

HOUSING AUTHORITY OF YAMHILL COUNTY

PROCUREMENT POLICY

OBJECTIVE: This Procurement Policy is established to ensure that purchases will be made using sound management principles and that procurement procedures conform to applicable State, local, and Federal statutes.

CONTRACT ADMINISTRATION: The Executive Director or his/her authorized agent shall act as Contract Administrator, and shall review all proposed procurements. The Executive Director, the specific Director responsible for the items or services being procured, and the member of the accounting staff posting any procurement payment, shall monitor all purchases.

PROCUREMENT: This Policy is designed to describe purchases in the following methods:

1. **Small purchases** under \$5,000.
2. **Competitive procurement** (solicited orally, written quotes, Invitation for Bids (IFBs) for services, supplies or other property in excess of \$5,000 but not exceeding \$50,000.)
3. **Competitive proposals** for all purchases of services (including professional services), supplies or other property in excess of \$5,000.
4. **Formal Sealed bids.**
5. **Non-competitive**, single source.

PROCUREMENT STANDARDS: No employee, officer, or agent of the Housing Authority of Yamhill County shall participate in selection or in the award or administration of a contract, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the participant is:

1. The employee, Board member, or agent
2. Any member of his/her immediate family,
3. His or her partner, or
4. An organization that employs or is about to employ any of the above, or has a financial interest in the firm selected for award. The Housing Authority Board, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Where the financial interest or gift of an unsolicited item is less than \$25, no conflict will be identified. Violations of these standards and the Employee Handbook section, Conflicts of Interest (Including Moonlighting) are subject to discipline up to and including dismissal.

Proposed procurement will be reviewed by the Contract Administrator or a designee who shall ensure that procurement requirements are subject to an annual planning process to ensure efficient and economical purchasing and the purchase of unnecessary or duplicate items is avoided.

Consideration will be given to breaking out procurement to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. Awards will be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The Housing Authority will maintain records sufficient to detail the significant history of a 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. Time and material type contracts will be used only when no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk.

COMPETITION: All procurement transactions will be conducted in a manner providing full and open competition, and shall not:

1. Place unreasonable requirements on firms in order for them to qualify;
2. Require unnecessary experience and excessive bonding;
3. Allow noncompetitive pricing practices between firms or between affiliated companies;
4. Allow noncompetitive awards to consultants that are on retainer contracts;
5. Allow organizational conflict of interest;
6. Allow the specifying of brand names;
7. Allow any arbitrary action in procurement process.

METHODS OF PROCUREMENT:

1. **Small Purchases of \$5,000 or less.** For small purchases below \$5,000, only one quotation need be solicited if the price received is considered reasonable. Such purchases should be distributed equitably among qualified sources, which may include auctions, State or interagency pools. Where practicable, but no less than annually, a quotation shall be solicited from other than the previous source before placing a repeat order. Purchases will be recorded on Purchase Order forms and approved by the authorized agent. Purchases under \$100 may be made from the Petty Cash Fund and shall be supported by receipts.
2. **Competitive Procurement:** Services, supplies or other property greater than \$5,000 but not to exceed \$50,000 in the aggregate. Bids will be solicited orally; by telephone, e-mail, fax, in writing or IFB from an adequate number of sources (no less than three qualified sources). Procurement through an existing federal, State or approved Association contract, has met the three sources requirement for the purposes of this policy. Requests for Proposals will follow the guidelines in paragraph 3, Competitive Proposals, below. Purchases will be recorded on Purchase Order forms or on formal Contract documents and approved by the authorized agent. Competitive proposal procedures (Paragraph 3) will be used for qualifications-based procurement of professional services, including architectural and engineering (A/E) services; property developmental services such as appraisers etc.; and auditors, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to

negotiation of fair and reasonable compensation. Professional Services may be considered small purchases if the amount is less than \$5,000.

3. **Competitive Proposals:** Services, supplies or other property exceeding \$5,000. This method requires solicitations by Request for Proposal (RFP), where there is an adequate method of evaluating technical proposals and the use of sealed bids is not appropriate.
 - A. The RFP shall clearly identify the relative importance of price and other evaluation factors, including the weight given to each factor. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals. The proposals shall be evaluated only on the criteria stated in the RFP.
 - B. Unless there is no need for negotiations with any of the offerors, negotiations shall be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award, based on evaluation against the technical and price factors as specified in the RFP. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarifications and advise offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements.
 - C. No offeror shall be provided information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal.
 - D. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award.
 - E. A common deadline shall be established for receipt of proposal revisions based on negotiations.
 - F. After evaluation of proposal revisions, if any, the contract shall be awarded to the responsible firm whose qualifications, price and other factors considered, are the most advantageous to the Housing Authority.
4. **Formal Sealed Bids:** Services, supplies, or other property in excess of \$50,000. Bids are publicly solicited and a firm-fixed-price contract will be awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the Invitation for Bids, is the lowest price. In order for the sealed bidding procedure to be feasible, the following conditions will be present:
 - A. A complete, adequate, and realistic specification or purchase description.
 - B. Two or more responsible bidders are willing and able to compete effectively for the business or one responsible bidder submits a bid and is accepted by Board action.
 - C. The procurement lends itself to a firm-fixed-price-contract, and the selection of the bidder can be made principally on the basis of price.

If formal sealed bids are used, the following requirements apply:

- A. The Invitation for Bid (IFB) will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
- B. The IFB, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond, and include the factors to be considered in determining the successful bidder.
- C. All bids will be publicly opened at the time and place described in the IFB. In attendance will be the Contract Administrator or his/her appointee.
- D. A firm-fixed-price-contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, Section 3 requirements (if required) and life cycle costs shall be considered in determining which bid is lowest.
- E. In the event all bids exceed the budgeted amount, the Housing Authority may, at its discretion: negotiate with the low, responsive, responsible bidder to reduce the contract price to a level deemed acceptable to the Housing Authority; re-bid; or defer the procurement.
- F. Any bids received after the date and time specified in the Invitation to Bid shall not be opened and shall be returned unopened to the bidder, with a letter indicating that the bid was not received by the specified deadline.
- G. Correction or withdrawal of inadvertently erroneous bids may be permitted, where appropriate, before bid opening by written notice (e-mail or fax is sufficient) received in the office designated in the IFB prior to the date and time set for bid opening. After the public opening, the Housing Authority may allow any bidder to withdraw a bid only if it is apparent that the bidder has made a mistake. Before approving the withdrawal request, the Housing Authority shall require a notarized statement from the bidder indicating that an error was made with an explanation of how it occurred; a copy of the bidder's cost estimate worksheet or other evidence provided by the bidder; and a legal opinion prepared by the Housing Authority's attorney indicating whether the bidder is bound by the bid.
- H. The Housing Authority may reject any bid not in compliance with the prescribed bidding procedures and requirements and may reject any or all bids and waive any informalities in the bidding. Upon revision of bid documents, where required, the IFB will be reissued.
- I. If equal low bids are received from responsible bidders, award shall be made to the bid submitted with the earliest date and time. Where the equal low bids are received on the same date and time, award shall be made by drawing high card from a standard deck of playing cards.
- J. Bid acceptance procedures, Notice to Proceed, bid and contract performance requirements, and contract dispute and settlement procedures are found in the attached documents: HUD 5269 (Instruction to Bidders) and HUD 5370 (General Conditions of the Contract for Construction - Public Housing Program) or the Standard Contract Terms and Conditions, whichever applies.

For professional services contracts, sealed bidding will not be used.

5. **Noncompetitive, Single Source or Emergency:** Procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Procurement through an existing federal, State or approved Association contract, is not considered “single source” for the purposes of this policy.
 - A. Procurement by noncompetitive proposals shall be used only when the award is unfeasible under small purchase procedures, competitive procurement, competitive proposals, or sealed bids, and one of the following circumstances applies:
 - i. The item is available only from a single source;
 - ii. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
 - iii. The funding agency (HUD, State of Oregon, etc.) authorizes noncompetitive proposals; or
 - iv. After solicitation of a number of sources, competition is determined inadequate.
 - B. Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of cost and profit is required.
 - C. The Housing Authority will be required to submit the proposed procurement to the Board for pre-award review in accordance with this Policy.

PREFERENCES:

The Housing Authority will take steps to ensure that procurements follow requirements to encourage the participation of minority firms, women's business enterprises, small business firms, etc., and to work with those firms by assisting with the requirements of public contracting. All sealed bid contracts will be advertised in media selected to reach minority and small businesses. All federally funded contracts are subject to the Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968, and preference will be given to Section 3 contractors and suppliers.

CONTRACTOR QUALIFICATIONS AND DUTIES:

Procurement will be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity. Before awarding a contract, the Housing Authority shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources. If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination.

Contracts shall not be awarded to debarred, suspended or ineligible contractors.

CONTRACT COST AND PRICE:

The Housing Authority will perform a cost or price analysis in connection with every procurement action in excess of \$25,000, including contract modifications. Estimates, which will be used to determine reasonableness of price, will be made before receiving bids or proposals.

BOARD APPROVAL:

Pre-award approval by the Board of Commissioners is required for any procurement in excess of \$25,000 or when non-competitive, single source purchases are proposed in excess of \$5,000.

BONDING REQUIREMENTS:

For construction, facility improvement, equipment contracts or subcontracts exceeding \$25,000, the Housing Authority's contract will require, as a minimum: a bid bond or certified check equal to 5% of the bid price and a performance/payment bond on the part of the contractor for 100% of the contract price.

CONTRACT PROVISIONS:

Housing Authority contracts will include provisions for: Contract changes, remedies, changed conditions, time extensions, access and records retention, and suspension of work. Contracts financed with Federal funds will comply with 24 CFR 85.36i and include:

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts other than small purchases.)
2. Termination for cause and for convenience by the grantee or subgrantee, including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$25,000.)
3. Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and supplemented in Department of Labor Regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 to contractors or subcontractors.)
4. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 875) as supplemented in Department of Labor Regulations (29 CFR Part 3). (All contracts and subcontracts for construction or repair.)
5. Compliance with the Davis-Bacon Act (40 U.S.C. 2676a to 1-7) as supplemented by Department of Labor Regulations (29 CFR Part 5) or the State of Oregon Bureau of Labor and Industries minimum wage requirements. (Federal construction contracts in excess of \$2,000 and State construction contracts in excess of \$25,000 awarded to contractors and subcontractors.)
6. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5). (Construction contracts awarded in excess of \$2,000 and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.)
7. Notice of Housing Authority requirements and regulations pertaining to reporting.

8. Notice of Housing Authority requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
9. Housing Authority requirements and regulations pertaining to copyrights and rights in data.
10. Access by the Housing Authority, HUD, or other authorized representative of the funding agency to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit examinations, excerpts, and transcripts.
11. Retention of all required records for three years after final payment is made and all other pending matters are closed.
12. Compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clear Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR Part 15). (Contracts, subcontracts and in amounts in excess of \$100,000.)
13. Mandatory standards and policies relative to energy efficiency, which are contained in the State Energy Plan, issued in compliance with the Energy Policy and Conservation Act (Pub.1.94-163).
14. Oregon Prevailing Wage Rates (PWRs) will be used when non-Federal funding finances construction contracts (contracts and subcontracts over \$25,000). (PWR contained in contract must be posted at construction site.)
15. Compliance with Civil Rights and Non-Discrimination Laws.

DISPUTES:

Housing Authority contracts will include the following provisions for Disputes.

1. "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
2. All disputes arising under or relating to this contract which are not disposed of by agreement, shall be resolved under this clause.
3. All claims by the Contractor shall be made in writing and submitted to the Executive Director for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Executive Director.
4. The Executive Director shall, within 60 (unless otherwise indicated) days after receipt of

the request, decide the claim or notify the Contractor of the date by which the decision will be made.

5. The Executive Director's decision shall be final unless the Contractor (1) appeals in writing to the Housing Authority Board of Commissioners, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.
6. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision as outlined in this section.

Policy Dated: December 18, 2002

Approved by the Board of Commissioners on December 18, 2002