

PROCUREMENT POLICY

Housing Authority of Covington

Adopted: 11/15/2023

Resolution No.: 3524

**PROCUREMENT POLICY
HOUSING AUTHORITY OF COVINGTON, KY**

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1.0 INTRODUCTION

- 1.1 **General.** Established for the Housing Authority of the Covington (hereinafter, “the Agency”) by Action of the Agency Board of Commissioners (Board) on January 20, 2016, this Procurement Policy (Policy) complies with the Annual Contributions Contract (ACC) between the Agency and the United States Department of Housing and Urban Development (HUD), Federal Regulations at 2 CFR §200.317 through §200.326, *Procurement Standards*, the procurement standards of the Procurement Handbook for Public Housing Authorities (PHAs), HUD Handbook 7460.8, REV 2, and applicable State and Local laws.

2.0 GENERAL PROVISIONS

- 2.1 **General.** The Agency shall:

2.1.1 Provide for a procurement system of quality and integrity;

2.1.2 Provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Agency;

2.1.3 Ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable and valuable prices available to the Agency;

2.1.4 Promote competition in contracting; and

2.1.5 Provide safeguards for maintaining a procurement system of quality and integrity; and assure that the Agency purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State, and local laws.

- 2.2 **Application.** This Policy applies to all procurement actions of the Agency, regardless of the source of funds, except as noted under “exclusions” below. However, nothing in this Policy shall prevent the Agency 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.

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- 2.3 Definition.** The term “procurement,” as used in this Policy, includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction and maintenance; consultant services, (3) Architectural and Engineering (A/E) services, (4) Social Services, and (5) other services.
- 2.4 Exclusions.** This policy does not govern administrative fees earned under the Section 8 voucher program, the award of vouchers under the Section 8 program, the execution of landlord Housing Assistance Payments contracts under that program, or non-program income, e.g., fee-for-service revenue under 24 CFR §990. These excluded areas are subject to applicable State and local requirements.
- 2.5 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.
- 2.6 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 Kentucky Open Records Act. All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.

3.0 ETHICS IN PUBLIC CONTRACTING

- 3.1 General.** The Agency 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.
- 3.2 Conflicts of Interest.** No employee, officer, Board member, or agent of the Agency shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:
- 3.2.1** An employee, officer, Board member, or agent involved in making the award;

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- 3.2.2 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);
 - 3.2.3 His/her partner; or
 - 3.2.4 An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.
- 3.3 Gratuities, Kickbacks, and Use of Confidential Information.** No officer, employee, Board member, or agent of the Agency shall ask for or accept gratuities, favors, or items of more than nominal value (i.e. inexpensive hat with logo) from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.
- 3.4 Prohibition against Contingent Fees.** Contractors wanting to do business with the Agency 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.

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4.0 PROCUREMENT PLANNING

General. Planning is essential to managing the procurement function properly. Hence, the Agency will periodically review its record of prior purchases, as well as future needs, to:

4.1.1 Find patterns of procurement actions that could be performed more efficiently or economically;

4.1.2 Maximize competition and competitive pricing among contracts and decrease the Agency's procurement costs;

4.1.3 Reduce Agency administrative costs;

4.1.4 Ensure that supplies and services are obtained without any need for re-procurement (ie: resolving bid protests); and

4.1.5 Minimize errors that occur when there is inadequate lead time.

Consideration shall be given to storage, security and handling requirements when planning the most appropriate purchasing actions.

5.0 PROCUREMENT METHODS

Selection of Method: If it has been decided that the Housing Authority 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.

5.1 **Petty Cash Purchases.** The Housing Authority of Covington does not utilize petty cash accounts.

5.1 **Small Purchase Procedures.** For any amounts not exceeding \$39,999.99, the Agency may use small purchase procedures. Under small purchase procedures, the Agency shall obtain a reasonable number of quotes (not less than three); however, for purchases of less than \$10,000, only one quote is required for one-time, initial purchases, provided the quote is considered by the contracting officer to be reasonable. For repeat purchases with the same vendor, three quotes are required.

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To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotations for Small Purchases (QSP), or quotes, may be obtained orally in-person or by phone with proper documentation (date, time, person quoting, price, vendor, etc.), by fax, in writing, or through e-procurement. This documentation is required to be noted and included in the procurement file. The award shall be made to the responsive and responsible vendor or contractor that submits the lowest cost to the Agency. If an award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. **The Agency shall not break down requirements aggregating more than the small purchase threshold (Micro-Purchase threshold) into several purchases 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.**

Micro-Purchases up to \$9,999.99 (Construction). For micro-purchases below \$10,000, only one quotation need be solicited if the price received is considered reasonable. 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.

Micro-Purchases up to \$9,999.99 (Services/Supplies/Non-Construction.) For micro-purchases below \$10,000, only one quotation need be solicited if the price received is considered reasonable. 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.

Small purchases of \$10,000.00 up to \$39,999.99. For small purchases of \$10,000 or more but not exceeding \$39,999.99, no less than three offerors shall be solicited to submit price quotations, which must be obtained 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, date and amount of each quotation shall be recorded and maintained as a public record.

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- 5.2 Sealed Bids.** Sealed bidding, also known as Invitation for Bids (IFB), shall be used for all contracts that exceed the small purchase threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this Policy. Under sealed bids, the Agency publicly solicits bids and awards to the lowest, responsive and 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 be \$40,000 or higher.
- 5.2.1 Conditions for Using Sealed Bids.** The Agency 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. 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. However, the HAC may reject any bid based on that contractor's past performance (i.e., contract performance and/or quality of work).
- 5.2.2 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.
- 5.2.3 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, which shall then be made 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 other similar random method. The method for doing this shall be stated in the IFB. If only one responsive bid is received from a responsible bidder, award shall not be made unless the price can be determined to be reasonable, based on a cost or price analysis.

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5.2.4 Mistakes in Bids. Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written notice received in the office designated in the IFB prior to the time set for bid opening. After bid opening, corrections in bids may be permitted only if the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a nonjudgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made. All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Contracting Officer. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the Agency or fair competition shall not be permitted.

5.3 Competitive Proposals. There are two types of competitive proposals: Request for Proposals (RFPs) and Requests for Qualifications (RFQs).

Unlike sealed bidding, a Request for Proposals (RFP) permits consideration of technical factors other than just 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 the award. An award is normally made on the basis of the proposal that represents the best overall value to the Agency, considering price and other factors, e.g., technical expertise, past experience, and quality of proposed staffing, and is not solely based on the lowest price.

A RFQ uses the Qualifications-Based Selection (QBS) method. Use of the QBS is limited and is different from the RFP method in that the PHA first selects the highest-ranked respondent (s) on technical factors and then negotiates price. The most common use of RFQs is for Architect/Engineer (A/E) contracts and to select development partners for mixed-finance projects. The QBS method does not use price as an evaluation factor. The PHA opens negotiations with the top-ranked firm (s) with intentions to reach agreement on a fair and reasonable price.

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- 5.3.1 Conditions for Use.** Where conditions are not appropriate for the use of sealed bidding, competitive proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the small purchase threshold. As detailed within Section 7.2.B of HUD Procurement Handbook 7460.8 REV 2, “Only under limited circumstances would construction services be procured by competitive proposals;” accordingly, construction services will most typically be procured utilizing the sealed bid (IFB) or small purchase procedures (QSP).
- 5.3.2 Form of Solicitation.** 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 proposals shall be evaluated only on the criteria stated in the request for proposals. The Agency may assign price a specific weight in the evaluation factors or the Agency may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.
- 5.3.3 Evaluation.** The proposals shall be evaluated only on the factors stated in the RFP/RFQ. All RFPs/RFQs 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.
- 5.3.4 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. Negotiations are exchanges (in either competitive or sole source environments) between the Agency and offerors that are undertaken with the intent of allowing the offeror to revise its proposal. Negotiations may be conducted with the top-rated

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proposer(s) only if, in the opinion of the Authority's Executive Director, it is in the best interests of the Authority to do so. 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 may include bargaining. Bargaining includes persuasion, alteration of assumptions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

The contracting officer may inform an offeror that its price is considered by the Agency to be too high, or too low, and reveal the results of the analysis supporting that conclusion (price analysis, market research or other reviews that identify the reasonableness of the pricing.) "Auctioning" (revealing one offeror's price in an attempt to get another to lower their price) is prohibited.

- 5.3.5 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 Agency provided that the price is within the maximum total project budgeted amount established for the specific property or activity.
- 5.3.6 A/E Services.** The Agency shall contract for A/E services using Qualifications-based Selection (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, other than Energy Performance Contracting and Developer services, though architectural/engineering firms are potential sources.
- 5.3.7 Indefinite Quantities Contract.** Where applicable or where the specific scope of a project cannot be defined at the time of solicitation, the Authority may elect to issue an Indefinite Quantities Contract (IQC) for a period not to exceed 5 years. This IQC shall state in general terms of the contract, the potential scope, and a not-to-exceed award amount for the contract term. Specific work will be authorized through the use of Task Orders, negotiated and

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approved by the Contracting Officer. If the Authority elects to issue an IQC, the request document (either RFP, RFQ or IFB) shall clearly state this intent and provide instructions on the process for Task Order submission and approval.

5.4 Noncompetitive Proposals.

5.4.1 Conditions for Use. Procurement by noncompetitive proposals (sole- or single-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:

5.4.1.1 The item is available only from a single source, based on a good faith review of available sources;

5.4.1.2 An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Agency, 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;

5.4.1.3 HUD authorizes the use of noncompetitive proposals; or

5.4.1.4 After solicitation of a number of sources, competition is determined inadequate.

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

5.4.2.1 Description of the requirement;

5.4.2.2 History of prior purchases;

5.4.2.3 The specific exception in 2 CFR §200.320(f) (1)-(4)

5.4.2.4 Statement as to the circumstances that require an award

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- by non-competitive proposals
- 5.4.2.5 Description of the efforts made to find competitive sources
- 5.4.2.6 Statement as to future efforts to promote competition
- 5.4.2.7 Signature by the contracting officer's supervisor
- 5.4.2.8 Price Reasonableness. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this Policy.

6.0 INDEPENDENT COST ESTIMATE (ICE)

- 6.1 **General.** For all purchases above the Micro-Purchase threshold, the Agency 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.

7.0 COST AND PRICE ANALYSIS (CPA)

- 7.1 **General.** The Agency shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

- 7.1.1 **Micro Purchases. (Up to \$9,999.99)** 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.

- 7.1.2 **Small Purchases. (\$10,000 - \$29,999.99)** 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 written quotes are 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.

- 7.1.3 **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 Agency cannot reasonably determine price reasonableness, the Agency must

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conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable.

- 7.1.4 Competitive Proposals.** The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient proposals are not received, the Agency 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 Agency must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.
- 7.1.5 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 \$30,000.

8.0 SOLICITATION AND ADVERTISING

8.1 Method of Solicitation.

- 8.1.1 Micro Purchases.** For purchases of less than \$10,000, only one quote is required for one-time, initial purchases, provided the quote is considered by the Contracting Officer to be reasonable. (See Section 5.1)
- 8.1.2 Small Purchases.** Quotes may be solicited orally, through fax, E-Procurement, or by any other reasonable method.
- 8.1.3 Sealed Bids and Competitive Proposals.** Solicitation must be done publicly. The Agency must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.
- 8.1.3.1** Advertising in newspapers or other print mediums of local or general circulations.
- 8.1.3.2** Advertising in various trade journals or publications (for construction).

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8.1.3.3 E-Procurement. The Agency 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 the Agency's procurement policy.

8.1.3.4 Internet solicitations and plan rooms.

8.2 Time Frame.

7.2.1 All public solicitations must run for a period sufficient to achieve competition, which, in the case of paid advertisements should generally run not less than once each week for two consecutive weeks.

7.2.2 In the case of free internet solicitation or plan rooms (*a service that provides access to multiple types of bidding opportunities,*) public notice should run at least once, and not less than 7 days, before bid opening.

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

8.4 **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 a shorter period under extraordinary circumstances.

8.5 Cancellation of Solicitations.

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

8.5.1.1 The supplies, services or construction is no longer required;

8.5.1.2 The funds are no longer available;

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- 8.5.1.3 Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
 - 8.5.1.4 Other similar reasons.
 - 8.5.2 A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:
 - 8.5.2.1 The supplies or services (including construction) are no longer required;
 - 8.5.2.2 Ambiguous or otherwise inadequate specifications were part of the solicitation;
 - 8.5.2.3 All factors of significance to the Agency were not considered;
 - 8.5.2.4 Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - 8.5.2.5 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
 - 8.5.2.6 For good cause of a similar nature when it is in the best interest of the Agency.
 - 8.5.3 The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request.
 - 8.5.4 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.
 - 8.5.5 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 Agency's cost estimate. If both are determined adequate and if only one bid is

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received and the price is unreasonable, the Contracting Officer may cancel the solicitation and either

8.5.5.1 Re-solicit using an RFP; or

8.5.5.2 Complete the procurement by using the competitive proposal method. The Contracting Officer must determine, in writing, that such action is appropriate, must inform all bidders of the Agency's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.

8.5.6 If problems are found with the specifications, the Agency should cancel the solicitation if cannot be addressed by addendum, revise the specifications and re-solicit using an IFB.

9.0 COOPERATIVE PURCHASING AGREEMENTS

9.1 Cooperative Purchasing/Intergovernmental Agreements. The Agency may enter into State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the Agency must procure only common supplies and services and evaluate the associated costs on an annual basis. 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 Agency 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 §200.317 through §200.326.

9.2 General Services Administration (GSA) Contracts. Pursuant to 48 CFR Chapter 5, the Housing Authority may procure from GSA contracts in lieu of conducting further competition.

A listing of "All State Agency Master Agreement" is available online at:
<https://emars.ky.gov/online/vss/AltSelfService>

A link to a List of State of Kentucky Contracts is available online at:
<http://opendoor.ky.gov/search/Pages/contractsearch.aspx>

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10.0 CREDIT CARDS

10.0 Credit (or Purchasing) Cards. Credit card usage should follow the rules for all other small purchases. For example, the Contracting Officer may use a credit card for Micro Purchases without obtaining additional quotes provided the price is considered reasonable. However, for amounts above the Micro Purchase level, the Contracting Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card. When using credit cards, the Agency shall 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). (Refer to Agency *Credit Card Policy* for more detailed information.)

11.0 PURCHASE REQUISITIONS/PURCHASE ORDERS

11.1 General. The Agency's goal for every purchasing transaction is to obtain the best value possible. Best value is determined by evaluating many factors (such as price, delivery capabilities, quality, past performance, training, financial stability, service capabilities, ease of ordering, payment, etc.) and selecting a vendor that offers the best combination of those factors.

11.2 Purchasing Process. The purchase of goods and services from outside vendors is to begin with the initiation of a purchase order through the Agency's financial system. This shall occur at the time the product or service needs to be ordered, **not when it is time to pay for the product or service.**

A fully approved and budget checked Requisition is then automatically sourced into a Purchase Order. The official Purchase Order is ready to be sent to the vendor. The system provides an appropriate audit trail since all transactions are captured in the system specific to each individual purchase, putting the Agency in the best position to pay for purchases in a timely manner.

Starting with a Requisition ensures that an approved and official Purchase Order is issued. An official Purchase Order is the legal document that governs the transaction and properly protects the department and Agency.

Verbal purchases (without an approved purchase order) (i.e. phone orders) are not considered valid by the Agency, nor are purchase orders generated through internal department or means other than the agency's accounting

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system. Departments that use these means to initiate purchases with outside vendors **assume responsibility for such purchases at their own risk.**

- 11.3 Receiving.** A Receipt is the department's way of indicating to Accounts Payable that the product has been received or the service has been provided and therefore the Purchase Order is approved for payment.

A three way match is required for payment of orders (Purchase Order, invoice/receipt and packing slip).

Receipts must be sent as soon as possible after receiving the product/service to authorize payment.

- 11.4 Invoicing/Payment.** A purchase transaction is complete only after the goods/services have been received and the supplier has been paid. When a Purchase Order is issued, the department assumes responsibility to make sure the vendor is paid within an appropriate period of time. By issuing a Purchase Order through the agency's accounting software in advance of the purchase, funds are properly encumbered and set-aside to pay these obligations. The encumbrance is not a contract, but ensures that the required funding is available. Accounts Payable pays invoices for the agency.

- 11.4.1 Payment Processing.** Vendors are instructed to send invoices directly to Accounts Payable for proper processing. This is the best way to ensure invoices are paid in a timely manner.

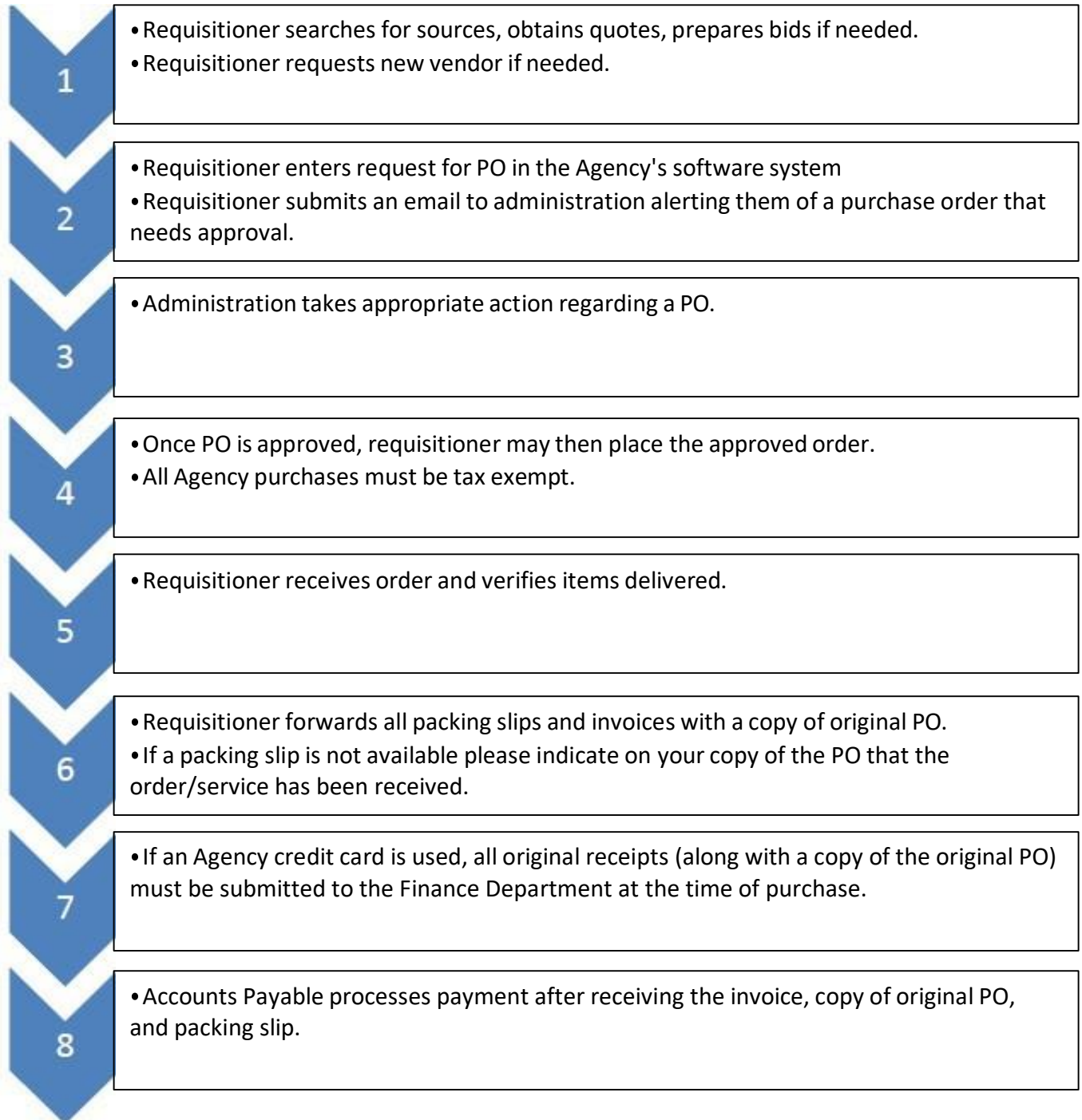
Invoices will be entered by Accounts Payable. If after review of the invoice, the bill should not be entered/paid (due to a dispute with the vendor, etc.) the department shall notify Accounts Payable in a timely manner.

In order to maintain a good payment record and to encourage the proper use of Purchase Orders, Accounts Payable will give the highest payment priority to original invoices supported by properly issued and approved Purchase Orders, and confirmation of receipt of goods and services.

- 11.4.2 Payment Terms.** The Agency's standard for payment of vendor invoices is within thirty (30) days after receipt of a valid invoice.

Below is a summary of the Agency procedures for Purchase Requisitions/Purchase Orders.

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12.0 BONDING REQUIREMENTS

12.1 General. The standards under this section apply to construction contracts that exceed \$40,000. There are no bonding requirements for small purchases or for competitive proposals. The Agency may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.

12.1.1 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. (See HUD 5369, Item #9)

12.1.2 Payment Bonds. For construction contracts exceeding \$40,000, the successful bidder shall furnish an assurance of completion. This assurance may be any one of the following four:

12.1.2.1 A performance and payment bond in a penal sum of 100% of the contract price; or

12.1.2.2 Separate performance and payment bonds, each for 50% or more of the contract price; or

12.1.2.3 A 20 % cash escrow; or

12.1.2.4 A 25 % irrevocable letter of credit.

These bonds must be obtained from guarantee or surety companies acceptable to the U. S. Government and authorized to do business in the State of Kentucky. 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.

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13.0 CONTRACTOR QUALIFICATIONS AND DUTIES

13.1 Contractor Responsibility

13.1.1 The Agency 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:

13.1.1.1 Have adequate financial resources to perform the contract, or the ability to obtain them;

13.1.1.2 Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all of the bidder's/offeror's existing commercial and governmental business commitments;

13.1.1.3 Have a satisfactory performance record including a review of Systems for Award Management (SAMS).

13.1.1.4 Have a satisfactory record of integrity and business ethics;

13.1.1.5 Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;

13.1.1.6 Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,

13.1.1.7 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.

13.1.2 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.

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- 13.2 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. Prior to issuance of a contract, Agency staff shall, as detailed within Section 10.2.H.1 and 10.2.H.2 of HUD Procurement Handbook 7460.8 REV 2, conduct the required searches within the HUD Limited Denial of Participation (LDP) system and the U.S. General Services Administration System for Award Management (SAM) and place within the applicable contract file a printed copy of the results of each such search.
- 13.3 Vendor Lists.** All interested businesses shall be given the opportunity to be included on vendor mailing lists. Any lists of persons, firms or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough sources to ensure competition.

14.0 CONTRACT PRICING ARRANGEMENTS

- 14.1 Contract Types.** Any type of contract which is appropriate to the procurement and which will promote the best interests of the Agency may be used, **provided the cost -plus-a-percentage-of-cost and percentage-of-construction-cost methods are not used.** All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and the Agency. For all cost reimbursement contracts, the Agency 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 Housing Authority'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 contract 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 its own risk.

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

14.2.1 The option is contained in the solicitation;

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- 14.2.2 The option is a unilateral right of the Agency;
- 14.2.3 The contract states a limit on the additional quantities and the overall term of the contract;
- 14.2.4 The options are evaluated as part of the initial competition;
- 14.2.5 The contract states the period within which the options may be exercised;
- 14.2.6 The options may be exercised only at the price specified in or reasonably determinable from the contract; and
- 14.2.7 The options may be exercised only if determined to be more advantageous to the Agency than conducting a new procurement.

15.0 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 the following:

1. Termination for convenience;
2. Termination for default;
3. Equal Employment Opportunity;
4. Copeland Anti-Kickback Act;
5. Davis-Bacon Act;
6. Contract Work Hours and Safety Standards Act, reporting requirements;
7. Patent rights;
8. Rights in data;
9. Examination of records by Comptroller General, retention of records for three years after closeout;

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10. Clean air and water;
11. Energy efficiency standards;
12. Bid protests and contract claims;
13. Value engineering; and
14. Payment of funds to influence certain Federal Transaction.

15.1 Contract Pricing Arrangements. All contracts shall identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the Agency.

15.2 Required Forms. Additionally, the forms HUD-5369; 5369-A; 5369-B; 5369-C; 5370; 5370-C (Sections I and II); 51915; and 51915-A, which contain all HUD-required clauses and certifications for contracts of more than \$150,000, as well as any forms/clauses as required by HUD for small purchases, shall be used, as applicable, in all corresponding solicitations and contracts issued by the Agency. For small construction purchases, HUD 5370-EZ shall be used.

15.3 Required Contract Clauses: The Agency shall ensure that each contract executed by the Agency contains the required contract clauses detailed within 2 CFR §200.326 and Appendix II.

16.0 CONTRACT ADMINISTRATION

16.1 General. The Agency 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.

Within sixty (60) days of the completion of all work included in a contract the contractor will be given a list of required items necessary to close that contract and receive final payment. The contractor will have no more than sixty (60) days from the receipt of the notice to respond with the required items. After the sixty (60)-day period the Housing Authority will advertise for three (3) consecutive days its intent to close the contract. Immediately after the first advertisement date there will be a thirty (30)-day wait period for anyone that may have an interest in the contract to file a claim with the

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Housing Authority. After the end of the thirty (30)-day wait, the Housing Authority will pay valid claims against the contract, the contract will be closed, and no further payments will be made to the contractor (and the contractor shall have no right to appeal). Any funds remaining from that contract will be reprogrammed back into the respective budgets

17.0 SPECIFICATIONS

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

17.2 Limitation. The following types of specifications shall be avoided:

17.2.1 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);

17.2.2 Brand name specifications (unless the specifications list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use).

Brand name specifications (unless a written determination is made that only the identified item will satisfy the Housing Authority's needs.

Unnecessary bonding or experience requirements.

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.

17.2.3 Origin of Materials. Whenever possible, the Housing Authority of Covington will purchase iron, steel and manufactured goods that are produced in the United States. All purchases for the American

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Recovery and Rehabilitation Act (ARRA) will be in compliance with
Section 1605 of the Act.

18.0 APPEALS AND REMEDIES

- 18.1 General.** It is Agency policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences. HUD will only review protests in cases of violations of Federal law or regulations and failure of the Housing Authority to review a complaint or protest.
- 18.2 Informal Appeals Procedure.** The Agency shall adopt an informal bid protest/appeal procedure for contracts of \$20,000 or less. Under these procedures, the bidder/contractor may request to meet with the appropriate Contract Officer.
- 18.3 Formal Appeals Procedure.** A formal appeals procedure shall be established for solicitations/contracts of more than \$20,000.
- 18.3.1 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 (10) calendar days after the contract receives notice of the contract award, or the protest will not be considered. All bid protests shall be in writing, submitted to the Contracting Officer or designee, who shall issue a written decision on the matter. Failure to comply with the terms and procedures herein shall result in an automatic denial of the Protest. The Contracting Officer may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant.
- 18.3.2 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 Agency. Contractor claims shall be governed by the Changes clause in the relevant form HUD-5370.

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- 18.4 Administrative Appeal.** If the alleged aggrieved protestor does not agree with the written opinion and decision issued by the Contracting Officer, the alleged aggrieved protestor may, after receipt of the written opinion and decision issued by the Contracting Officer request an administrative appeal hearing be granted (such request must be delivered in writing to the Contracting Officer within 5 days of receipt of the written opinion and decision; failure to do so within such 5 days shall relieve HAC of any responsibility to consider such request). The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestor to comply shall automatically relieve HAC from accepting or acting on that request for administrative hearing:
- 18.4.1** The alleged aggrieved protestor must file, in writing, his/her request for an administrative hearing, to the Contracting Officer, within 5 days of receipt of the written opinion and decision and failure to do so within such 5 days shall relieve HAC of any responsibility to consider such request.
 - 18.4.2** The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.
 - 18.4.3** It shall be within the administrative powers of the Contracting Officer to, after review of the request submitted, grant or deny any request for administrative appeal.
 - 18.4.4** If the Contracting Officer, after complete review of the alleged aggrieved protestor's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestor. A decision rendered under this paragraph shall be made within 10 days after the receipt of the alleged aggrieved protestor's request for an administrative hearing. This decision shall be final without further administrative recourse.
 - 18.4.5** If the Contracting Officer, after review of the alleged aggrieved protestor's written request, decides that the request merits further consideration, he/she shall forward the protestor's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to HAC's Legal Counsel for consideration. HAC's Legal Counsel shall issue to the alleged

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aggrieved protestor a decision, in writing, within 10 days of his/her receipt of such documents.

- 18.4.6 Such written decision delivered to the alleged aggrieved protestor shall exhaust HAC's internal protest and administrative appeal process available to the alleged aggrieved protestor.

19.0 ASSISTANCE TO SMALL AND OTHER BUSINESSES

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

- 19.1.1 Including such firms, when qualified, on solicitation mailing lists;
- 19.1.2 Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- 19.1.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- 19.1.4 Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- 19.1.5 Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- 19.1.6 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 §135 (so-called Section 3 businesses); and
- 19.1.7 Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

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19.2 Goals. Shall be established to the greatest extent feasible for participation by small businesses, minority-owned businesses, women-owned business enterprises, labor surplus area businesses, and Section 3 business concerns which are located in, or owned in substantial part by persons residing in the area of the project in the Housing Authority's prime contracts and subcontracting opportunities.

19.3 Definitions.

19.3.1 A small business is defined as a business that is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR §121 should be used to determine business size.

19.3.2 A minority-owned business is defined as a business which is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. Minority group members include, but are not limited to Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.

19.3.3 A women's business enterprise is defined as a business that is at least 51% owned by a woman or women who are U.S. citizens and who control and operate the business.

19.3.4 A "Section 3 business concern" is as defined under 24 CFR §135 and the HAC Section 3 Policy.

19.3.5 A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in 20 CFR §654, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

20.0 BOARD APPROVAL OF PROCUREMENT ACTIONS

20.1 Authority. The Board appoints and delegates procurement authority to the Executive Director (ED) in the amount not to exceed \$20,000 (this may be set

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as a higher amount if Board Approved) and is responsible for ensuring that any procurement policies and procedures adopted are appropriate for the Agency. All procurements that exceed \$20,000 must have approval from the Board prior to award and/or contract execution.

21.0 DELEGATION OF CONTRACTING AUTHORITY

21.1 Delegation. While the ED is responsible for ensuring that the Agency's procurements comply with this Policy, the ED may delegate in writing all procurement authority as is necessary and appropriate to conduct the business of the Agency.

21.2 Procedures. Further, and in accordance with this delegation of authority, the ED shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy. The ED shall also establish a system of sanctions for violations of the ethical standards described in Section 3.0 herein, consistent with Federal, State, or local law.

22.0 DOCUMENTATION

22.1 Required Records. The Agency 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:

22.1.1 Reason for accepting or rejecting the bids or offers;

22.1.2 Basis for the contract price (as prescribed in this handbook);

22.1.3 A copy of the contract documents awarded or issued and signed by the Contracting Officer;

22.1.4 Basis for contract modifications; and

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

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

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23.0 DISPOSITION OF SURPLUS PROPERTY

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

24.0 FUNDING AVAILABILITY

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