

*THE HOUSING AUTHORITY OF THE CITY AND COUNTY
OF SAN FRANCISCO*

PROCUREMENT POLICY



1815 Egbert Avenue

San Francisco, CA 94124

PROCUREMENT POLICY

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I. PREFACE

This Procurement Policy (Policy) is established by the Board of Commissioners (Commission) of the Housing Authority of the City and County of San Francisco (Authority) to provide the Authority staff with a set of policies for procurement of supplies, equipment, services, construction activities, etc. (Supplies/Services)

II. GENERAL PROVISIONS

A. PROCUREMENT POLICY GOAL

This Policy is established to provide for the fair and equitable treatment of all persons or firms involved in purchasing activities by the Authority; assure that Supplies/Services are procured efficiently, effectively, and at the most favorable prices available to the Authority; promote competition in contracting; provide safeguards by maintaining a centralized procurement system of quality and integrity; and to assure that Authority's purchasing actions are in full compliance with applicable Federal standards, HUD regulations, and State and local laws.

The objective of the Procurement/Contract Department (Procurement) is to add value to the Authority through the procurement of quality Supplies/Services at a fair and reasonable cost. Procurement will require vendors and contractors (Contractor) to; meet a minimum of 25% resident employment (monitored on a weekly basis) as well as encourage contractors to exceed this minimum goal; provide maximum contracting opportunities for minority and women owned businesses; and adhere to the terms and conditions of any existing labor memorandum of understanding. On competitive proposals, the Authority will place a higher value during the selection process on those contractors who exceed the minimum 25% of resident employment and provide maximum contracting opportunities for minority and women owned businesses.

Procurement will provide an introduction to the Authority's Policy to employees, and will provide continuous training for the staff on current issues, laws, regulations and procurement innovations.

B. APPLICATION

This Policy applies to all contracts and procurement actions undertaken by the Authority. It shall apply to every expenditure of funds by the Authority for public purchasing, regardless of the source of the funds, including Capital Funds Program (CFP), HOPE VI Program, HOPE SF Program, Rental Assistance Demonstration (RAD) Program, and Operating Subsidy funds. Nothing in this Policy shall prevent the Authority from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law. The term "procurement," as used in this Policy includes Purchase Requests/Requisitions (PR), Purchase Orders (PO), Contracts and Contract Modifications/Amendments, used to obtain supplies,

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equipment, services, construction activities, the lease or rental of supplies, equipment or facilities, etc.

C. PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a matter of public record to the extent provided in the California Public Records Act (Section 6250).

D. UNAUTHORIZED OBLIGATIONS

Under no circumstances, except as stated below, are funds to be obligated by the Authority and members of its staff unless authorized through the proper procurement process as outlined in this Policy or the Authority's Procurement Procedures (Procedures). The Executive Director (ED) will take positive action to preclude, to the maximum extent possible, the need for procurement actions to be ratified by the Commission after funds have been expended by the Authority.

In cases where time is of the essence in order to protect lives, property or in other emergency situations, the ED, acting as the Contracting Officer (CO) for the Authority, is authorized to obligate money on behalf of the Authority. The procurement action including related justification documents will be submitted as a resolution to the Commission for prior approval, or ratification if funds have been obligated by the ED's action.

E. NO PRE-PAYMENT/PAYMENT IN ADVANCE FOR SUPPLIES OR SERVICES

The Authority will only authorize payments to Contractors if the following conditions are met: for services, the work must have been rendered and is deemed acceptable; for Supplies/Services, the items must have been received and accepted; the price is determined to be fair and reasonable. Payments to governmental agencies and public utilities will be made in conformance with the requirements of those entities.

F. COST AND PRICE ANALYSIS

A cost or price analysis shall be performed for all procurement actions, including contract modifications, in order to determine price reasonableness.

G. CANCELLATION OF SOLICITATIONS

- 1. Solicitations may be cancelled anytime before opening.*
- 2. A solicitation may be cancelled and all bids or proposals that have already been received will be returned at any time prior to the awarding of a contract.*
- 3. Any and all bids may be rejected if there is a sound documented reason.*

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H. AMENDING PROCUREMENT POLICY OR PROCUREMENT PROCEDURES

1. *The Policy as stated within this document will only be amended through resolution and approval of the Commission.*
2. *The Procedures may be amended at any time at the discretion of the ED, and do not require Commission approval.*
3. *In the event an applicable law or regulation is modified or eliminated, or if a new regulation is adopted, it shall, to the extent inconsistent with the Policy, automatically supersede the Policy.*

I. ECONOMIC OPPORTUNITIES FOR PUBLIC HOUSING RESIDENTS

1. *In order to ensure that employment opportunities are available to Authority residents, the Commission expects all contractors to adhere to the requirements outlined under Section 3 of the Housing and Urban Development Act of 1968 as stated in 24 CFR 135, Determination and Order No. D-109 of Commission Resolution 4604 - Determination and Order to Establish a Goal of Hiring Residents to Constitute a minimum of twenty-five Percent (25%) of the total workforce for all construction contracts let by the Authority, and other resolutions as the Commission shall adopt from time to time.*
2. *Additionally, to ensure Public Housing Authority residents have the best opportunity to apply, be trained and be considered for entry-level jobs outside of housing Authority Contracts, the Authority through the Executive Director will participate in the First Source Hiring Program of the City and County of San Francisco.*

III. PROCUREMENT AUTHORITY AND ADMINISTRATION

A. CONTRACTING OFFICER

The ED is the CO with the authority to delegate to his/her designee to act on behalf of the CO in carrying out the Authority's contracting program.

B. PROCEDURES

The Authority shall issue Procedures to implement this Policy, which shall be based on 2 CFR 200.317 - 200.326 – Procurement, HUD's Handbook 7460.8 REV. 2, "Procurement Handbook for Public Housing Agencies", HUD's Annual Contributions Contract, 24 CFR 941 – Public Housing Development for Public Housing Agencies, 24 CFR 135 – Contracting Opportunities for Project Area Businesses, 24 CFR 963 – Contracting With Resident Owned Businesses, and the State of California's Public Contract Code, Memorandum M-18-18 (collectively "Code").

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C. REVISIONS

This Policy and any later changes shall be submitted to the Commission for approval. The Commission appoints and delegates procurement authority to the ED and is responsible for ensuring that any procurement policies adopted are appropriate for the Authority.

D. CENTRALIZED PROCUREMENT

The Authority maintains a centralized procurement process although specific actions relating to a procurement may be performed outside the contracting department. The ED is responsible for implementing the Policy. Procurement ensures for the ED that all departments of the Authority are properly executing Procurement Policies and Procurement Procedures as well as Federal laws, HUD regulations, guidelines and all local laws and ordinances. This will be accomplished through direct participation and reviews of portions of the procurement process performed by Authority staff in other departments.

E. PROCUREMENT THRESHOLDS

- 1. The Commission shall approve through resolution all Contracts or commitments of funds that exceed \$30,000.*
- 2. The ED is hereby authorized to enter into Contracts or commit funds up to \$30,000.*

IV. PROCUREMENT METHODS

One of the following procurement methods shall be chosen, based on the nature and anticipated dollar value of the total procurement:

A. MICRO PURCHASES

- 1. Petty Cash Purchases under \$50 which can be satisfied by local sources may be processed through the use of a Petty Cash Account (Petty Cash Account not to exceed \$500).*
- 2. Micro Purchases of \$10,000 or less only require one quotation or bid be solicited if the price received is considered reasonable and documented in the file.*

B. SMALL PURCHASES

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1. *Procurements not exceeding \$250,000 may be made in accordance with HUD's Small Purchase procedures (Simple Acquisition Threshold or "SAT") and as authorized in this section. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section (except as may be reasonably necessary to comply with Section IX, Assistance to Small and Other Businesses) or to constitute purchases not requiring Commission review.*
2. *Purchases over \$10,000 but not exceeding \$250,000 are required to have no less than three price quotations, bids or proposals depending on the complexity of the procurement.*

B. SEALED BIDS

Invitation for Bids (IFB): For procurements under the Comprehensive Grant Program and the HOPE VI Programs, sealed bidding is the preferred method used for all construction and equipment contracts. (2 CFR 200.317 – 200.326).

C. COMPETITIVE PROPOSALS

1. *Request for Proposals (RFP): Competitive proposals may be used if there is an adequate method of evaluating technical proposals (price and other factors considered pursuant to Code and where the Authority determines that conditions are not appropriate for the use of sealed bids. An adequate number of qualified sources shall be solicited and given sufficient time to provide a responsive proposal.*
2. *Request for Qualifications (RFQ): The Government Code of the State of California requires the selection of professional services which includes architectural, landscape architectural, engineering, environmental, land surveying or construction project management firms, etc. be procured by the Qualification Based Selection Process.*

D. NONCOMPETITIVE PROPOSALS

1. *Conditions for Use: Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using purchase procedures, sealed bids, or competitive proposals, and one of the following applies:*
 - a. *The item is available only from a sole source, determined by market research or there is a reasonable basis that the Authority's minimum need can only be satisfied by a unique supply, service or trade.*
 - b. *A public exigency or an emergency situation exists that seriously threatens the public health, welfare, or safety, or endangers property, or would*

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otherwise cause serious injury to the 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 other procurement methods, and the emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency;

c. For those procurements over \$250,000, HUD authorizes the use of a noncompetitive proposal; or

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 using such procedures pursuant to Code. The CO shall approve the justification in writing. In addition, the justification will be submitted to the Board for their consideration and approval, as part of their resolution package.

3. Price reasonableness: The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis.

E. COOPERATIVE PURCHASING

The Authority may enter into Federal, State of California and local intergovernmental agreements to purchase or use common Supplies/Services as authorized by law. The decision to use an intergovernmental agreement or conduct a direct procurement shall be based on economy and efficiency.

V. CONTRACTOR QUALIFICATIONS AND DUTIES

A. CONTRACTOR RESPONSIBILITY

Procurements shall be conducted only with responsive and responsible Contractors who have the technical and financial competence to perform and who have a satisfactory record of integrity.

B. SUSPENSION AND DEBARMENT

Purchase Orders or Contracts shall not be awarded to any firm at any tier (subcontractors) which is debarred, suspended, or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

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VI. TYPES OF CONTRACTS, CLAUSES, AND CONTRACT ADMINISTRATION

A. CONTRACT TYPES

Any type of contract which is appropriate to the procurement and which will promote the best interests of the Authority may be used. Cost-plus-a-percentage-of-cost and percentage of construction cost methods are prohibited.

B. OPTIONS

Options for additional quantities or performance periods may be included in contracts, as long as there is a written determination on file which includes the fund availability, statement as to the continuing need for the item, indication as to whether the option was included and evaluated as part of the basic contract, and a review of the market price to indicate whether the option is still economical for the Authority, consistent with Authority's Procedures pursuant to Code.

C. CONTRACT CLAUSES

In addition to containing a clause identifying the contract type, all contracts shall include all clauses required by Federal statutes, executive orders, and their implementing regulations, as provided in Code.

D. CONTRACT ADMINISTRATION

After the award of a contract, a Contract Administrator (CA) will be assigned by the Department Head for appointment by the CO, to ensure that the contractors work and performance is acceptable and that they are paid accordingly. The CO or his/her delegated representative will appoint an individual to be the Contract Administrator (usually the Project Manager or individual most familiar with the requirement). The CO will assure that this individual has the adequate procurement training to exercise their responsibility prior to issuing an appointment letter to the CA, outlining their responsibilities (monitor and review payment submittals, assure contractor performance in accordance with the terms and conditions of the contract, monitoring the contractors efforts to assure the minimum 25% resident hiring, approve or reject progress schedules, etc.) pursuant to Code.

E. CONTRACT MODIFICATION/AMENDMENT

The ED is authorized to approve all contract modifications not to exceed a cumulative total of \$30,000 per project. All modifications or amendments in excess of a cumulative total of \$30,000 require Commission approval. All modifications (change orders) in excess of 15% of the original contract award price will require a written justification as to the reasons (differing site conditions, change of schedule, unforeseen conditions, monitoring the contractors efforts to assure the minimum 25%

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resident hiring throughout the life of the project, etc.) and to validate the reasonableness of price.

VII. SPECIFICATIONS AND PURCHASE REQUEST/REQUISITION

GENERAL

All procurement actions will require a PR to initiate a process signed and approved by the Department Head. This is an internal form prepared by a department in response to a requirement. It is the responsibility of the requesting department to provide complete and accurate purchase information necessary to initiate the procurement action.

All specifications shall be drafted to encourage full and open competition. Requester must ensure that they are not unduly restrictive, and do not represent unnecessary or duplicative items. Specification must be included with the PR.

VIII. APPEALS AND REMEDIES

A. GENERAL

It is the Authority's policy to resolve all contractual issues informally at the Authority level and in conformance with the requirements of the dispute clauses in the contract.

B. BID PROTESTS

A protest against a solicitation must be received in writing before the due date for receipt of bids or proposals and submitted to the CO. Protest against the award of a contract must be received in writing and submitted to the CO. Bid protests will be resolved in conformance with the requirements of the bid documents.

C. CONTRACT CLAIMS

All claims by a vendor/contractor (Contractor) relating to performance of a contract shall be submitted in writing to the CO or designee for a written decision. The Authority, within 60 days, will decide the claim or notify the Contractor of the date by which the decision will be made. The Contractor may request a conference on the claim. Claims will be resolved in conformance with the requirements of the contract. The CO's decision shall inform the Contractor of their appeal rights.

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IX. ASSISTANCE TO WOMEN BUSINESSES ENTERPRISES (WBE), SMALL BUSINESS ENTERPRISE (SBE) AND MINORITY BUSINESSES ENTERPRISES (MBE)

A. REQUIRED EFFORTS

Consistent with Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, the Authority shall make efforts to ensure that WBE's, SBE's and MBE's, labor surplus area businesses, and individuals or firms located in or owned in substantial part by persons residing in the area of an Authority development are used when possible.

B. GOALS

The Commission has established the goal of a 20% aggregate involvement of bona-fide MBE's and WBE's in construction contracts and procurement activities. The Authority staff will provide documentation of the outreach efforts to meet the goal in the file for each contract procurement.

C. OUTREACH

The Commission's goal is that contractors and vendors doing business with the Housing Authority reflect the diversity of the residents. For each procurement, maximum outreach will be made into the WBE and MBE community. When appropriate, proposal evaluations will provide additional consideration for offerors providing a higher level of WBE or MBE participation or a higher level of resident employment.

X. ETHICS IN PUBLIC CONTRACTING

The Authority shall adhere to the following code of conduct, consistent with applicable State or local law:

A. CONFLICT OF INTEREST

No employee, officer or agent of this Authority shall participate directly or indirectly in the selection or in the award or administration of any procurement if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

- 1. An employee, officer 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,*

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son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);

3. *His/her partner; or,*
4. *An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.*

B. GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION

Authority officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from Contractors, potential Contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

C. PROHIBITION AGAINST CONTINGENT FEES

Contractors shall not retain a person to solicit or secure an Authority contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

XI. REFERENCE DOCUMENTS/APPOINTMENT LETTERS

- A. **2 CFR 200.317 – 200. 326 - Procurement**
Website: <http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1.4.31&rgn=div7>
- B. **24 CFR 135 - Contracting Opportunities for Project Area Businesses**
Website: http://www.access.gpo.gov/nara/cfr/waisidx_00/24cfr135_00.html
- C. **24 CFR 941 - Public Housing Development for Public Housing Agencies**
Website: http://www.access.gpo.gov/nara/cfr/waisidx_00/24cfr941_00.html
- D. **24 CFR 963 - Contracting with Resident Owned Businesses**
Website: http://www.access.gpo.gov/nara/cfr/waisidx_00/24cfr963_00.html
- E. **HUD Handbook 7460.8 - Procurement Handbook for Public Housing Agencies**
Website: <http://www.hud.gov/pih/publications/7460-8h/7460-8h.html>
- F. **HUD's Annual Contributions Contract**
Website: http://www.hud.gov/pih/ffmd/finmanagement_faq.html
http://www.hudclips.org/sub_nonhud/cgi/pdf/22829a.pdf
- G. **State of California Public Contract Code**

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Website: <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20>

H. Presidential Memorandum M-18-18

Website: <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>

I. HUD Guidance Letter from Dominique Blom (General Deputy Assistant Secretary)

XIII. CAPITAL FUND STIMULUS GRANT PROCUREMENT

Procurement Requirements For Processing American Recovery And Reinvestment Act Capital Fund Formula Grants (PIH 2009-12 (HA) issued March 18, 2009

The U.S. Department of Housing and Urban Development Office of Public and Indian Housing issued NOTICE PIH 2009-12 (HA) on March 18, 2009. This notice provides public housing authorities information and procedures for processing American Recovery and Reinvestment Act (ARRA) Capital Fund Formula Grants. Regarding procurement with ARRA funding, the following procurement requirements shall be followed:

1. Priorities: PHA's shall give priority to Capital Fund Stimulus Grant projects that can award contracts based on bids within 120 days from February 7, 2009.
2. State and Local: Any requirements relating to the procurement of Supplies/Services arising under state or local laws and regulations shall not apply to Capital Fund Stimulus Grants. PHA's shall instead follow the Part 200 requirements.
3. Part 200 Compliance: PHA's shall amend their procurement standards and policies as necessary in order to expedite and facilitate the use of the funds. This amended policy can be used only for procurements related to Capital Fund Stimulus Grants. This must be done in writing and consistent with PHA policies and procedures (such as Board approval) and labeled as Capital Fund Stimulus Grant Procurement Policy. Specifically, PHA's shall remove all procurement standards that are contrary to Part 200 or the Recovery Act. Where permitted by Part 200, PHA's may insert their own procedures provided that they are not contrary to the purpose of the Recovery Act.
 - For example, a PHA may use their existing protest procedures, written codes of standards for employees engaged in the award and administration on the contracts and other procedures as long as they are not contrary to Part 200.
 - It is important to note that PHAs shall continue to follow all Part 200 requirements regarding conflicts of interest, contract cost and price.
 - PHAs may consider bid times than the typical 30 day period of time.
4. HUD Handbook: PHAs may use the Procurement Handbook for Public Housing Agencies (7460.8 rev-2) for guidance.
5. Noncompetitive Proposals: According to 2 CFR 200.317 – 200.326, if solicitation of a proposal is only from one source or if the PHA finds that after solicitation of a number of sources, that competition is inadequate, the PHA may award the contract noncompetitively where small purchase procedures, sealed

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bids, or competitive proposals are infeasible and one of the circumstances in 2 CFR 200.317 – 200.326 applies. One such circumstance is public exigency that will not permit a delay resulting from competitive solicitation (2 CFR 200.317 – 200.326). If the PHA finds that other competitive methods of procurement are infeasible HUD will support the PHA's use of the public exigency circumstance based on the purpose and requirements of the Recovery Act. Section 3 of the Recovery Act provides that these funds shall be managed and expended to achieve the purposes specified including commencing expenditures and activities as quickly as possible consistent with prudent management. Further the Recovery Act has imposed expeditious obligation and expenditure requirements on the Capital Fund Stimulus Grants and directs HUD to assist PHAs as necessary to expedite and facilitate the use of these grants. PHAs may use the noncompetitive proposals method, but must do so on a contract-by-contract basis and in compliance with all Part 200 requirements including the requirement for a cost analysis and the conflict of interest requirement. The PHA must ensure that the noncompetitive proposals process followed is clearly captured in their amended Capital Fund Stimulus Grant Procurement Policy. Further, the PHA must maintain records sufficient to detail the significant history of each contract's procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (2 CFR 200.317 – 200.326). No HUD pre-award review is required for noncompetitive proposals as stated in Section 8.4(C), Chapter 8 of HUD Handbook No. 7460.8 Rev. 2. However, all PHAs are reminded that they must make available upon HUD's request the PHA Capital Fund Stimulus Grant Procurement Policy and any documents requested related to procurement activity as stated in 2 CFR 200.317 – 200.326.

6. Force Account: To the extent feasible, the PHA should consider employing existing or additional force account laborers on either a permanent or a temporary basis to perform Capital Fund Stimulus Grant work. See 24 CFR 968.105 and 968.120. No prior HUD approval is required specifically for force account labor, but such work must be incorporated into the Capital Fund planning, budgeting and reporting requirements.
7. Buy American: PHAs shall follow Buy American requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United States in their projects.
8. Questions: HUD's PIH Information Resource Center (IRC) can address questions related to HUD's public housing procurement policy as it relates to the Recovery Act. Energy conservation information can be obtained through the IRC as well. The toll free number is 1-800-955-2232. Emails can be sent to PIHRC@deval.us. HUD will reply to each inquiry. A summary of responses will be posted periodically at the Capital Fund webpage at www.hud.gov/offices/pih/programs/ph/capfund/.