



Housing Authority
of the
City of Alameda

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To: Honorable Chair and Members of the Board of Commissioners

From: Daniel Mills, Management Analyst

Date: June 15, 2022

Re: Accept Revised Procurement Policy.

BACKGROUND

The Procurement Policy outlines the methods by which the Agency will obtain goods and services. It was last revised in March 2020. Since that revision, AHA has been optimizing processes that should be reflected in the Procurement Policy.

DISCUSSION

This revision to the policy briefly outlines the guidelines on when to utilize internal Purchase Orders and the "Best Practices" to be followed by the procuring individual(s) when a purchase order is employed. This information can be found on pages 19-20 of the attached revised Procurement Policy.

FISCAL IMPACT

There is no direct financial impact of these policy revisions, but the policy revisions will change how staff procure services and materials in the future.

CEQA

N/A

RECOMMENDATION

Accept the revised Housing Authority of the City of Alameda Procurement Policy.

ATTACHMENTS

1. AHA Procurement Policy (REVISED JUNE 2022)_daniedit_BOC_v4

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel Mills".

Daniel Mills, Management Analyst





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HOUSING AUTHORITY OF THE CITY OF ALAMEDA

PROCUREMENT POLICY

Effective [June 15, 2022](#)

[Adopted by the Board of Commissioners on April 17, 2013](#)
[Revised by the Board of Commissioners on August 20, 2014](#)
[Revised by the Board of Commissioners on January 20, 2016](#)
[Revised by the Board of Commissioners on April 17, 2019](#)
[Revised by the Board of Commissioners on May 20, 2020](#)
[Revised by the Board of Commissioners on June 15, 2022](#)

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1. INTRODUCTION

Established for the Housing Authority of the City of Alameda and its other affiliates that do not have separate procurement policies, including, but not limited to the Alameda Affordable Housing Corporation (collectively the “Housing Authority”) by action of the Housing Authority Board of Commissioners, this Procurement Policy (“Policy”) complies with applicable Federal, State and local laws including 2 Code of Federal Regulations (“CFR”) Sections 200.317 through 200.326, and the procurement standards of the U.S. Department of Housing and Urban Development (“HUD”). The Housing Authority has used the HUD Procurement Handbook, HUD Handbook 7460.8, REV 2, as a guide in developing this Policy.

2. GENERAL

The Housing Authority will:

- Provide a procurement system of quality and integrity;
- Make all feasible efforts to ensure that small and minority-owned businesses, women’s business enterprises, and disabled veteran businesses are used when possible;
- Provide for the fair and equitable treatment of persons or firms involved in Housing Authority procurements;
- Ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to the Housing Authority;
- Promote competition in contracting; and
- Assure that Housing Authority purchasing actions are in compliance with applicable HUD regulations and all applicable federal, state and local laws.

3. DEFINITIONS

Contracting Officer – As used in this Policy shall mean the Executive Director or designee, or an employee who has the authority to conduct procurement services for the Housing Authority, regardless of any other job or position title he/she may have. It is the responsibility of the Contracting Officer to: (1) use sound judgment in accomplishing the procurement activities of the Housing Authority, (2) ensure that bidders and contractors receive fair, impartial, and equitable treatment, (3) ensure that contract actions comply with all applicable Federal, state and local laws and rules and with the Housing Authority’s approved procurement policy, and (4) seek the best value and greatest overall benefit for the Housing Authority in response to the needs desired.

Contractor – Any vendor responding to a procurement solicitation or contracted to do business with the Housing Authority.

Micro-purchase Threshold – As used in this Policy, the threshold shall have the same

AHA PROCUREMENT POLICY

meaning as that in 2 CFR Section 200.67 and as set by 48 CFR Subpart 2.1 or by Federal enactment. As of June 20, 2018 that amount is \$10,000. The threshold is periodically adjusted and this Policy will automatically incorporate those adjustments.

Simplified Acquisition Threshold – As used in this Policy, the threshold shall have the same meaning as that in 2 CFR Section 200.88 and as set by 48 CFR Subpart 2.1 or by Federal enactment. As of June 20, 2018, that amount is \$250,000. The threshold is periodically adjusted and this Policy will automatically incorporate those changes.

Procurement – As used in this Policy, includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction and maintenance, (3) professional and consultant services, (4) Architectural and Engineering (A/E) services, (5) social services, and (6) other services.

Public Project – As defined by the California Public Contract Code (“PCC”) Section 22002 (c), means any of the following: (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility. (2) Painting or repainting of any publicly owned, leased or operated facility. (3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement or repair of dams, reservoirs, power plants and electrical transmission lines of 230,000 volts and higher. It does not include “maintenance work” as that term is defined by PCC Section 22002(d)- (e).

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.

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).

4. APPLICATION

This Policy applies to all procurement actions of the Housing Authority, regardless of the

source of funds, except as noted under “exclusions” below. The Housing Authority elects to use the same procurement actions for non-Federal funds as for Federal funds. Nothing in this Policy shall prevent the Housing Authority from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law.

5. EXCLUSIONS

This policy does not govern the following:

- Award of administrative fees earned under the Section 8 voucher program,
- Award of vouchers to tenants under the Section 8 program,
- Execution of landlord Housing Authority Payments contracts under the Section 8 Housing Choice Voucher Program, or
- Execution of Agreements to Enter into Housing Assistance Payment (AHAP) contracts under the Section 8 Project-based Voucher Program.

These excluded areas remain subject to applicable federal laws.

6. 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 will, to the extent inconsistent with this Policy, automatically supersede this Policy.

7. PUBLIC ACCESS TO PROCUREMENT INFORMATION

Most procurement information that is not proprietary is a matter of public record and will be available to the public to the extent allowed by applicable law, including, but not limited to the California Public Records Act (California Government Code Section 6250 et seq., including any amendments thereto).

During any procurement process where an award has not yet been made, all information pertaining to the ongoing bid, bid responses, and participating bidders, is not subject to disclosure under the California Public Records Act until such time that a public award is made and a contract is entered into by the applicable parties.

8. PRINCIPLES

Members of the Board of Commissioners, Housing Authority employees, and any others serving in an official position or acting as an agent of the Housing Authority will discharge their duties impartially to ensure fair competitive access to procurement opportunities by responsible contractors, and consistent with the Housing Authority’s Conflict of Interest Policy. In addition, officers, employees and agents will conduct themselves in such a manner as to foster the public’s confidence in the integrity of the Housing Authority’s procurement organization and process. Any attempt to realize personal gain through

Housing Authority employment or to serve as an officer or agent of the Housing Authority through actions inconsistent with the proper discharge of duties is a breach of public trust.

9. ETHICS IN PUBLIC CONTRACTING

The Housing Authority hereby establishes this code of conduct regarding procurement issues and actions and will implement a system of sanctions for violations. This code of conduct is consistent with applicable Federal, State and local laws.

A. Conflict of Interest

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

(1) A member of the Board of Commissioners, employee, or agent involved in making the award; A member of the Board of Commissioners, employee, 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, half sister, or domestic partner and equivalent relationships);

(3) His/her partner; or

(4) An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

None of the persons mentioned above nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project under an ACC with HUD or funded through any other Housing Authority source in which they have an interest, direct or indirect, during his/her tenure and for one year thereafter.

If the conflict is arising from an organizational conflict of interest, such as with an affiliate of the Housing Authority, the award process shall be reviewed by a 3rd party agency, including consultants, other Housing Authority staff, or HUD.

B. Gratuities, Kickbacks, and Use of Confidential Information

To protect the integrity of the procurement system and to ensure that contracts are awarded fairly based on merit, without improper influence, all Housing Authority solicitations and contracts above the small purchase threshold will include clause(s) advising prospective contractors of the prohibitions against gratuities and kickbacks.

No Housing Authority officer or agent will ask for or accept gratuities, favors, or items of any value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

No current employee, or former employee within one year of employment, will ask for or accept gratuities, favors, or items of any value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

C. Prohibition Against Contingent Fees

Contractors wanting to do business with the Housing Authority 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.

D. Sanctions

Federal, state and local laws will be enforced by the Board of Commissioners and Executive Director. Appropriate sanctions for violations of the standards of conduct outlined in this policy will be imposed.

The appropriate sanction of Housing Authority officials and employees will be determined in cooperation with the General Counsel and the Human Resources Director. Sanctions may include civil and administrative remedies, up to and including termination.

For Contractors, the level of sanction will be determined in cooperation with the General Counsel and the Human Resources Director based upon the severity of the violation, but could include actions up to and including debarment from all local and federal procurements.

The Housing Authority will recover the value of anything received by an employee or a former employee in breach of the ethical standards by confiscating the items or by charging the violator for any and all gratuities received. All procedures will be in accordance with due process requirements as outlined in the Housing Authority's Personnel Policy, and existing law. Remedies against contractors may include suspension or debarment.

10. PROCUREMENT PLANNING

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

11. PROCUREMENT SUMMARY CHART

The following dollar amounts determine who has the authority to authorize purchases, including awarding contracts, and what type of procurement method will take place (For Public Projects please see Section 13. below):

DOLLAR THRESHOLD	AUTHORITY	PROCUREMENT TYPE
Over \$250,000	Board of Commissioners	Sealed Bid or Competitive Proposal
\$25,001-\$250,000	Executive Director	Small
\$10,001-\$25,000	Department Directors	Small
\$51-\$10,000	Department Directors	Micro
\$50 and less	All Employees subject to Supervisor written approval	Petty

Federal regulation defines procurement in the following manner:

- \$10,000 or less = micro or micro-purchase threshold
- \$250,000 or less = small or simplified acquisition threshold

12. PURCHASING METHODS

A. Petty Cash Purchases

Purchases under \$50 may obtain a single quote if the quote is considered reasonable (e.g., based on recent research, experience, or purchases). To the extent practicable, the Housing Authority will distribute Petty Cash Purchases equitably among qualified vendors

Petty Cash Purchases may be handled through the use of a petty cash account. The Housing Authority will ensure that security is maintained and only authorized individuals have access to the account. The account will be reconciled and replenished by fiscal/accounting staff periodically.

B. Micro Purchases

Purchases at or below the Micro Purchase Threshold may obtain a single quote if the

quote is considered reasonable (e. g., based on recent research, experience, or purchases). To the extent practicable, the Housing Authority will distribute Micro Purchases equitably among qualified vendors. the term "practicable" used herein means that there are multiple vendors equally accessible to staff, the purchases will be distributed among the vendors and not left solely with one vendor. Nothing precludes the Contracting Officer from obtaining informal quotes for Micro Purchases to ensure that the purchase is made at the best price.

C. Small Purchases

For any amounts above the Micro-purchase Threshold, but not exceeding the Simplified Acquisition Threshold, the Housing Authority shall obtain a reasonable number of quotes (preferably three). To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Purchases for amounts between the Micro-purchase and Simplified Acquisition Thresholds shall be obtained through the use of written or electronic invitations or solicitations that reasonably describe the product or service being procured. Quotes are to be obtained in writing. Award shall be made to the qualified contractor that provides the best value to the Housing Authority. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file.

A cost analysis is required for all projects greater than \$250,000.

D. Bid Splitting Prohibited

The Authority shall not break down requirements aggregating more than the Micro-purchase Threshold into several smaller 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.

E. Sealed Bids

Sealed bidding may be used for all contracts that exceed the Simplified Acquisition Threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this Policy. Under Sealed Bids, the Housing Authority will solicit bids publicly; and award a fixed-price contract (e.g., lump sum or unit price regardless of contractor's actual costs of performance) to the Responsible Bidder whose bid, conforming with all material terms and conditions of the Invitation for Bids ("IFB"), is the lowest in price. Sealed Bids is the preferred method for procuring construction, supply, and noncomplex service contracts that are expected to exceed the Simplified Acquisition Threshold.

(1) **Conditions for Using Sealed Bids.** The Housing Authority should 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.

(2) **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.

(3) **Bid Opening and Award.** Bids shall be opened publicly. All bids received shall be recorded on a bid spreadsheet, and then made available for public inspection. If equal low bids are received from responsible bidders, the Housing Authority has determined that the award will be made to the winner of a single coin flip. 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 documented cost or price analysis.

(4) **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 an unintentional mistake was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging an obvious or unintentional 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 Housing Authority or fair competition shall not be permitted.

F. Competitive Proposals

Unlike Sealed Bids, 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 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. The competitive proposals process, utilizing a Request for Proposals (RFP) or a Qualifications Based Section through a Request for Qualifications (RFQ), is the preferred method for procuring professional services that will exceed the Simplified Acquisition Threshold.

(1) **Conditions for Use.** 1) When the requirement cannot be described specifically enough to permit using the Sealed Bid process; 2) the nature of the requirement is such that the Agency needs to evaluate more than just price; or 3) the requested work lends itself to different approaches. Competitive proposals are the preferred method for procuring professional services that will exceed the Simplified Acquisition Threshold.

(2) **Form of Solicitation.** Other than A/E services, competitive proposals shall be solicited through the issuance of a Request for Proposals (RFP). The RFP shall clearly identify the importance and relative value of each of the evaluation factors (points or percentage) 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 Housing Authority may assign price a specific weight in the evaluation criteria or the Housing Authority 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 Housing Authority 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.** 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 Housing Authority 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 Housing Authority'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 Housing Authority 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 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 Housing Authority provided that the price is within the maximum total project budgeted amount established for the specific property or activity.

(6) **A/E Services.** The Housing Authority must contract for A/E services using QBS procedures, utilizing a Request for Qualifications (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.

(7) In the event there's only one qualified response to a competitive procurement, please see Section 12.H. below.

G. Cooperative Purchasing/Intergovernmental Agreements (Piggy-Back)

The Housing Authority may participate in federal, State of California, or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The Housing Authority may also contract directly with a firm that has a competitively-solicited contract with a local government agency. The decision to use an intergovernmental agreement or competitively-solicited contract with a local government agency instead of conducting a direct procurement will 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 Housing Authority 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 2 CFR 200.318(e).

H. Non-Competitive Proposals

(1) **Condition 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:

(a) The item is available only from a single source, based on a good faith review of available sources.

(b) The Executive Director has determined that an emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Housing Authority, 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 to meet the emergency. The Housing Authority may proceed at once to correct or address the threat. Any expenditures over \$250,000 will be reported at the next Board of Commissioners meeting.

(c) HUD authorizes the use of non-competitive proposals.

(d) After solicitation of a number of sources, competition is determined inadequate.

(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) 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 (or someone above the level of the Contracting Officer); and

(g) 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.

13. PUBLIC PROJECTS (See Definition in Section 3.)

A. General

The Housing Authority shall comply with the State Labor Code and the California Public Contract Code (PCC) regarding the solicitation of and contracting for Public Projects, including bid bonds, payment and performance bonds, prevailing wages (when applicable), and labor provisions.

(1) For Public Projects at or below the Micro-purchase Threshold, the Housing Authority may obtain a single quote if the quote is considered reasonable.

(2) For Public Projects between the Micro-purchase Threshold and the amount determined in PCC Section 22032 (a) (\$60,000 as of January 1, 2019), the project may be performed: 1) by the employees of the Housing Authority by force account; 2) by negotiated contract or 3) by purchase order. Methods 2) or 3) require obtaining a reasonable number of written quotes (preferably 3) or should otherwise be purchased in the most prudent and economical way feasible.

(3) For Public Projects above the amount provided in PCC Section 22032(a) up to the amount provided in PCC Section 22032(b) (\$200,000 as of January 1, 2019), the contract shall be let in accordance with the Informal Bid Procedures below.

(4) Public Projects above the amount provided in PCC Section 22032(b) shall be let to contract in accordance with the Formal Bid Procedures below.

B. Informal Bid Procedures for Public Projects

(1) Notice to contractors shall be provided in accordance with either paragraph a. or b. below, or both.

(a) The Housing Authority shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the California Uniform Construction Cost Accounting Commission (CUCCAC). All contractors on the list for the category of work being bid shall be mailed, faxed or e-mailed a notice inviting formal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant

to this section shall be completed not less than 10 calendar days before bids are due.

(b) The Housing Authority may elect to mail, fax or e-mail a notice inviting formal bids to the appropriate construction trade journals specified for the Housing Authority in PCC Section 22036. The notice inviting informal bids may also be published in a newspaper of general circulation and on the Housing Authority's website.

(2) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(3) If a contract is awarded, it will be awarded to the lowest responsive and responsible bidder.

(4) The Housing Authority shall have the right to reject any or all of the bids received.

C. Formal Bid Procedures for Public Projects

(1) In accordance with PCC Section 22037, a notice inviting formal bids shall be published in a newspaper of general circulation, printed and published, at least 14 calendar days before the date of opening the bids. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice inviting formal bids shall also be electronically mailed to all appropriate construction trade journals specified in PCC Section 22036. The notice shall be sent at least 15 calendar days before the date of opening the bids. Additionally, the Housing Authority may give such other notice as it deems appropriate such as, but not limited to, posting to the Housing Authority' website.

(2) All bids shall be presented under sealed cover. If awarded, a contract will be let to the responsible bidder who submits the lowest responsive bid. If equal low bids are received from responsible bidders, the Housing Authority has determined that the award will be made to the winner of single (1) coin flip.

(3) The Housing Authority shall have the right to reject any or all of the bids received.

14. COST AND PRICE ANALYSIS

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

A. Independent Cost Estimates (ICE)

For all purchases above the Micro-purchase threshold, the Housing Authority 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.

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 [\(see Section 19.A.1. below\)](#) 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 Housing Authority cannot reasonably determine price reasonableness, the Housing Authority 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 Housing Authority 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 Housing Authority 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 the Simplified Acquisition Threshold.

The Executive Director is authorized to approve contract modifications (i.e., change orders, addendums) not to exceed the cumulative authorization limit. A contract modification that raises the cumulative total of the procurement to an amount exceeding

the Executive Director's authorization limit, requires approval by the Board of Commissioners. For example, an \$80,000 change order to a \$200,000 contract would bring the cumulative procurement to \$280,000. This change order would require approval by the Board of Commissioners.

15. SOLICITATION AND ADVERTISING

A. Method of Solicitation

(1) Micro Purchases. The Housing Authority may contact only one source if the price is considered reasonable.

(2) Small Purchases. Quotes may be solicited through e-mail, fax, or by any other reasonable method.

(3) Sealed Bids and Competitive Proposals. Solicitation must be done publicly. The Housing Authority must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.

(a) Advertising in newspapers, or other print mediums of local or general circulations and the Agency website.

(b) Advertising in various trade journals or publications (for construction). For Public Projects, the notice inviting formal bids shall also be electronically mailed to all appropriate construction trade journals specified in PCC Section 22036.

(c) E-Procurement. The Housing Authority may conduct its public procurements through the internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with 2 CFR 200.317 through 200.326, State and local requirements, and this Procurement Policy.

B. Time Frame

For purchases that exceed the Simplified Acquisition Threshold, the public notice should run not less than once each week for two consecutive weeks.

C. 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 who can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s).

D. Time Period for Submission of Bids

A minimum of 30 days should generally be provided for the 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.

E. Cancellation of Solicitations

(1) An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:

- (a) The supplies, services or construction are no longer required;
- (b) The funds are no longer available;
- (c) Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
- (d) Other similar reasons.

(2) A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:

- (a) The supplies or services (including construction) are no longer required;
- (b) Ambiguous or otherwise inadequate specifications were part of the solicitation;
- (c) All factors of significance to the Housing Authority were not considered;
- (d) Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- (e) 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
- (f) For good cause of a similar nature when it is in the best interest of the Housing Authority.

(3) The reasons for cancellation or rejection shall be documented in the procurement file and shall be provided upon request.

(4) 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.

(5) 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 Housing Authority'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:

(a) Re-solicit using an RFP; or

(b) 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 Housing Authority's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.

(6) If problems are found with the specifications, the Housing Authority should cancel the solicitation, revise the specifications and resolicit using an IFB.

16. CREDIT CARD PURCHASING

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

17. BONDING REQUIREMENTS

The standards under this section apply to construction contracts that exceed \$25,000. The Housing Authority may require bonds for other contracts when deemed appropriate; however, non-construction contracts generally do not require bid bonds.

A. Bid Bonds

For construction contracts exceeding \$25,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.

B. Payment and Performance Bonds

Unless otherwise provided in State law, prior to the execution of any contract for construction and equipment contracts exceeding \$25,000, the successful bidder shall furnish a performance and payment bond in a penal sum of 100% of the contract price.

C. Bond Requirements

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.

18. CONTRACTOR QUALIFICATIONS AND DUTIES

A. Contractor Responsibility

The Housing Authority 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 Limited Denial of Participation.

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.

B. 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 (2 CFR 200.317 through 200.326) or by other Federal agencies, e.g., Department of Labor for violation of labor regulations, when necessary to protect housing authorities in their business dealings.

C. Contractor Lists

All interested businesses shall be given the opportunity to be included on contractor 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.

For construction projects, in accordance with PCC Section 22034, the Housing Authority is required to establish a new list or update its existing list of qualified contractors by category or type of work they perform, at least once per calendar year. The Housing Authority will mail, fax or e-mail written notice to all construction trade journals designated for the Housing Authority under PCC Section 22036. The notice shall invite all licensed contractors to submit the name of their firm to the Housing Authority for inclusion on the Housing Authority's list of qualified bidders. The Housing Authority may include any contractor names on the list but must include all contractors who have properly responded in writing to the Housing Authority's written notice.

19. CONTRACT PRICING ARRANGEMENTS

A. Contract Types

Any type of contract which is appropriate to the procurement and which will promote the best interests of the Housing Authority may be used, provided that the cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods may not be used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and the Housing Authority. Please see Section 20 below on contract form and required General Counsel approvals.

For all cost reimbursement contracts, the Housing Authority 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.1. PURCHASE ORDER THRESHOLD

Internal purchase orders ("PO" or "Purchase Orders") will be required for all purchases that satisfy one of the following conditions:

- Any new procurement agreements with a maximum contracted amount of greater than Two Thousand Five Hundred Dollars (\$2,500.00) over the entire term of the contract, including extensions.
- Any existing procurement agreements with a maximum contracted amount of greater than Two Thousand Five Hundred Dollars (\$2,500.00) over the entire term of the contract, including extensions.

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- Any new expenditure or multiple expenditures, with a single vendor, that will exceed Two Thousand Five Hundred Dollars (\$2,500.00) over a single fiscal year period.

A2. PURCHASE ORDER BEST PRACTICES

Purchase Order utilization will follow all Housing Authority finance and budgeting best practices, including but not limited to the following:

- Approved by a Director before the actual purchase(s) of goods or services.
- Properly monitored by department stakeholder(s) throughout the life of the PO and the fiscal year.
- Reconciled and closed on a timely basis by Finance.

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 Housing Authority;
- (3) The contract states a limit on the increased amount of 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 Housing Authority than conducting a new procurement.

20. CONTRACT CLAUSES

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

B. The forms HUD-5369, 5369-A, 5369-B, 5370, 5370-C, and 51915-A, which contain all HUD-required clauses and certifications for contracts that exceed the Simplified Acquisition Threshold, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by the Housing Authority.

C. The Housing Authority shall ensure that each contract contains the required contract clauses detailed within 2 CFR Section 200. 326 and II to Appendix II to 2 CFR

D. All contracts above the Simplified Acquisition Threshold or where the Housing Authority template contract, approved by the Housing Authority General Counsel, is not used will be approved as to form by the Housing Authority General Counsel. All HUD-required clauses, forms, and certifications shall be used in all corresponding solicitations and contracts. Additional forms and certifications may be required by State and local laws depending on the funding source.

21. CONTRACT ADMINISTRATION

The Housing Authority 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.

22. SPECIFICATIONS

A. General

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying the Housing Authority'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. 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.

B. Limitation

The following types of specifications shall be avoided:

(1) 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);

(2) 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.

23. APPEALS AND REMEDIES

A. General

It is Housing Authority policy to resolve all procurement and 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.

B. Appeals Procedure

The Housing Authority shall adopt an informal bid/protest appeal procedure for contracts less than the Simplified Acquisition Threshold. The appeals procedure for solicitations/contracts that exceed the Simplified Acquisition Threshold shall be as follows:

(1) **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 calendar days after the contractor receives notice of intent to award the contract, or the protest will not be considered. All bid protests shall be in writing, specifying in detail the grounds of the protest, and providing evidence and supporting documents. Protests are to be 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.

(2) **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 the Housing Authority. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

24. ASSISTANCE TO SMALL AND OTHER BUSINESSES

A. Required Efforts

As applicable, Consistent with Presidential Executive Orders 11625, 12138, and 12432, 24 CFR §200. 321, 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 Housing Authority project are used when possible. Such efforts shall include, but shall not be limited to:

(1) Including such firms, when qualified, on solicitation mailing lists;

(2) Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;

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(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

(5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Authority of the Department of Commerce;

(6) 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 (Section 3 businesses);

(7) Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above; and

(8) Requiring contractors to comply with applicable Section 3 economic opportunity requirements for applicable contracts.

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 the Housing Authority's prime contracts and subcontracting opportunities.

25. BOARD APPROVAL OF PROCUREMENT ACTIONS

The Housing Authority Board of Commissioners has delegated procurement authority to the Executive Director in the not to exceed amount of \$250,000. All procurements that exceed \$250,000 must be approved in writing by the Housing Authority Board of Commissioners prior to award and/or contract execution. It is the responsibility of the Executive Director to ensure that all procurement actions are conducted in accordance with the policies contained herein.

26. DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that the Housing Authority's procurements comply with this Policy, the Executive Director may delegate procurement authority as is necessary and appropriate to conduct the business of the Housing Authority. In accordance with this delegation of authority, the Executive Director shall have the right, where necessary, to establish operational procedures to implement this Policy.

27. DOCUMENTATION

A. The Housing Authority must maintain records sufficient to detail the

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significant history of each procurement action. These records shall include, but shall not be limited to:

- (1) Rationale for the method of procurement (if not self-evident);
- (2) Rationale of contract pricing arrangement (if not self-evident);
- (3) Reason for accepting or rejecting the bids or offers;
- (4) Basis for the contract price (if not self-evident);
- (5) A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- (6) Basis for contract modifications; and
- (7) Related contract administration actions.

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

C. Records are to be retained for a period consistent with the Housing Authority's Record Retention Policy. Certain funding sources or projects may require longer retention periods. Refer to the Housing Authority's Record Retention Policy.

28. FUNDING AVAILABILITY

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

Adopted by the Board of Commissioners on April 17, 2013.
Revised by the Board of Commissioners on August 20, 2014.
Revised by the Board of Commissioners on January 20, 2016.
Revised by the Board of Commissioners on April 17, 2019.
Revised by the Board of Commissioners on May 20, 2020.
[Revised by the Board of Commissioners on June 15, 2022.](#)

Summary Report	
Title	pdfDocs compareDocs Comparison Results
Date & Time	5/25/2022 5:21:22 PM
Comparison Time	3.14 seconds
compareDocs version	v5.1.200.4

Sources	
Original Document	[#3297930] [v1] AHA Procurement Policy May 2020.docx
Modified Document	[#3297931] [v1] AHA Procurement Policy (REVISED JUNE 2022).docx

Comparison Statistics	
Insertions	19
Deletions	34
Changes	0
Moves	0
Font Changes	0
Paragraph Style Changes	0
Character Style Changes	0
TOTAL CHANGES	53

Word Rendering Set Markup Options	
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Insertions	
Deletions	
Moves / Moves	
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Merged cells	
Changed lines	Mark left border.

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after saving	General	Always
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Character Level	Word	False
Include Comments	Word	False
Include Field Codes	Word	False
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Image compare mode	Word	Insert/Delete
Include List Numbers	Word	True
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Show Moves	Word	True
Include Tables	Word	True
Include Text Boxes	Word	False
Show Reviewing Pane	Word	True
Summary Report	Word	End
Detail Report	Word	Separate (View Only)
Document View	Word	Print