

# HOUSING AUTHORITY OF THE CITY OF FRANKLIN

## **PROCUREMENT POLICY**

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RESOLUTION NO. 21 OF 2011

Adopted June 29, 2011

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***This Procurement Policy complies with HUD's Annual Contributions Contract (ACC) between the Housing Authority of the City of Franklin and the Department of Housing and Urban Development, the procurement standards of Procurement Handbook for PHA's HUD Handbook 7460.8, "Procurement Handbook for Public Housing Agencies," Federal Regulations at 24 CFR 85.36,***

## **I. GENERAL PROVISIONS**

### **A. PURPOSE**

The purpose of this Procurement Policy is to: provide for the fair and equitable treatment of all persons or firms involved in purchasing by the PHA; assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the PHA; promote competition in contracting; provide safeguards for maintaining a procurement system of quality and integrity; and assure that PHA purchases are in full compliance with applicable Federal standards, HUD regulations, and State and local laws, to the extent applicable.

### **B. APPLICATION**

This Procurement Policy applies to all contracts for the procurement of supplies, services, and construction entered into by the PHA after the effective date of this Policy. It shall apply to every expenditure of funds by the PHA for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in this Policy shall prevent the PHA from complying with the terms and conditions of any grant, contract, gift, or bequest that is otherwise consistent with law.

### **C. DEFINITIONS**

1. The term "procurement," as used in this Policy, includes both contracts and modifications (including change orders) for construction or services, as well as purchase, lease, or rental of supplies and equipment.
2. The term ICE stands for Independent Contract Estimate.
3. The term Micro Purchase includes those purchases of less than \$2,000.00.
4. The term Small Purchase shall include those purchases of \$10,000.00 or less.

5. The term PHA shall mean Public Housing authority and specifically the Housing Authority of the City of Franklin.
6. The term IFB shall mean Invitation for Bid.
7. The Term RFQ shall mean Request for Quotation.
8. The Term QBS shall mean the Qualification Based System used for obtaining Architect and Engineer professional services.
9. The term Assigned Personnel shall generally mean Project Manager in the case of securing office supplies, office equipment, or service contracts; Maintenance Mechanic in the case of securing maintenance materials, maintenance supplies, maintenance equipment, or contracts pertaining to maintenance work items. In all other cases, it shall mean those personnel assigned by the executive Director to perform a given task.

D. 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.

E. PUBLIC ACCESS TO PROCUREMENT INFORMATION

Most procurement information that is not proprietary shall be a matter of public record and shall be available to the public to the extent provided in the Right to Know Law 65 P.S. § 67.101 et seq., the or similar law shall be available to the public as provided in that statute.

## II. INDEPENDENT COST ESTIMATE

For all purchases above the Micro Purchase threshold, the PHA 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.

### A. COST AND PRICE ANALYSIS

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

### B. 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.

### C. 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.

### D. 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 PHA cannot reasonably determine price reasonableness, the PHA must conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable.

E. COMPETITIVE PROPOSALS

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, the PHA 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 PHA must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.

F. 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 \$10,000.

G. SOLICITATION AND ADVERTISING

1. Method of Solicitation

- a) Micro Purchases. The PHA 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 PHA must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.
- d) Advertising. Advertising in newspapers or other print mediums of local or general circulations. Advertising in various trade journals or publications (for construction).
- e) E-Procurement. The PHA 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.

- f) Time Frame. For purchases of more than \$10,000, the public notice should run not less than once each week for two consecutive weeks.
- 2. Notice/Advertisements Notices/advertisements should state, at a minimum, the place, date, and time that the bids or proposals are due, the solicitation number, a contact who can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s).
- 3. 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.
- 4. 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 PHA 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 PHA.
- 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 resolicitation 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 PHA'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 re-bid. If both are determined adequate and more than one bid is received and the price is unreasonable, the contracting officer may cancel the solicitation and re-bid.
  - f) If problems are found with the specifications, PHA should cancel the solicitation, revise the specifications and resolicit using an IFB.

#### H. CREDIT (OR PURCHASING) CARDS

1. 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.
2. When using credit cards, the PHA 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).

## I. BONDING REQUIREMENTS

1. The standards under this section apply to construction contracts that exceed \$10,000. There are no bonding requirements for small purchases or for competitive proposals. The PHA may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.
2. Bid Bonds. For construction contracts exceeding \$10,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.
3. Payment and Performance Bonds. For construction contracts exceeding \$10,000, the successful bidder shall furnish an assurance of completion. This assurance may be any one of the following four:
  - a) A performance and payment bond in a penal sum of 100% of the contract price; or
  - b) Separate performance and payment bonds, each for 50 % or more of the contract price
4. 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.
5. 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.

### III. PROCUREMENT AUTHORITY AND ADMINISTRATION

#### A. PROCUREMENT PLANNING

1. Planning is essential to managing the procurement function properly. Hence, the PHA 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 PHA's procurement costs; reduce PHA 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.

#### B. TRANSACTIONS

All procurement transactions shall be administered by the Contracting Officer, who shall be the Executive Director or other individual he or she has authorized in writing and as set forth herein. The Executive Director shall issue operational procedures to implement this Policy, which shall be based on HUD Handbook 7460.8. The Executive Director shall also establish a system of sanctions for violations of the ethical standards described in Section IX below, consistent with State law.

#### C. The Executive Director shall ensure that:

1. procurement requirements are subject to an annual planning process to assure efficient and economical purchasing;
2. contracts and modifications are in writing, supported by appropriate documentation clearly specifying the desired supplies, services, or construction, as well as the method of procurement, selection of contract type, the rationale for selecting or rejecting offers, and basis for the contract price;
3. for procurements other than small purchases, public notice is given of each upcoming procurement at least ten days before a solicitation is issued; responses to such notice are honored to the maximum extent practical; a minimum of 15 days is provided for preparation and submission of bids or proposals; and notice of contract awards is made available to the public;

4. solicitation procedures are conducted in full compliance with Federal standards stated in 24 CFR 85.36,
  5. an independent cost estimate is prepared before solicitation issuance and is appropriately safeguarded for each procurement above the small purchase limitation and a cost or price analysis is conducted of the responses received for all procurements;
  6. contract award is made to the responsive and responsible bidder offering the lowest price (for sealed bid contracts) or contract award is made to the offeror whose proposal offers the greatest value to the PHA, considering price, technical, and other factors as specified in the solicitation (for contracts awarded based on competitive proposals); unsuccessful firms are notified within ten days after contract award;
  7. there are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders), work is inspected before payment, and payment is made promptly for contract work performed and accepted; and
  8. the PHA complies with applicable HUD review requirements, as provided in the operational procedures supplementing this Policy.
- D. This Policy and any later changes shall be submitted to the Board of Commissioners for approval. The Board appoints and delegates procurement authority to the Executive Director and is responsible for ensuring that any procurement policies adopted are appropriate for the PHA.
- E. The Project Managers and Maintenance Mechanics are permitted to make small purchases under \$200 without prior approval of the Executive Director. A "Purchase under \$200" is defined as either one item on an invoice or a total invoice. All maintenance supplies require a purchase order for each purchase regardless of the cost of the item(s). Purchases over \$200 must receive approval from the Executive Director prior to the purchase being made. The Part-Time Clerk Typist only makes purchases upon instruction by the Executive Director, Project Managers, or Maintenance Mechanics.
- F. The PHA may consider using Force Account by employing existing or adding force account laborers on either a permanent or a temporary basis to perform work without HUD approval in accordance with 24 CFR 968.105 and 968.120.

G. 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.

H. DELEGATION OF CONTRACTING AUTHORITY

1. While the Executive Director is responsible for ensuring that the PHA'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.
2. 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.

I. DOCUMENTATION

1. The PHA 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.

2. The level of documentation should be commensurate with the value of the procurement.
3. Records are to be retained for a period of three years after final payment and all matters pertaining to the contract are closed.
4. Disposition Of Surplus Property. Property no longer necessary for the PHA's purposes (non-real property) shall be transferred, sold, or disposed of in accordance with applicable Federal, state, and local laws and regulations.
5. Funding Availability. Before initiating any contract, the PHA shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.
6. Self-Certification. The PHA self-certifies that this Procurement Policy, and the PHA's procurement system, complies with all applicable Federal regulations and, as such, the PHA is exempt from prior HUD review and approval of individual procurement action.

## IV. PROCUREMENT METHODS

### A. SELECTION OF METHOD

If it has been decided that the PHA will directly purchase the required items, one of the following procurement methods shall be chosen, based on the nature and anticipated dollar value of the total requirement.

### B. SMALL PURCHASE PROCEDURES

#### 1. General.

Any contract not exceeding \$10,000 may be made in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section (except as may be reasonably necessary to comply with Section VIII of this Policy). For any amounts above the Micro Purchase ceiling, but not exceeding \$10,000, the PHA may use small purchase procedures. Under small purchase procedures, the PHA 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 PHA. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. The PHA 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 apply to purchases that exceed the Micro Purchase threshold.

#### 2. Petty Cash Purchases

The Authority does not feel it is necessary to establish a Petty Cash Fund. The Authority has established a good credit rating for small purchases with local businesses.

3. Small purchases of \$4,000 or less

For small purchases below \$4,000, only one quotation may be solicited if the price received is considered reasonable by the contracting officer. Such purchases must be distributed equitably among qualified sources. If practicable, a quotation shall be solicited from other than the previous source before placing a repeat order.

4. Small purchases over \$4,000 but not exceeding \$10,000

For small purchases in excess of \$4,000 but not exceeding \$10,000 no less than three offerors shall be solicited to submit price quotations, which may be obtained orally, by telephone, or in writing, as allowed by State or local laws. Award shall be made to the offeror providing the lowest acceptable quotation, unless justified in writing based on price and other specified factors, such as for architect-engineer contracts. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

C. SEALED BIDS

1. General

- a) Sealed bidding shall be used for all contracts that exceed \$10,000 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 \$10,000
- b) All contracts that require sealed bidding must comply with the Separations Act 53 P.S. § 1003.
- c) All contracts that require sealed bidding must comply with the Steel Products Procurement Act 73 P.S. § 1881.



2. Conditions for Using Sealed Bids

The PHA 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. Contracts shall be awarded based on competitive sealed bidding if the following conditions are present: a complete, adequate, and realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; the procurement lends itself to a firm fixed price contract; and the selection of the successful bidder can be made principally on the basis of price. Sealed bidding is the preferred method for construction procurement. For procurements under the Capital Fund Grant Program, sealed bidding shall be used for all construction and equipment contracts exceeding \$10,000. For professional services contracts, sealed bidding shall not be used.

3. Solicitation and Receipt of Bids

An invitation for bids is issued which includes specifications and all contractual terms and conditions applicable to the procurement; including a statement, that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation. The invitation for bids must state the time and place for both the receipt of bids and the public bid opening. All bids received shall be date and time-stamped and stored unopened in a secure place until the public bid opening. A bidder may withdraw its bid at any time prior to bid opening.

4. Bid Opening and Award

Bids shall be opened publicly and in the presence of at least one witness. All bids received shall be recorded on an abstract (tabulation) of bids, and the bids shall be available for public inspection. Award shall be made as provided in the invitation for bids by written notice to the successful bidder. If equal low bids are received from responsible bidders, selection shall be made by drawing lots or similar random method, unless otherwise provided in State or local law and stated in the invitation for bids. The method for doing this shall be stated in the invitation for bid. If only one responsive bid is received from a responsible bidder, award shall not be made unless a cost or price analysis verifies the reasonableness of the price.

5. Mistakes in Bids

- a) 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 invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only if the bidder can show by clear and convincing evidence that a mistake of a 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 nonjudgmental mistake was made.
- b) All decisions to allow correction or withdrawal of bid mistakes shall be supported by a written determination signed by the Executive Director. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the PHA or fair competition shall be permitted.

6. Bonds

In addition to the other requirements of this Policy, the following requirements apply:

- a) For construction contracts exceeding \$10,000, other than those specified in 5.b. and 5.c. below, contractors shall be required to submit the following, unless otherwise required by State or local laws or regulations:
  - (1) a bid guarantee from each bidder equivalent to 5% of the bid price; and
  - (2) a performance bond for 100% of the contract price; and
  - (3) a payment bond for 100% of the contract price.

- b) In the case of construction of conventional development projects funded pursuant to the U.S. Housing Act of 1937, the contractor shall be required to submit the following, unless otherwise required by State or local laws or regulations:
  - (1) a bid guarantee from each bidder equivalent to 5% of the bid price; and
  - (2) one of the following:
    - (a) a performance and payment bond for 100% of the contract price; or
    - (b) a 20% cash escrow; or
    - (c) a 25% irrevocable letter of credit.

#### D. 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.

##### 1. Conditions for Use

Competitive proposals, including turnkey proposals for development, shall be used only if there is an adequate method of evaluating technical proposals submitted and where compatible with the laws of the Commonwealth of Pennsylvania. For professional services contracts, the competitive proposal method of solicitation is preferred when the authority has determined that solicitation for professional services is desirable. The competitive proposal method shall not be used when sealed bidding is feasible but never for professional services. An adequate number of qualified sources shall be solicited. 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.

2. Solicitation

Other than A/E services, competitive proposals shall be solicited through the issuance of a RFP. The request for proposals shall clearly identify importance and relative value of each of the evaluation factors as well as any subfactors 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 PHA may assign price a specific weight in the evaluation criteria or the PHA may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.

3. Evaluation.

The proposals shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, the PHA 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.

4. Negotiations.

Unless there is no need for negotiations with any of the offerors, negotiations shall be conducted with responsible offerors who submit proposals determined to have reasonable chance of being selected for award, based on evaluation of technical and price factors as specified in the RFP. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to advise offerors of the deficiencies in their proposals on both technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements. No offeror shall be provided 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. Offerors shall not be directed to reduce their proposed price to a specific amount in order to be considered for award. 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 PHA'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.

5. Award

After evaluation of proposal revisions, if any, the contract shall be awarded to the responsible firm whose technical approach to the project, qualifications, price and/or other factors considered, are the most advantageous to the PHA provided that the price is within the maximum total project budgeted amount established for the specific property or activity.

6. Architect/Engineer Services

The PHA must contract for A/E services using QBS procedures, utilizing a RFQ. Sealed bidding, however, shall not be used to obtain architect/engineer services. Under qualifications-based selection procedures, competitors' qualifications are evaluated and the most qualified competitor is selected, subject to the negotiation of fair and reasonable compensation. Price is not used as a selecting factor under this method. QBS procedures shall not be used to purchase other types of services even though architect-engineer firms are potential sources.

E. NONCOMPETITIVE PROPOSALS

1. Conditions for use

Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals (sole-source) may be used only when the award of a contract is not feasible using small purchase procedures, cooperative purchasing, sealed bids, or competitive proposals, and one of the following applies:

- a) The item is available only from a single source, based on a good faith review of available sources;
- b) An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the PHA, 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;

- c) HUD authorizes the use of noncompetitive proposals; or
- d) After solicitation of a number of sources, competition is determined inadequate.
- e) Each procurement based on noncompetitive proposals shall be supported by a written justification for using such procedures. The justification shall be approved in writing by the Contracting Officer.

## 2. 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:

- a) Description of the requirement;
- b) History of prior purchases and their nature (competitive vs. noncompetitive);
- c) The specific exception in 24 CFR 85.36(d)(4)(i)(A) through (D) which applies;
- d) Statement as to the unique circumstances that require award by noncompetitive proposals;
- e) 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.);
- f) Statement as to efforts that will be taken in the future to promote competition for the requirement;
- g) Signature by the Contracting Officer's supervisor (or someone above the level of the Contracting Officer); and
- h) 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.

3. Price reasonableness

- a) The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis, as described in this section. A cost or price analysis shall be performed for all procurement actions, including contract modifications. The degree of analysis shall depend on the facts surrounding each procurement. The method of analysis shall be determined as follows. If procurement is based on noncompetitive proposals, or when only one offer is received, or for other procurements as deemed necessary by the PHA (e.g., when contracting for professional, consulting, or architect/engineer services) the offeror shall be required to submit:
  - (1) a cost breakdown showing projected costs and profit;
  - (2) commercial pricing and sales information, sufficient to enable the PHA to verify the reasonableness of the proposed price as a catalog or market price of a commercial product sold in substantial quantities to the general public;  
or
  - (3) documentation showing that the offered price is set by law or regulation.
- b) Cost analysis shall be performed if an offeror/contractor is required to submit a cost breakdown as part of its proposal. When a cost breakdown is submitted: a cost analysis shall be performed of the individual cost elements; the PHA shall have a right to audit the contractor's books and records pertinent to such costs; and profit shall be analyzed separately. Costs shall be allowable only to the extent that they are consistent with applicable Federal cost principles (for commercial firms, Subpart 31.2 of the Federal Acquisition Regulation, 48 CFR Chapter 1). In establishing profit, the PHA shall consider factors such as the complexity and risk of the work involved the contractor's investment and productivity, the amount of subcontracting, the quality of past performance, and industry profit rates in the area for similar work.
- c) A comparison of prices shall be used in all cases other than those described in IV.E.1.b) above.



F. CANCELLATION OF SOLICITATIONS

1. An invitation for bids, request for proposals, or other solicitation may be canceled before offers are due if: the PHA no longer requires the supplies, services or construction; the PHA can no longer reasonably expect to fund the procurement; proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or similar reasons.
2. A solicitation may be canceled and all bids or proposals that have already been received may be rejected if: the supplies, services, or construction are no longer required; ambiguous or otherwise inadequate specifications were part of the solicitation; the solicitation did not provide for consideration of all factors of significance to the PHA; prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds; there is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or for good cause of a similar nature when it is in the best interest of the PHA.
3. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request to any offeror solicited.
4. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any resolicitation or future procurement of similar items.
5. If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is received and the price is unreasonable, the PHA shall cancel the solicitation and either:
  - a) resolicit using a request for proposals; or

- b) complete the procurement by using the competitive proposals method, following paragraphs IIID3 and IIID4 above (when more than one otherwise acceptable bid has been received), or by using the noncompetitive proposals method and following paragraph IIIE2 above (when only one bid is received at an unreasonable price); provided, that the Contracting Officer determines in writing that such action is appropriate, all bidders are informed of the PHA's intent to negotiate, and each responsible bidder is given a reasonable opportunity to negotiate.

#### G. COOPERATIVE PURCHASING

The PHA may enter into State and local intergovernmental agreements to purchase or use common supplies, equipment, and services. The decision to use an intergovernmental agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the intergovernmental agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions. The PHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if it is 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.

## V. CONTRACTOR QUALIFICATIONS AND DUTIES

### A. CONTRACTOR RESPONSIBILITY

Procurements shall be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity. Before awarding a contract, the PHA shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity (including a review of the list of Parties Excluded from Federal Procurement and Nonprocurement Programs published by the U.S. General Services Administration), compliance with public policy, record of past performance (including contacting previous clients of the contractor, such as other PHA's), and financial and technical resources. If a prospective contractor is found to be nonresponsible, a written determination of nonresponsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination. Past failure to promptly pay wages as required by law, past problems with promptly submitting appropriately completed required paperwork in connection with past contracts, a history of poor workmanship and/or a failure to meet contract schedules in a timely fashion, and past failure to properly cooperate with other contractors and/or contract administrators are all factors, among others, which may be considered in determining whether a prospective contractor is qualified and responsible. The PHA may require prospective contractors to provide the PHA with names, addresses and telephone numbers of references for whom a prospective contractor has done work in the past and to execute an appropriate release of information form authorizing the release of information relating to the contractor's past performance, responsibility, and overall qualifications.

B. 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:

1. Have adequate financial resources to perform the contract, or the ability to obtain them;
2. 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;
3. Have a satisfactory performance record;
4. Have a satisfactory record of integrity and business ethics;

5. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
  6. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
  7. 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.
- C. 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.

D. **SUSPENSION AND DEBARMENT**

Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined ineligible by the HUD in accordance with HUD regulations (24 CFR 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.

E. **QUALIFIED BIDDER'S LISTS**

All interested businesses shall be given an opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products, which are used in the procurement of supplies and services (including construction), shall be kept current, and shall include enough sources to ensure competition. Firms shall not be precluded from qualifying during the solicitation period. Solicitation mailing lists of potential contractors shall include, but not be limited to, such prequalified suppliers.

## VI. TYPES OF CONTRACTS, CLAUSES, AND CONTRACT ADMINISTRATION

### A. CONTRACT TYPES

Any type of contract which is appropriate to the procurement and which will promote the best interests of the PHA may be used, provided that 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 the PHA. For all cost reimbursement contracts, PHA 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. A cost reimbursement contract shall not be used unless it is likely to be less costly or it is impracticable to satisfy the PHA's needs otherwise, and the proposed contractor's accounting system is adequate to allocate costs in accordance with applicable cost principles (for commercial firms, Subpart 31.2 of the Federal Acquisition Regulation (FAR), found in 48 CFR Chapter 1). A time and material contracts may be used only if a written determination is made that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at his own risk.

### B. OPTIONS

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

1. the option is contained in the solicitation;
2. the option is a unilateral right of the PHA;
3. the contract states a limit on the additional quantities and the overall term of the contract;
4. the options are evaluated as part of the initial competition;
5. the contract states the period within which the options may be exercised;
6. the options may be exercised only at the price specified in or reasonably determinable from the contract; and
7. the options may be exercised only if determined to be more advantageous to the PHA than conducting a new procurement.

## C. CONTRACT CLAUSES

In addition to containing a clause identifying the contract type, all contracts shall include any clauses required by Federal statutes, executive orders, and their implementing regulations, as provided in 24 CFR 85.36 (i), such as: termination for convenience, termination for default, Equal Employment Opportunity, Anti-Kickback Act, Davis-Bacon Act, Contract Work Hours and Safety Standards Act, reporting requirements, patent rights, rights in data, examination of records by Comptroller General, retention of records for three years after closeout, clean air and water, energy efficiency standards value engineering, bid protests and contract claims, and payment of funds to influence certain Federal transactions. The operational procedures required by Part II below of this Policy shall contain the text of all clauses and required certifications used by the PHA. All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the PHA.

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 all contracts 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.

## D. CONTRACT ADMINISTRATION

A contract administration system designed to insure that contractors perform in accordance with their contracts shall be maintained. The operational procedures required by Part II below shall contain guidelines for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on construction contracts, and similar matters. For cost reimbursement contracts with commercial firms, costs are allowable only to the extent that they are consistent with the cost principles in FAR Subpart 31.2. The PHA 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.

## VII. SPECIFICATIONS

### A. GENERAL

All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the PHA's needs. Specifications shall be reviewed prior to issuing any solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items. Functional 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 or to assist in the aims of XI below, but in no event shall any officer employee or Board Member split contracts to lower a procurement below a small purchase or micro purchase threshold. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

### B. LIMITATIONS

1. The following specification limitations shall be avoided:
2. geographic restrictions not mandated or encouraged by applicable Federal law (except for architect-engineer contracts, which may include geographic location as a selection factor if adequate competition is available);
3. unnecessary bonding or experience requirements;
4. brand name specifications (unless the specifications list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use);
5. brand name or equal specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this procurement policy shall preempt any State licensing laws. Specifications shall be reviewed to ensure that organizational conflicts of interest do not occur (for example, having a consultant perform a study of the PHA's computer needs and then allowing that consultant to compete for the subsequent contract for the computers).

## VIII. APPEALS AND REMEDIES

### A. GENERAL

It is the PHA's policy to resolve all contractual issues informally at the PHA level, without litigation. Disputes shall not be referred to HUD until all administrative remedies have been exhausted at the PHA level. When appropriate, a mediator may be used to help resolve differences.

### B. INFORMAL APPEALS PROCEDURE

The PHA shall adopt an informal bid protest/appeal procedure for contracts of \$10,000 or less. Under these procedures, the bidder/contractor may request to meet with the appropriate Contract Officer.

### C. FORMAL APPEALS PROCEDURE

A formal appeals procedure shall be established for solicitations/contracts of more than \$10,000.

### D. BID PROTESTS

Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this Policy. Any protest against a solicitation must be received before the due date for receipt of bids or proposals, and any protest against the award of a contract must be received within ten days after the contractor receives notice of the intent of 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 or her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.

### E. CONTRACT CLAIMS

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer or designee 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 a higher level in the PHA, such as the Executive Director, a designated Board member if one is so designated by the Board or a Procurement Appeals Board if the Board decides to appoint one. Contractor claims shall be governed by the Changes clause in the form HUD-5370.



## IX. ASSISTANCE TO SMALL AND OTHER BUSINESSES

### A. REQUIRED EFFORTS

1. 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 business, women's business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of a PHA 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; and
  - f) Including in contracts a clause requiring contractors, to the greatest extent possible, to provide opportunities for training and employment for lower income residents of the project area and to award subcontract for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR 135; (so-called Section 3 businesses); and
2. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed in A.1. a) through f) above.
3. Goals may be established by the PHA periodically for participation by small businesses, minority-owned businesses, women's business enterprises, and Section 3 business concerns in the PHA's prime contracts and subcontracting opportunities.

**B. BUSINESS DEFINITIONS**

1. A small business is defined as a business which 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 121 shall be used, unless the PHA determines that their use is inappropriate.
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 and 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 also control or operate the business.
4. 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 under employment, as defined by the U.S. Department of Labor in 20 CFR 654, Subpart A, and in lists of labor surplus areas published by the Employment and Training Administration.
5. A "Section 3 business concern" is as defined under 24 CFR Part 135. A business concern located in the area or the project, is defined as an individual or firm located within the relevant Section 3 covered project area, as determined pursuant to 24 CFR 135.15, listed on HUD's registry of eligible business concerns, and meeting the definition of small business above. A business concern owned in substantial part by persons residing in the area of the project is defined as a business concern which is 51% or more owned by persons residing within the Section 3 covered project, owned by persons considered by the U.S. Small Business Administration to be socially or economically disadvantaged, listed on HUD's registry or eligible business concerns, and meeting the definition of small business above.

## X. ETHICS IN PUBLIC CONTRACTING

### A. GENERAL

The PHA 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.

### B. CONFLICT OF INTEREST

1. No employee, officer, Board member, or agent of this PHA shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, 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: An employee, officer, Board Member, or agent involved in making the award;
2. 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);
3. His/her partner; or,
4. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

### C. GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION

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

**D. PROHIBITION AGAINST CONTINGENT FEES**

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

## PART II OPERATING PROCEDURES

### I. SELECTION OF METHOD

The Executive Director will review the type of purchase and determine the proper method of procurement in accordance with the procurement policy. The Executive Director or assigned personnel will use the following procedures as may be appropriate.

### II. SMALL PURCHASES

- A. For purchases under \$200 per item or per purchase order, any employee has the authority to make purchases for office and maintenance materials.
- B. For purchases over \$200 per item or per purchase order, any employee may make the purchase after verbal approval from the Executive Director.
- C. For purchases of \$4,000 or less, the Executive Director or assigned personnel will solicit at least one quote. If three quotes cannot be obtained and it is felt the quote is reasonable, the Executive Director will make a recommendation to the Board of Directors to approve or deny the purchase and the housing authority Board will take action.
- D. For purchases of goods or services in amounts greater than \$4,000 but not exceeding \$10,000, the Executive Director or other assigned personnel will solicit at least three (3) written or telephonic price quotations from at least three (3) qualified and responsible contractors. If there are fewer than three (3) qualified contractors in the market area in which it is practicable to obtain quotations, the Executive Director or assigned personnel shall make a written memorandum which shall be retained in the file certifying this fact and shall proceed to obtain as many telephonic price quotations from as many as qualified and responsible contractors (less than three) as is practicable in the market area.
  - 1. A written record of each telephonic price quotation received shall be made by the Executive Director or assigned personnel and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the type of construction, repair, maintenance or work which was the subject of the quotations, and the price quoted, which shall be maintained as a public record. All written price quotations, written records of telephonic price quotations and memoranda shall be retained in the file for a period of at least three (3) years.

2. The Executive Director will review and present the quotations to the Board of Directors along with a recommendation and the Board of Directors shall award the contract to the lowest acceptable quotation, unless justified in writing based on price and other factors, such as for architect-engineer contracts. If non-price factors are used, they shall be disclosed to all those solicited.

### III. LARGE PURCHASES

- A. A "large purchase" is defined as any purchase of goods or services in an amount exceeding \$10,000.
- B. The Executive Director shall be responsible for determining the proper method of procurement for large purchases consistent with the requirements of the procurement policy and subject to the approval of the Board of Directors.
- C. The Executive Director shall use sealed bidding as the preferred method of procurement of large purchases unless not permitted or not feasible under the procurement policy. Large purchases involving the construction, erection, installation, completion, alteration, repair of, or addition to, any Authority property and large purchases involving the purchase of supplies, materials or equipment or the rental of any equipment will almost uniformly require sealed bidding, with the contract to be awarded to the lowest responsible and qualified bidder.
- D. Where sealed bidding is appropriate for large purchases, the Executive Director or assigned personnel shall draw up specifications and shall advertise for bids, such advertisement to include advertisement in a newspaper of general circulation in Venango County, PA, and shall receive and open bids as provided in the procurement policy. Where competitive and noncompetitive proposals are required by the procurement policy for large purchases, the Executive Director or assigned personnel shall be responsible for soliciting, negotiating, and receiving such proposals.
- E. The Executive Director shall be responsible for submitting the bids or proposals with the Executive Director's recommendation to the Board of Directors for its approval.

#### IV. SEALED BIDS, COMPETITIVE PROPOSALS AND NON-COMPETITIVE PROPOSALS

- A. Where sealed bidding is appropriate, the Executive Director or assigned personnel will draw specifications and advertise for sealed bids. When competitive proposals are required, the Executive Director or assigned personnel shall be responsible for the solicitation and negotiations called for under these rules. When non-competitive proposals are required, the Executive Director or assigned personnel shall be responsible for gathering the needed information.
- B. The Executive Director or assigned personnel will open and review bids in situations where the sealed bidding method is appropriate.
- C. In all cases under these rules where sealed bidding, competitive proposals or non-competitive proposals are required, the Executive Director shall submit the bids or proposals to the Board of Directors along with a recommendation to the Board of Directors, and the Board of Directors shall be responsible for making the final decision concerning same.

#### V. BONDING REQUIREMENTS

The Executive Director or assigned personnel shall be responsible for requiring and obtaining any bonds from contractors (including bonds for performance and bonds for prompt payment by a contractor for material, supplies, labor, services and equipment) which are required by law.

#### VI. FILE MAINTENANCE

The Executive Director or assigned personnel shall keep an exact copy of every contract awarded or bond delivered on file at its principal office, which shall be available for public inspection as provided by law.

#### VII. PROCUREMENT ADMINISTRATION

- A. The Executive Director is responsible for making sure the regulations are being followed by personnel as well as utilizing the Board of Directors for recommendations and formal approvals.
- B. The Executive Director is responsible for making sure all costs are reasonable to the best of his/her knowledge, information and belief.
- C. The Executive Director is responsible for notifying all bidders of the outcome.

- D. The Executive Director may assign personnel to any of these responsibilities at his/her discretion.
- E. The PHA shall comply with the Buy American requirements of section 1605 of the Recovery Act.

## VIII. REJECTION OF LOW BIDS/LOW PROPOSALS

The Board of Directors, in consultation with the Executive Director and/or appropriately assigned personnel, may reject low bids and/or low proposals if it determines that a proposed contractor is not responsible or otherwise not qualified per the provisions Part I, Section IV, Contractor Qualifications and Duties hereinabove.