal responsive to the requirements of the statement of work resulting in the greatest benefit and best value to the PHA, which may not necessarily be primarily determined based on price.

Responsible Bidder – A bidder who is able to comply with the required or proposed delivery or performance schedule; has a satisfactory performance record; has a satisfactory record of integrity and business ethics; has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them; has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and is otherwise qualified and eligible to receive an award under applicable laws and regulations, including the fact that the bidder is not suspended, debarred or under a HUD-imposed Limited Denial of Participation.

Responsive Bid – A bid that conforms exactly to the requirements in the Invitation for Bids (IFB).

Sanctions – Measures that may be invoked by HUD to exclude or disqualify contractors, PHA staff or agents acting on behalf of a PHA from participation in HUD programs (such as limited denial of participation or debarment), or measures the PHA may take regarding employees, officers, agents, or others who violate the ethical standards of the policies of the PHA (such as dismissal, reassignment, removal from position, etc.). In the case of violations, HUD would exercise any available remedy under the ACC, federal regulations and statutes, and grant agreements, including the U.S. Housing Act of 1937 as amended, 24 CFR Parts 84 and 85, and sections 17 and 19 of the ACC.

Sealed Bidding – A method of procurement inviting sealed bids. This method requires: specifications that are clear, accurate, and complete; a public bid opening; and evaluation of bids and award of the contract based on the lowest price submitted by a responsive and responsible contractor. Sealed bidding is the preferred method for construction (24 CFR 85.36(d) (2)).

Show Cause Letter – A document sent by the Contracting Officer notifying a defaulting contractor that the contract may be terminated for default unless the contractor can provide adequate justification for not terminating within a specified time period (usually 10 days).

Small Purchase Procedures – Small Purchase Procedure – A simplified method for acquiring supplies, materials, and services (including construction) that do not exceed the PHA's small purchase threshold. (The Federal threshold is \$100,000; PHAs are limited to this or a lower amount as specified in applicable State or local law or dictated by the PHA's Procurement Policy or imposed by HUD due to PHA's procurement performance.) (24 CFR 85.36(d) (1)).

Small Purchase Threshold – The per purchase dollar limit established by a PHA for small purchases. The threshold is set in the PHA’s procurement policy. The threshold may not exceed the Federal small purchase threshold .

Solicitation – The general term for the agency’s request for offers from potential offerors. A solicitation package generally contains the proposed contract, including contract terms and conditions, instructions to potential offerors regarding the submission of an offer, and any other information needed to prepare an offer.

Solicitation Provisions – The instructions provided to bidders/offerors included in solicitations. The provisions include such information as how to prepare an offer, bonding requirements, date and time for submission of offers, etc. Provisions required by HUD, as applicable, are included on forms HUD-5369, Instructions for Bidders and HUD-5369-A, B and C, Representations, Certifications, etc., and HUD-5369-B for solicitations above the federal small purchase threshold.

Specifications or Scope – Description of the technical requirements of a contract.

Statement of Work (SOW) – Written description of work to be performed that establishes the standards sought for the supplies or services furnished under the contract; typically used for service contracts.

Subsidiary – A type of operating entity created and operated by a PHA over which it has a controlling interest. It may be wholly owned or controlled by the PHA and may be a nonprofit organization.

Supplemental Agreement – A type of contract modification to which both parties agree.

Termination for Cause – Termination of a contract on a unilateral basis when the contractor fails to perform, fails to make progress so as to endanger performance, or commits a default as specified in the contract.

Termination for Convenience – Termination of a contract by the PHA on a unilateral basis when the product or service is no longer needed or when it is in the best interest of the PHA.

Time Delay – An interruption during which supplies are not delivered or services or work are not completed in accordance with the performance schedule stated in the contract.

Vendor – The term often used for an offeror or contractor when talking about small purchasing.

Vendor List – List of persons or firms qualified to do business with the PHA.

ACRONYM GUIDE

A/E – Architect/Engineer

ABA – American Bar Association

ACC – Annual Contributions Contract

BAT – Bureau of Apprenticeship and Training

BTU – British Thermal Unit

CEA – Comprehensive Energy Analysis

CFR – Code of Federal Regulation

CSS – Community and Supportive Services

DOE – U.S. Department of Energy

DOL – U.S. Department of Labor

EPC – Energy Performance Contracting
ESCO – Energy Service Company

FAR – Federal Acquisition Regulation

GAO – General Accounting Office
GSA – General Services Administration

HOPE VI – Homeownership and Opportunity for People Everywhere
HUD – U.S. Department of Housing and Urban Development

ICE – Independent Cost Estimate
IFB – Invitation for Bids
IPP – Individual Procurement Plan

LDP – Limited Denial of Participation
LGB – Local Governing Body
LSP – Legal Service Personnel

MBDC – Minority Business Development Center
MOC – Minority Owned Corporation

NAICS – North American Industry Classification System
NOFA/Super NOFA – Notice of Funding Availability

OCPO – Office of the Chief Procurement Officer
OMB – Office of Management and Budget

PDF – Portable Document Format
PHA – Public Housing Agency
PHAS – Public Housing Assessment System
Pub.L. – Public Law

QBS – Qualifications-Based Selection
QHWRA – Quality Housing and Work Responsibility Act

RFP – Request for Proposals
RFQ – Request for Qualifications
RMC – Resident Management Corporation
SBDC – Small Business Development Center
SOW – Statement/Scope of Work

T-List – U.S. Treasury Circular 570

U.S.C. – United States Code

WBC – Women’s Business Centers

WBE – Women’s Business Enterprise