

HOUSING AUTHORITY OF THE CITY OF BLOOMINGTON PROCUREMENT POLICY

This Procurement Policy complies with the Annual Contributions Contract (ACC) between the Housing Authority of the City of Bloomington (HACB) and HUD's 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.

Procurement Standards

The HACB 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 HACB; ensure that supplies and services (including construction) are procured efficiently effectively, and at the most favorable prices available to the HACB; promote competition in contracting; and assure that HACB 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 source of funds, except as noted under "exclusions," below. However, nothing in this Policy shall prevent the HACB 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) all other services.

Exclusions

This Policy does not govern administrative fees earned under the housing choice voucher (HCV) program, the award of vouchers under the HCV 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 900. These excluded areas are subject to applicable State and local requirements.

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 Illinois Freedom of Information Act.

Procurement Authorization

The Executive Director has been appointed by the Board of Directors to act as the Contracting Officer. The Executive Director has the authority to appoint others to act on his or her behalf. All contracts and non-routine purchases must be approved by the Executive Director. All budgeted and routine purchases should be handled by the appropriate person in charge of that item.

ETHICS IN PUBLIC CONTRACTING

General

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

Conflicts of Interest

No employee, officer, Board Member, or agent of the HACB shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, is 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 HACB 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.

Competition

All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- A. Placing unreasonable requirements on firms in order for them to qualify to do business.
- B. Requiring unnecessary experience and excessive bonding.
- C. Non-competitive pricing practices between firms or between affiliated companies.
- D. Non-competitive awards to consultants that are on retainer contracts.
- E. Organizational conflicts of interest,
- F. Specifying only a “brand name” product instead of allowing “and equivalent” product to be offered and describing the performance of other relevant requirements of the procurement, and
- G. Any arbitrary action in the procurement process.

Methods of procurement to be followed:

Petty Cash Procedures

Purchases of \$250 or less may be handled using a petty cash account. Petty cash accounts may be established in an amount sufficient to cover small purchases. For all petty cash accounts, the HACB shall ensure that security is maintained, and only authorized individuals have access to the account. These accounts should be reconciled and replenished monthly.

Micro Purchase Procedures

For any purchases not exceeding \$5,000, the HACB will use the micro purchase

procedure. Under Micro Purchase procedures, only one quote is required provided the quote is considered reasonable. HACB may award Micro Purchases without soliciting competitive quotations if the Contracting Officer considers the price to be reasonable (e.g., based on recent research, experience, or purchases).

Small Purchase Procedures

For any amounts above the Micro Purchase ceiling, but not exceeding \$150,000, the HACB may use small purchase procedures. Under small purchase procedures, the HACB shall obtain a minimum of three (3) quotes. 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 email, fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to the HACB. If an award is to be made for reasons other than the lowest price, documentation shall be provided in the contract file. HACB staff 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

For purchases and contracts of \$150,000 or more and that are not competitive proposals or non-competitive proposals, as these terms are defined in this document, sealed bidding shall be required by the Executive Director (or other authorized individuals). The HACB shall publicly solicit bids and award a firm fixed-price contract to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation to Bid, is the lowest in price. If an award is to be made for reasons other than the lowest price, documentation shall be provided in the contract file. Sealed bidding is the preferred method for procuring construction, supply, and non-complex service contracts that are expected to exceed \$150,000.

A. Conditions for Using Sealed Bids. HACB staff shall use the sealed bid method if the following conditions are present:

- (i) A complete, adequate, and realistic statement of work, specification or purchase description is available:
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business.
- (iii) The contract can be awarded based on a firm fixed price, and
- (iv) The selection of the successful bidder can be made principally on the lowest price.

B. Solicitation and Receipt of Bids. An Invitation For Bid (IFB) is issued which includes the specifications and 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.

C. Method of Solicitation.

(i) The Housing Authority shall advertise the proposed procurement in the legal notice of local newspapers and online.

(ii) The solicitation will run for a period sufficient to achieve effective competition, which, in the case of paid advertisements, will run not less than once each week for two consecutive weeks.

D. Bid Opening and Award. Bids shall be opened publicly. All bids received shall be recorded on a tabulation of bids, and then made available for public inspection.

E. Rejected Bids. Any or all bids may be rejected if there is a sound documented reason.

Competition

All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

A. Placing unreasonable requirements on firms for them to qualify to do business,

B. Requiring unnecessary experience and excessive bonding,

C. Non-competitive pricing practices between firms or between affiliated companies,

D Non-competitive awards to consultants that are on retainer contracts,

E. Organizational conflicts of interest,

F. Specifying only a “brand name” product instead of allowing “and equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

G. Any arbitrary action in the procurement process.

Procurement by Competitive Proposals

The technique of competitive proposals is normally conducted with more than one source submitting an offer or a fixed-price reimbursement type contract is awarded. Award is normally made based on the proposal that represents the best overall value to the Housing Authority, 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. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

A. 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 and price.

B. Proposals will be solicited from an adequate number of qualified sources.

C. A method for conducting technical evaluations of the proposals received and for selecting awardees shall be established before the solicitation is issued.

D. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

E. Qualifications-Based Selection (QBS) procedures, utilizing a request for qualifications (RFQ) shall be used to contract for architectural/engineering (A/E) professional services. 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 A/E firms are a potential source to perform the proposed effort.

Noncompetitive Proposals

Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposals, and if one of the following applies:

A. The item is available only from a single source.

B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.

C. HUD authorizes the use of noncompetitive proposals.

D. After solicitation of several sources, competition is determined inadequate.

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. The justification, to be included in the procurement file, should include the following information:

- A. Description of the requirement.
- B. The specific exception in 24 CFR 85.36(d)(i)(A) through (D) which applies
- C. Statement as to the unique circumstances that require award by noncompetitive proposals
- D. 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.)
- E. Statement as to efforts that will be taken in the future to promote competition for the requirement
- F. Signature by the Contracting Officer's supervisor (unless Contracting Officer is Executive Director)
- G. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this Policy.

Contracting with Small and Other Businesses

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 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 HACB project are used when possible. Such efforts shall include, but not be limited to:

- A. Including such firms, when qualified on solicitation 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. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

Contract Cost and Price.

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. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting and architectural engineering service contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders unless price reasonableness can be established based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

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.

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

C. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work, provided for in the contract.

Contract Clauses

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

Additionally, the forms HUD-5369, 5369-A, 5369-B, 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.

Revised by Resolution 1498 adopted 1/23/2024