

STATEMENT OF PROCUREMENT POLICY

For the Hawaii Public Housing Authority

This Procurement Policy complies with the Annual Contributions Contract (ACC) between the Hawaii Public Housing Authority (HPHA) and the U.S. Department of Housing and Urban Development's (HUD) Federal regulations 24 Code of Federal Regulations (CFR) 85.36, the procurement standards of the Procurement Handbook for PHAs, HUD Handbook 7460.8, Rev. 2, and applicable State of Hawaii (State) and local laws.

The HPHA certifies that this Procurement Policy complies with all applicable Federal regulations and, as such, the HPHA is exempted from prior HUD review and approval of individual procurement actions.

I. GENERAL PROVISIONS

A. Purpose

The purpose of this Statement of Procurement Policy (Policy) is to provide a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by the HPHA; assure that supplies, services and construction are procured efficiently, effectively, and at the best value to the HPHA; promote competition in contracting; and assure that HPHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, and State and local laws.

Non-compliance with this Policy may result in disciplinary action, which may include suspension, termination, or any other appropriate action allowed by collective bargaining agreement.

B. Applications

This Policy applies to all procurement actions of the HPHA, regardless of the source of funds, except as noted under "exclusions" in Section C below. However, nothing in this Procurement Policy shall prevent the HPHA 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 regulation shall be applied to the total project if more restrictive. 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. In no case, shall the division of the funds be construed to mean that parceling the procurement to evade competitive source selection requirements is acceptable or allowable.

The term “procurement” as used in this Procurement Policy, includes the purchasing, ordering, renting, leasing, otherwise acquiring, contracting and contract modifications (including change orders) 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 from any responsible and responsive sources.

C. Exclusions

This policy does not govern the following areas:

1. Administrative fees earned under the Section 8 Housing Choice Voucher Program;
2. Award of vouchers under the Section 8 Housing Choice Voucher Program;
3. Execution of landlord Housing Assistance Payments contracts under the Section 8 Housing Choice Voucher that program;
4. Non-program income (e.g., fee-for-services revenue under 24 CFR Part 990);
5. Monies provided by the State Legislature for a specific contractor, vendor, or purpose (e.g., Grant in Aid funds);
6. State Homeless Programs established under chapter 356D, Hawaii Revised Statutes (HRS) and funded by the State or local government

These excluded areas are subject to applicable State and local requirements and may be subject to additional requirements of the specific funding source.

D. Laws and Regulations

The HPHA shall comply with all applicable Federal, State and local laws on procurement including, but not limited to the following regulations and any statutory or regulatory or rule references made therein:

- Chapter 103D, Hawaii Revised Statutes, The Procurement Code
- Chapter 103F, Hawaii Revised Statutes, Purchase of Health and Human Services
- Part 85 of Title 24 of the Code of Federal Regulations (24 CFR), Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments.
- 24 CFR Part 135, Economic Opportunities for Low-and Very-Low Income Persons
- 24 CFR Part 943 PHA Consortia and Joint Ventures
- 24 CFR Part 963 Public Housing, Contracting with Resident Owned Businesses

- 24 CFR Par 965 PHA Owned or Leased Projects
- 24 CFR Part 968, Public Housing Modernization
- 24 CFR Part 990, The Public Housing Operating Fund Program

In cases where the Federal procurement requirements are stricter than State or local law, the HPHA will comply with the applicable Federal law and rules. If State law is stricter than the Federal standards, the HPHA will comply with the State law and rules. In cases where the Administrator of the State Procurement Office has granted an exemption in writing to stricter State requirements, the HPHA will comply with the Federal laws and rules for procurements using Federal funds. Additional guidance on dealing with State rules governing procurement shall be handled as detailed in HUD Handbook 7460.8, Rev 2.

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 automatically supersede this Policy.. Changes to State and local procurement rules may also be implemented under procurement circular, directive, administrative rule issued by the State's Governor, Comptroller, or the State Procurement Office.

E. Public Access to Procurement Information

Procurement information shall be a matter of public record to the extent provided in Chapter 92F, HRS, Uniform Information Practices Act and shall be available to the public as provided in that statute.

II. ETHICS IN PUBLIC CONTRACTING

A. General

Every employee, officer and Board or Directors (Board) member is expected to adhere to the highest standards of ethical behavior when acting on behalf of the HPHA. Said persons should avoid conflicts between their duties to HPHA and their own personal interests. The HPHA shall adhere to a code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. The HPHA's Standards of Conduct is consistent with applicable Federal, State or local law. Non-compliance with the HPHA's policy on Standards of Conduct may result in disciplinary action, including, without limitation, termination of employment or removal from the HPHA Board of Directors.

The following is a general overview of the HPHA's Standards of Conduct (adopted 12/18/03) and the provisions are not exhaustive. In the event the HPHA's Standards of Conduct is modified or a new Standard is adopted, the revised Standard shall supersede the policy summarized herein.

B. Conflict of Interest

No employee, officer, Board member, or agent of the HPHA 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 was a financial or any type of interest in a firm competing for the award:

1. An employee, officer, Board member, or agent involved in making the award;
2. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
3. His/her partner; or
4. An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above relatives.

C. Gratuities, Kickbacks, and Use of Confidential Information

No employee, officer, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain. This paragraph shall not prohibit the HPHA from receiving any property by gift, grant, devise, bequest, or otherwise from any source, as set forth in Act 148, Session Laws of Hawaii 2013, provided that such action(s) are allowed by Federal law or regulations.

D. Prohibition Against Contingent Fees

Contractors wanting to do business with the HPHA must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for a bona fide established commercial selling agency.

III. PROCUREMENT AUTHORITY AND ADMINISTRATION

A. Delegation of Contracting Authority

Other than approval of this Policy, approval by the Board of Directors is not required for any procurement action, as permitted under Federal, State and local law. It is the responsibility of the Executive Director to provide that all procurement actions are conducted in accordance with the policies contained herein. All references to the HPHA herein shall mean to include the Executive Director and his/her designated

representative. With the adoption of this Policy, the Executive Director shall be considered the Procurement Officer for the HPHA.

While the Executive Director is responsible for providing that the HPHA's procurements comply with this Policy, the Executive Director may delegate all necessary and appropriate procurement authority as is necessary and appropriate to conduct business of the HPHA. Each contract or purchasing action which obligates the HPHA to pay a contractor or vendor must be signed or otherwise authorized by an individual who is expressly authorized by the HPHA to make such an obligation.

With the adoption of this Policy, the Executive Director delegates all procurement authority as is necessary to conduct business of the HPHA to the Procurement Officer, regardless of the source of funds and dollar amount. The Executive Director also authorizes the Procurement Officer to make further delegations of procurement authority up to the small purchase threshold as established by Federal, State or local laws, whichever is lower. The Procurement Officer shall execute secondary delegations only with the written approval of the Executive Director. In the absence of a Procurement Officer, the Executive Director may delegate procurement authority to another Manager who is adequately trained and experienced in executing procurements in compliance with State and Federal regulations.

The Executive Director also delegates authority as necessary to the HPHA's Contract and Procurement Officer to approve and execute requests to the State Procurement Office, including, without limitation, the following:

- SPO-001 Notice and Request for Sole Source
- SPO-001B Notice of Amendment to Sole Source Contract
- SPO-002 Emergency Procurement Request
- SPO-003 Request for Extension on Time on Contracts
- SPO-005 SPO Price List Purchase Exemptions
- SPO-005A Request for Authorization to Purchase Outside the Price List for Statewide Publication of Public Notice
- SPO-007 Notice of and Request for Exemption From Chapter 103D, HRS
- SPO-007B Notice of Amendment to Exemption From Chapter 103D, HRS
- SPO-011 Inquiries on Chapter 103D, HRS and/or Administrative Rules
- SPO-015 Request for an Alternative Procurement
- SPO-018 Procurement Services Request
- SPO-018A Request for Review Services
- SPO-H-300 Request for After-the-Fact Secondary Purchase
- SPO-H-600 Request for Crisis Purchase of Service
- SPO-H-805 Response to Request for Clarification
- SPO-H-807 Response to Formal Protest
- Report on Planned Purchases for Health and Human Services

The delegation of authority by the Executive Director to a Procurement Officer is limited by and subject to chapter 103D, HRS and its implementing rules.

This delegation is intended to include all future revisions to the list above by the State Procurement Office, the Department of Accounting and General Services and the State Comptroller.

B. Procurement Administration

The Executive Director or his/her designee shall:

1. Submit this Procurement Policy and any later policy changes to the Board of Directors for approval. Revisions for grammar, style or formatting shall not require Board approval.
2. Establish operational procedures (such as a procurement manual or standard procedures) to implement this procurement Policy.
3. Establish a system of sanctions for violations of the ethical standards described in Section II above, consistent with Federal, State or local law.

C. Procurement Planning

The HPHA recognizes that advanced planning is essential to managing the procurement function properly. Hence, the HPHA will periodically review its record of prior purchases, as well as future needs, to: find patterns of procurement actions that could be performed more efficiently or economically; maximize competition and competitive pricing among contracts and decrease the HPHA's procurement costs; reduce administrative costs; provide that supplies and services are obtained without any need for re-procurement including, without limitation, resolving bid protests; and minimizing errors that occur when there is inadequate lead time. Consideration should be given to the storage, security, and handling requirements when planning the most appropriate purchasing actions.

Prior to the start of each fiscal year, each Branch shall submit an advance procurement plan to the Executive Director and his/her designated representative.

D. Funding Availability

Before initiating any contract, the HPHA shall determine that there are sufficient funds available to cover the anticipated cost of the contract or modification. Any employee, officer, or Board member who negotiates and enters into a verbal or written unauthorized commitment of HPHA funds may be subject to disciplinary action and/or sanctions as allowable under Federal, State, or local law.

A multi-term contract may be entered into for any period of time deemed to be in the best interest of the State and requires the written approval of the HOPA. The HPHA

shall comply with all requirements of the Governor's budget execution policies unless provided specific written exemption or delegated authority.

E. Staff Qualifications and Training

The HPHA's Procurement staff shall be required to meet minimum standards for education and procurement experience.

The HPHA shall establish training and experience standards for its procurement positions. The Procurement Officer shall periodically review the HPHA's procurement operations to verify that personnel meet those standards. Procurement staff shall be required to attend annual training to keep abreast of current regulations governing procurement. Staff who are not adequately trained shall not be allowed to handle procurements independently.

IV. PURCHASING METHODS

A. Petty Cash Purchases

Purchases under \$25 may be handled through the use of a petty cash account. Petty Cash Accounts may be established in an amount sufficient to cover small purchases made during a reasonable period (e.g., one month). For all Petty Cash Accounts, the HPHA shall verify that security is maintained and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically. The HPHA's Fiscal Office shall be responsible for the security and maintenance of the petty cash account.

B. Small Purchases Procedures

For any amounts above the Petty Cash ceiling, but less than \$100,000 (goods/services/construction), the HPHA may use small purchase procedures for State or federally funded procurements. The HPHA may use small purchase procedures for construction procurements if the entire procurement is State funded and the total amount of the procurement is less than \$250,000.

Under small purchase procedures, the HPHA shall obtain a reasonable number of quotes (preferably three); however, for purchases of less than \$2,000 also known as Micro Purchases only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Time permitting, the HPHA shall: 1) obtain a reasonable number of quotes for Micro Purchases more than \$2,000; or 2) document that the proposed purchase price is reasonable based on past purchases or catalog sales.

Quotes may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the

best value to the HPHA. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file.

The HPHA shall be allowed to purchase its requirements from price or vendor lists issued by the State Procurement Office that are in compliance with these Policies.

The HPHA shall not breakdown requirements aggregating more than the small purchase threshold (or Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to 1) permit the use of the small purchase procedures or 2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold.

The establishment of this policy on small purchases is intended to incorporate future revisions issued by the State Procurement Office regarding policies governing small purchases. If there is a direct conflict between future revisions and any federal laws, rules, and regulations, the federal laws, rules and regulations shall prevail for purchases executed with federal funds.

In the event the State Procurement Office grants a written exemption to the small purchase threshold, the Procurement Officer shall be responsible to determine the appropriate method of procurement. The HPHA shall comply with any restrictions to the exemption as issued by the State Procurement Office.

C. Sealed Bids

Sealed bidding 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 document. Under sealed bids, the HPHA publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all material terms and conditions of the Invitation for Bids (IFB) is the lowest in price. Sealed bidding is the preferred method of procuring construction, supply, and non-complex service contracts that are expected to exceed \$50,000.

1. Conditions for Using Sealed Bids

The HPHA shall use the sealed bid method if the following conditions are present: a complete, adequate, and realistic statement of work, specifications or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; the contract can be awarded based on a firm fixed price; and the selection of the successful bidder can be made principally on the lowest price.

The following contracts shall not be solicited under the sealed bid method:
1) Professional Services; 2) Health and Human Services; 3) Design-Build

Construction projects; and 4) any other contract where a complete statement of work or specification cannot be established prior to solicitation.

2. Solicitation and Receipt of Bids

An IFB is issued with the specifications and all contractual terms and conditions applicable to the procurement, and a statement that an 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 public bid opening. All bids received will be date and time-stamped and stored unopened in a secure place until the public bid opening. A bidder may withdraw the bid at any time prior to the bid opening.

3. Pre-Bid Conference

After an IFB is issued and before bids are due, the HPHA may conduct a pre-bid conference to discuss the project's requirements. Notice of any scheduled conference shall be included in the IFB. A written summary of the conference must be made available to anyone requesting it. Any changes to a solicitation shall be issued under an addendum.

Attendance, while desirable, should not be mandatory and non-attendees should not be deemed non-responsive. To impose a requirement to attend a pre-bid conference could unnecessarily limit competition.

For all construction projects, the HPHA must hold a pre-bid conference. However, the HPHA may not require mandatory attendance by interested offerors.

4. Bid Opening and Award

Sealed bids shall be opened publicly. All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection. 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 responsible 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 and shall be subject to conditions governing non-competitive proposals.

Bid prices that exceed the independent cost estimate or available funds are not open to negotiation. The HPHA shall handle the reduction of base bid offers through the inclusion of deductive alternates or value engineering when it is in

the best interests of the State. Unless specific written approval or statutory authority is provided, no bid price should be negotiated after bid opening.

5. Mistakes in Bids.

Correction or withdrawal of bids is permitted, where appropriate, before bid opening by written, or telegraphic notice received in the office designated in the IFB prior to the time set for bid opening.

After bid opening, corrections in bids may be permitted only if the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake and the bid price actually intended. A low bidder alleging a non-judgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of a 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 Procurement Officer. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interests of the HPHA or fair competition shall not be permitted.

D. Competitive Sealed Proposals

Unlike sealed bidding, the competitive proposal method permits: consideration of technical factors other than price; discussion with offerors concerning offers submitted; negotiation of contract price or estimated cost and other contract terms and conditions; revision of proposals before the final contractor selection; and the withdrawal of an offer at any time up until the point of award. Award is normally made on the basis of the proposal that represents the best overall value to the HPHA, considering price and other factors (e.g., technical expertise, past experience, quality of proposed staffing, etc.) set in the solicitation and not solely the lowest price.

1. Conditions for Use

Where conditions are not appropriate for the use of sealed bidding competitive proposals may be used. Competitive proposals, excluding those made under §103D-304(a), Hawaii Revised Statutes, are the preferred method for procuring professional services that will exceed the small purchase threshold.

2. Form of Solicitation

Other than Architect/Engineering (A/E) services, competitive proposals shall be solicited through the issuance of a Request for Proposals (RFP). The RFP shall clearly identify the important and relative value of each of the evaluation factors as well as any subfactors and price. A mechanism for fairly and

thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued.

Proposals shall be handled so as to prevent disclosure of the number of offerors, identify the offerors, and the contents of their proposals until after award. The HPHA may assign a price specific weight in the evaluation criteria. The HPHA may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.

3. Evaluation

The proposal shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, the HPHA shall establish an Evaluation Plan for each RFP. An Evaluation Report, summarizing the results of the evaluation, shall be prepared prior to award of a contract.

Generally, all RFPs shall be evaluated by an appropriately appointed Evaluation Committee. A copy of the document identifying any committee members and any subsequent changes thereto must be placed in the contract files. The Evaluation Committee shall consist of at least three governmental employees with sufficient qualifications in the area of the goods, services or construction to be procured. The Evaluation Committee shall be required to disclose any potential conflicts of interest and to sign a Non-Disclosure statement.

For the review of proposals, evaluation criteria need to be supported with written justification for the scores provided by each reviewer. Rating sheets must include written comments which demonstrate that the evaluator has actually read and reviewed the proposals, submittals and/or professional qualifications.

4. Discussions

When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. Discussions 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 discussion and revision of their proposals.

No offeror shall be given any information about any other offerors 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 discussions.

Discussions are exchanges (in either competitive or sole source environment) between the HPHA and offerors that are undertaken with the intent of allowing the offeror to revise its proposal. These negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract or other terms of a proposed contract.

Discussions are tailored to each offeror's proposal, and shall be conducted by the contracting officer with each offeror within the competitive range. The primary object of discussions is to maximize the HPHA's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation.

The Procurement Officer shall indicate to, or discuss with, each offeror still being considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposer's potential for award. The scope and extent of discussions are within the discretion of the Procurement Officer. The contracting officer may inform an offeror that its price is considered by the HPHA to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible to indicate to all offerors the cost or price that the governments price analysis, market research, and other reviews have identified as reasonable.

Auctioning (revealing one offerors price in an attempt to get another offeror to lower their price) is strictly prohibited.

5. Award

After evaluation of the revised proposals, if any, the contract shall be awarded to the responsible firm whose technical approach to the project, qualifications, price and/or any other factors considered, are most advantageous to the HPHA provided that the price is within the maximum total project budgeted amount established for the specific property or activity.

6. A/E Services

The HPHA must 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. If service are funded with Federal funds, QBS procedures shall not be used to purchase other types of services, though architectural/engineering firms are potential sources.

E. Requests for Qualifications

The QBS method is conducted using an RFQ. Under the QBS method, the HPHA shall select the highest ranked respondent on technical factors and then negotiate price.

The QBS methods can only be used for A/E services or developer's related contracts, or when specifically authorized by HUD. The QBS method cannot be used to contract for other services that may be provided by an A/E firm unless specifically authorized.

1. Evaluation Factors

The following factors are recommended for modernization contracts:

- a. Experience and professional qualifications relevant to the project type;
- b. Past performance in terms of cost control, quality of work, and compliance with performance scheduled;
- c. Capability to provide services in a timely manner;
- d. Evidence of the A/E's or firm's ability to perform the work;
- e. Evidence that the A/E is registered in the State and carries Errors and Omissions insurance;
- f. Demonstrated knowledge of local building codes and Federal building alteration requirements; and
- g. Other factors determined to be important to HPHA.

For the review of professional qualifications, evaluation criteria need to be supported with written justification for the scores provided by each reviewer. Rating sheets must include written comments which demonstrate that the evaluator has actually read and reviewed the proposals, submittals and/or professional qualifications.

2. Inadequate Response to Solicitation

If the HPHA received fewer than three proposals for contracts above the small purchase threshold, the HPHA will analyze and document the reasons for the inadequate response. The HPHA may either reject the proposals and issue a revised solicitation or the HPHA may proceed to evaluate the proposals as deemed appropriate and with the written approval of a procurement exemption by the State Procurement Office.

F. Noncompetitive Proposals

1. Conditions for Use

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

- a. The item is available only from a single source, based on a good faith review of available sources;
- b. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the HPHA, 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;
- c. The State Procurement Office and HUD authorizes the use of noncompetitive proposals. (HUD approval is not required for State-funded procurements.); or
- d. After solicitation of a number of sources, competition is determined inadequate, or only one offeror responds. This condition does not apply to procurements using State funds.

As in all procurements, the HPHA must first prepare an independent cost estimate prior to the solicitation. The independent cost estimate is used to establish a reasonable range and for verification that funds are available to fund the procurement. Because there is no price competition, a cost analysis is required and the price must be determined to be reasonable. During the cost analysis, the price proposal would need to be compared with the independent cost estimate and other relevant factors.

Approval to award a contract resulting from a noncompetitive proposal does not eliminate or alter any other requirements governing the contract.

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 Chief Procurement Officer. Poor planning or lack of planning is not justification for emergency or sole-source procurements.

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

- a. Description of the requirement;

- b. History of prior purchases and their nature (competitive vs. noncompetitive);
- c. The specific exception in 24 CFR 85.36(d)(4)(i)(A) through (D) which applies (for federally funded procurements only);
- d. Statement as to the unique circumstances that require award by noncompetitive proposals;
- e. Description of the efforts made to find competitive sources including, without limitation advertisement in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation, etc.;
- f. Statement as to efforts that will be taken in the future to promote competition for the requirement;
- g. Signature by the Chief Procurement Officer; and
- h. 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.

G. Cooperative Purchasing/Intergovernmental Agreements

The HPHA 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 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 HPHA 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 24 CFR 85.36.

V. INDEPENDENT COST ESTIMATE

For all purchases above the micro purchase threshold, the HPHA shall prepare an independent cost estimate (ICE) prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased.

The contracting office is responsible for the preparation of the ICE, and may obtain assistance from other personnel (e.g., the end user, or budget and finance) are usually involved and may actually do most of the preparation. The HPHA may develop the ICE using its own employees, outside parties (e.g., consultants), or a combination of the two. If any outside party (whether compensated or not) assists in developing the ICE, the HPHA shall take appropriate steps to provide that organizational conflicts of interest are avoided and that an outside party does not obtain any competitive advantage from its advance knowledge of the HPHA's cost estimate.

For purchases above \$2,000 but less than the HPHA's small purchase threshold, documentation will be kept to a minimum. The ICE may be based on prior purchases, commercial catalogs, or detailed analyses (e.g., purchases for services).

For purchases above the HPHA's small purchase threshold, the level of detail will vary but should be commensurate with the size (i.e., dollar value), complexity, and commercial nature of the requirement. ICEs will normally be broken out into major categories of cost including, without limitation, e.g., labor, materials, and other direct costs such as travel, overhead, and profit. Commercially available products and services may require less detail as the marketplace tends to provide current reliable pricing information for commercially available products; HPHA may also not need to break out components. Non-commercial type requirements, and work designed specifically for the HPHA, will require much more extensive estimation and a detailed ICE.

The ICE will serve as the primary in-house gauge of cost and price reasonableness, but may not be relied upon to the exclusion of other sources of pricing information. Market conditions may fluctuate between the time the ICE is prepared and the receipt of offers. For example, materials or labor costs may have increased or decreased. If a significant period of time has elapsed, or the HPHA knows that certain market conditions have changed, the Procurement Officer may request that an updated ICE be prepared to use in evaluating offers.

VI. COST AND PRICE ANALYSIS

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

A. Petty Cash and Micro Purchases

No formal cost or price analysis is required. Rather, the execution of a contract by the Procurement Officer (through a Purchase Order or other means) shall serve as the Procurement Officer's determination that the price obtained is reasonable, which may be based on prior experience or other factors.

B. Small Purchases

A comparison with other offers shall generally be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes is not obtained to establish reasonableness through price competition, the requisitioner shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

C. 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 HPHA cannot reasonably determine price reasonableness, the HPHA must conduct a cost analysis, consistent with federal guidelines, to determine that the price paid is reasonable.

D. Competitive Proposals

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient proposals are not received, the HPHA 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 HPHA must conduct a cost analysis, consistent with Federal guidelines, to determine that the price paid is reasonable.

E. Contract Modifications

A cost analysis, consistent with federal guidelines, will 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 \$50,000.

VII. SOLICITATION AND ADVERTISING

A. Method of Solicitation

1. Petty Cash and Micro Purchases. The HPHA may contact only one source, if the price is considered reasonable.
2. Small Purchases. Quotes may be solicited orally, through fax, or by any other reasonable method.
3. Sealed Bids and Competitive Proposals. Solicitation must be done publicly. The HPHA must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.
 - a. Advertising in newspapers or other print mediums of local or general circulations. Advertisements in local newspapers should be published in the local newspaper where the service or construction is to be delivered.
 - b. Advertising in various trade journals or publications (for construction).
 - c. E-Procurement. The HPHA may conduct its public procurements through the Internet using e-procurement systems. However, all e-procurements

must otherwise be in compliance with 24 CFR 85.36, State and local requirements, and the HPHA's procurement policy.

B. Time Frame

For purchases of more than \$50,000, the public notice in the form of paid advertisements should run not less than once each week for two consecutive weeks.

C. Form

Notices/advertisements should state, at a minimum, where and when the solicitation will be available and a phone number or email address where interested parties may request a copy, the place, date, and time that the bids or proposals are due, the solicitation number, a contact who can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s).

D. Time Period for Submission of Bids/Proposals

A minimum of 12 days shall generally be provided for preparation and submission of sealed bids from the date of the public notice of the solicitation and the date set for receipt of offers. A minimum of 32 calendar days shall be provided for preparation and submission of competitive proposals, unless the procurement officer makes a written determination that a shorter time period will provide adequate competition. For construction, including design build, a minimum of 17 calendar days shall be provided from the date of the pre-bid conference and the date set for the receipt of offers. However, the Executive Director/Chief Procurement Officer may allow for a shorter period under extraordinary circumstances and/or when it has been determined that the HPHA would still receive adequate competition under a shorter notice. A copy of the Executive Director's written determination shall be maintained in the contract file.

E. Cancellation of Solicitations

1. An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:
 - a. The supplies, services or construction is no longer required;
 - b. The funds are no longer available;
 - c. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
 - d. For good cause of a similar nature when it is in the best interest of the HPHA.
2. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:
 - a. The supplies or services (including construction) are no longer required;

- b. Ambiguous or otherwise inadequate specifications were part of the solicitation;
 - c. All factors of significance to the HPHA were not considered;
 - d. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - e. There is reason to believe that bids or proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith; or
 - f. For good cause of a similar nature when it is in the best interest of the HPHA.
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.
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 resolicitation or future procurement of similar items.
5. If all otherwise acceptable bids received in response to an IFB are at unreasonable prices an analysis should be conducted to see if there is a problem in either the specifications or the HPHA's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, the Procurement Officer may cancel the solicitation and either:
 - a. Re-solicit using an RFP; or
 - b. Complete the procurement by using the competitive proposal method. The Procurement Officer must determine, in writing, that such action is appropriate, must inform all bidders of the HPHA's intent to enter into discussions with bidders, and must give each bidder a reasonable opportunity to enter into discussions.
6. If problems are found with the specifications, HPHA shall cancel the solicitation, revise the specifications and resolicit using an IFB.

F. Credit (or Purchasing) Cards

Credit card usage should follow the rules for all other small purchases. For example, the Procurement 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 Procurement Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card.

When using credit cards, the HPHA will 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). The use and administration of the HPHA's purchasing card program is subject to policies issued by the State Procurement Office.

G. Emergency Purchasing Card (pCard)

The HPHA shall obtain an emergency pcard under the State of Hawaii Purchasing Card program. The emergency pcard shall be used only upon the issuance of the Governor's emergency proclamation. Such emergencies may include those that seriously threaten the public health, welfare or safety of persons or property as determined by the Governor.

The HPHA shall adopt reasonable safeguards to assure that the emergency pcard is used only for its intended purposes.

VIII. BONDING REQUIREMENTS

The standards under this section apply to construction contracts that exceed \$50,000. There are no bonding requirements for small purchases or for competitive proposals for non-construction contracts. The HPHA may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bonds. Use of performance bonds with State funded non-construction contracts requires prior written approval by the HOPA.

1. Bid Bonds

For construction contracts exceeding \$100,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.

2. Payment Bonds

For construction contracts exceeding, \$50,000 the successful bidder shall furnish an assurance of completion. This assurance may be any one of the following four:

- a. A performance bond and a payment bond both in a penal sum of 100% of the contract price; or
- b. Separate performance and payment bonds, each for 50 % or more of the contract price;

These bonds must be obtained from guarantee or surety companies acceptable to the U. S. Government and authorized to do business in the State where the work is to be performed. Individual sureties shall not be considered. U. S. Treasury Circular Number 570 lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies on this circular is mandatory.

For bids and contracts that include bond requirements, the HPHA shall determine that all bonds are issued by an acceptable surety (bonding) company. All active files for

federally funded contracts must contain a copy of the most recently published U.S. Treasury Circular 570.

IX. CONTRACTOR QUALIFICATIONS AND DUTIES

A. Contractor Responsibility

The HPHA shall not award any contract until the prospective contractor, i.e., low responsive bidder, or successful offeror, has been determined to be responsible. A responsible bidder/offeror must:

1. Have adequate financial resources to perform the contract, or the ability to obtain them;
2. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the bidders/offerors existing commercial and governmental business commitments;
3. Have a satisfactory performance record;
4. Have a satisfactory record of integrity and business ethics;
5. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
6. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
7. Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended, debarred or under a HUD-imposed Limited Denial of Participation (LDP).

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.

In no instance shall the Executive Director seek an exemption from the State Procurement Office or HUD to contract with a non-responsible offeror.

B. Suspension and Debarment

Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined to be ineligible by HUD in accordance with HUD regulations (24 CFR Part 24) or by other Federal agencies, e.g., Department of Labor for violation of labor regulations, when necessary to protect housing authorities in their business dealings.

C. 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 provide competition.

X. DETERMINING RESPONSIBILITY

Any request for approval of a contract award must include an affirmative statement that the offeror was determine responsible and that HPHA's evaluation included a review of the offeror's financial capabilities, past performance and experience, satisfactory record of integrity and business ethics, equipment and facilities, and eligibility to receive federal funds.

A. Researching Responsibility. The Contracting Officer will need to conduct research to determine that a prospective contractor is responsible. The size and complexity of the contract, the degree of prior experience of the PHA or the Contracting Officer with the offeror, and the extent to which the PHA, with appropriate approvals, can cancel the contract and install a replacement vendor will all influence the extent of research required. Only that information deemed necessary to determine the offeror's responsibility should be requested, obtained, and reviewed. Some methods include:

1. **Financial Capability.** Obtain financial information and credit bureau reports; require the offeror to provide information on and then verify their lines of credit and account balances with the financial institution officer servicing their account;
2. **Compliance with Delivery and Performance Schedules.** Request information on all other active contracts the offeror is performing and verify their status with those buyers;
3. **Performance Record.** Require offerors to submit contact information for recent contracts they have performed for other customers and contact them to ascertain the offeror's quality of performance, including timeliness of delivery/completion, quality of work, compliance with terms and conditions of the contract, and cost control, if applicable. Inquire of past customers whether or not they would contract with the offeror again and why. Research the offeror's performance history with the PHA;
4. **Integrity and Business Ethics.** Contact the offeror's previous and current customers to verify their dealings with the offeror. Check with the local Better Business Bureau, local offices of Code Compliance and Business Licenses, or other regulatory agencies for business ethics record and compliance with public policy. Verify the offeror's compliance with payments, wage rates, and affirmative action requirements with other customers and with applicable State and Federal Government offices, e.g., DOL Wage and Hour Division;
5. **Necessary Organization, Experience, Accounting and Operational Controls, and Technical Skills.** Verify experience with other customers. Request copies of any audits. Verify that necessary personnel will be available to work on the PHA's contract;

6. **Necessary Production, Construction, and Technical Equipment and Facilities.** Request evidence that the offeror has all the equipment and facilities he/she will need or the capability to obtain them. Visit the offeror's place of business or other job sites to verify equipment and facilities. Contact equipment dealers and/or facility owners from whom the offeror indicates that he/she will rent or lease equipment or space; and
7. **Eligible to Receive a PHA Contract.** Verify that the offeror has not been suspended, debarred or is under a HUD LDP.

B. Responsible at Time of Award. Bidders/offerors must be determined to be responsible at the time of award. For sealed bidding this means at the point where the low, responsive bidder has been determined. For the competitive proposal method, this means after the successful offeror has been selected for award. Bidders/offerors may be afforded the opportunity to provide acceptable evidence of their ability to meet the stated requirements after bid opening (sealed bidding) or contractor selection (competitive proposal method) in accordance with the PHA's written procurement policy and procedures and applicable State or local law or regulation. The Contracting Officer must clearly indicate to potential bidders/offerors the time frame in which they are required to submit evidence that they meet the above requirements.

XI. DETERMINING RESPONSIVENESS

The HPHA shall not award any contract unless it has been determined that a bid offer is responsive. To be considered responsive, a bid must conform to the material requirements of the IFB. Bid offers may be deemed non-responsive for the following:

1. Unless specifically provided for in the solicitation, multiple or alternate offers shall not be accepted and all such offers shall be rejected.
2. Any offer which is conditioned upon receiving a contract other than is provided for in the solicitation shall be deemed non-responsive and not acceptable.
3. Any offer submitted in response to an invitation for competitive sealed bids which conditioned by proposed changes to the scope of work shall be deemed non-responsive.
4. Any offer submitted via facsimile machine, electronic mail, or through an electronic procurement system shall be acceptable only when specifically allowed in the invitation for bids or request for proposal and for a purchase below the small purchase threshold.

Minor informalities are not grounds for determining a bid to be non-responsive.

XII. CONTRACT PRICING ARRANGEMENTS

A. Contract Types

Any type of contract which is appropriate to the procurement and which will promote the best interests of the HPHA may be used, provided that 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 HPHA.

For all cost reimbursement contracts, HPHA 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.

B. Options

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

1. The option is contained in the solicitation;
2. The option is a unilateral right of and reserved by the HPHA;
3. The contract states a limit on the additional quantities and the overall term of the contract;
4. The options are evaluated as part of the initial competition;
5. The contract states the period within which the options may be exercised;
6. The options may be exercised only at the price specified in or reasonably determinable from the contract; and
7. The options may be exercised only if determined to be more advantageous to HPHA than conducting a new procurement.

C. Employment Contracts

Employment contracts are part of the personnel process and are subject to those rules and regulations. Independent services contract, where there is no employer-employee relationship, is considered a procurement action and subject to applicable procurement rules.

XIII. CONTRACT CLAUSES

All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the HPHA and the Department of the Attorney General. For construction contracts, the HPHA shall attach the current dated HPHA General Conditions.

Additionally, for public housing procurements, the forms HUD-5369, 5369-A, 5369-B, 5369, 5370, 5370-C, and 51915-A , which contain all HUD-required clauses and certifications for contracts of more than \$50,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by the HPHA.

XIV. CONTRACT ADMINISTRATION

The HPHA shall maintain a system of contract administration designed to provide 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 and the Hawaii Administrative Rules.

The HPHA shall establish systems for ensuring that the items required by contract are received in accordance with contract terms. Payment shall be processed promptly once goods and/or services are received. No payments shall be processed without adequate verification that goods and services are satisfactorily received.

XV. SPECIFICATIONS

A. General

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying HPHA needs. Specifications shall be reviewed prior to issuing any solicitation to determine 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.

Contractors funded to develop or draft specifications, requirements, statements of work, invitations for bids, or request for proposals shall be excluded from competing in the procurement.

B. Limitation

The following types of specifications shall be avoided:

1. Geographic restrictions not mandated or encouraged by applicable Federal law (except for A/E contracts, which may include geographic location as a selection factor if adequate competition is available);

2. Brand name specifications (unless the specifications list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this procurement policy shall preempt any State licensing laws. Specifications shall be reviewed to provide that organizational conflicts of interest do not occur.

XVI. APPEALS AND REMEDIES

A. General

It is HPHA's 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.

B. Informal Appeals Procedure

The HPHA shall adopt an informal bid protest/appeal procedure for contracts of \$50,000 or less. Under these procedures, the bidder/contractor may request to meet with the appropriate Contract Administrator Officer. If the informal bid protest cannot be resolved by the Contract Administrator, the party filing the protest may appeal to the Procurement Officer.

C. Formal Appeals Procedure

A formal appeals procedure shall be established for solicitations/contracts of more than \$50,000.

1. 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 five (5) working days after the contractor receives notice of the contract award, or the protest will not be considered. All protests shall be in writing, submitted to the Procurement Officer or designee, who shall issue a written decision on the matter.

The Procurement Officer shall , suspend the procurement pending resolution of the protest. Written approval by the State Procurement Office Administrator shall be required in order to proceed to contract.

2. Contractor Claims

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Procurement Officer for a written decision. The

contractor may request a conference on the claim. The Procurement Officer's decision shall inform the contractor of its appeal rights to the next higher level of authority in HPHA. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

XVII. ASSISTANCE TO SMALL AND OTHER BUSINESSES

A. 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 provide that small and minority-owned businesses, women's business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of the HPHA project are used when possible. Such efforts shall include, without limitation:

1. Including such firms, when qualified, on solicitation mailing lists;
2. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
6. Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 135 (so-called Section 3 businesses); and
7. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above. Goals shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business enterprises, labor surplus area businesses, and Section 3 business concerns in HPHA prime contracts and subcontracting opportunities.

B. Definitions

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 Part 121 should be used to determine business size.

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, without limitation, Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.
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.
4. A Section 3 business concern is as defined under 24 CFR Part 135.
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 Department of Labor (DOL) in 20 CFR Part 654, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

XVIII. DOCUMENTATION

The HPHA must maintain records sufficient to detail the significant history of each procurement action. These records shall include, without limitation, the following:

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

The level of documentation should be commensurate with the value of the procurement. In general, records are to be retained for a period of three (3) years after final payment and all matters pertaining to the contract are closed. Each Contract Administrator shall be responsible to confirm the record retention requirements for their specific funding source.