

(GOVERNMENT AGENCY NAME)

PROCUREMENT POLICY

All procurements made by (AGENCY NAME) involving the expenditure of HOME Funds will be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with the standards of 24 CFR 85.36. (AGENCY NAME) shall not engage in procurement practices which may be considered arbitrary or restrictive.

Purchases will be reviewed by the (REVIEWER'S TITLE) to prevent duplication and to ensure that costs are reasonable.

I. METHODS FOR PROCUREMENT

Procurements shall be made using one of the following methods: (a) small purchase procedures, (b) competitive sealed bids, (c) competitive negotiations, (d) non-competitive negotiation.

A. Small Purchases

Purchases which cost between \$500 and \$1,000 will require three over-the-telephone quotations of rate, price, etc. A memorandum will be prepared setting forth the date calls were made, parties contacted, and prices obtained. For purchases of less than \$500, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases of supplies, equipment and services which cost between \$1,000 and \$10,000 will require written estimates but no legal advertisement is required. (AGENCY NAME) will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement will be prepared and filed.

B. Competitive Sealed Bids

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services, other than those personal or professional, exceeds \$10,000, an Invitation for Bids (IFB) notice will generally be prepared. This notice will be published at least once in (NAME OF NEWSPAPER), the official newspaper of general circulation in (SERVICE AREA). This newspaper notice will appear not less than seven (7) days and not more than twenty-one (21) days before the due date for bid proposals. (AGENCY NAME) may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

The IFB will include a complete, accurate and realistic specification and description of the goods or services to be procured, the bid deposit, payment bond and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place

for opening bids, and whether the bid award will be made on the basis of the lowest price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be used must be stated in the IFB. The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as Section 3 of the 1968 Housing Act, Section 109 of the 1974 Housing and Community Development Act, the Civil Rights Act of 1964, Executive Order 11246 and the Davis-Bacon Act.

Sealed bids will be opened in public at the time and place stated in the IFBs. The bids will be tabulated by the (TABULATOR'S TITLE) at the time of bid opening. The results of the tabulation and the bid procurements will be examined for accuracy and completeness by the (EXAMINER'S TITLE) who will make recommendations to the (AGENCY NAME). In addition, the (RESPONSIBLE PERSON'S TITLE) shall determine that all firms are responsive and responsible. The (AGENCY NAME) will make the decision as to whom the contract shall be awarded. After the bid award is made by the (AGENCY NAME), a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

(AGENCY NAME) may cancel an Invitation for Bid or reject all bids if it is determined that such is in the best interests of (AGENCY NAME). Bidders will be notified in writing of such cancellation or rejection. (AGENCY NAME) may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

C. Competitive Negotiations

(AGENCY NAME) will use competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, bidding is not feasible).
2. The services to be procured are professional in nature.

With the exception of certain professional services (principally engineering services), competitive negotiations will proceed as follows:

- a. Proposals will be solicited through newspaper advertisement; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor.

- b. Award must be made to the offeror whose proposal is determined in writing by the (AGENCY NAME) to be the most advantageous to (AGENCY NAME). Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. (AGENCY NAME) may publish a Request for Qualifications. RFQ's are handled in a similar method to RFP's with the exception that cost is not a factor in the initial evaluation. The (RESPONSIBLE PERSON'S TITLE) will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the (CONTACTOR'S TITLE) will negotiate cost. If the (RESPONSIBLE PERSON'S TITLE) is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The (RESPONSIBLE PERSON'S TITLE) will maintain a written record of all such negotiations.

D. Noncompetitive Negotiations

Noncompetitive negotiations may be used for procurements in excess of \$10,000 when bidding or competitive negotiations are not feasible. (AGENCY NAME) may purchase goods and services through non-competitive negotiations when it is determined in writing by the (RESPONSIBLE PERSON'S TITLE) that competitive negotiation or bidding is not feasible and that:

1. An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, or
4. Only one satisfactory proposal is received through RFP or RFQ, or
5. The state has authorized the particular type of noncompetitive negotiation (e.g., the procurement of services by an Area Development District).

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The (AGENCY NAME) must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

- E. Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.
- F. Upon submission of a bid, the contractor will present a bid guarantee equivalent to 5 percent of the amount of the contractor's submitted bid. Unsuccessful bidders will have their bid guarantee returned to them with the notice which advises them they are an unsuccessful bidder. The successful bidder will post (at the signing of the contract and notice to proceed) a performance bond equal to 100 percent of the contract amount, along with a payment bond equivalent to 100 percent of the contract amount.

II. CONTRACTS

Generally, all procurement in excess of \$200 will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared. The contractual provisions required by the "Common Rule," 24 CFR Part 85 Section 36(i) and 24 CFR Part 92 Sections 504, 505 and all others as applicable will be included in all contracts. All contracts will contain language which allows the (AGENCY NAME) the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the (ORGANIZATION NAME) (on request) or any other documented matter which could cause a hardship for the (AGENCY NAME) if a claim should arise or the work not be completed on schedule at the specified cost.

Requests for proposals will be structured to utilize value-engineering for any construction project in excess of \$50,000. Value engineering will allow the total job to be broken down and bid in sections, so as to produce the lowest overall cost of the project to the (AGENCY NAME). A project will request proposals for heating as one element, electrical as one element, etc. In some cases, this will make for a more cost-effective project. However, this does not preclude a bidder from making a lump-sum bid. Total cost will be calculated when value-engineering produces different bids for different scopes of work. Those segmented bids will then be added together to give a final project cost.

III. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is not feasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to ensure that a

clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost, (including the issue of reasonableness of cost), rationale for method of procurement and selection of contract type, and basis for payment.

IV. LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED, AND SMALL BUSINESSES

All necessary affirmative steps will be taken and documented to solicit participation of locally owned, minority-owned, female-owned, and small businesses. (AGENCY NAME) will solicit proposals from minority- or women-owned businesses that provide the goods or services that are being sought. Where possible and feasible, delivery schedules will be established, and work will be subdivided to maximize participation by small businesses or minority- or women-owned businesses. Subdivided components will be bid as a separate contract. Where feasible, evaluation criteria will include a factor with an appropriate weight for these firms. A list of locally owned, minority-owned, female-owned and small businesses and also minority businesses located within the trade region shall be maintained and used when issuing IFBs, RFPs and RFQs. This list shall also be consulted when making small purchases. (AGENCY NAME) will use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. The successful bidder will be required to use this same criteria in selection of suppliers and subcontractors whenever possible.

V. CODE OF CONDUCT

A. Conflict Of Interest

No (AGENCY NAME) member, employee, consultant, elected official, appointed official or designated agent of (AGENCY NAME) will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of (AGENCY NAME), partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

No (AGENCY NAME) member, employee or designated agent of (AGENCY NAME) may acquire a financial interest in or benefit in any way from any activity which uses any portion of HOME funding, nor shall they have any interest in any contract, subcontract or agreement for themselves or any family members, nor shall they ever occupy such HOME-assisted unit.

NOTE: These rules apply to all named parties and shall be effective for the period of service and for one year after leaving said position (or office, in the case of elected officials).

Exception to these rules may be sought by requesting exemption from the U.S. Department of Housing and Urban Development (HUD). Such request for exemption must be sent in writing to HUD. In order to make such request, first, the full nature of the conflict must have been made public and proof of such disclosure must be submitted to HUD, AND secondly, the (AGENCY NAME) must submit to HUD a legal opinion which states that the potential conflict will not be a violation of state or local law.

B. Acceptance of Gratuities

No (AGENCY NAME) member, employee or designated agent of (AGENCY NAME) shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. Penalties

Any (AGENCY NAME) member, employee or designated agent of (AGENCY NAME) who knowingly and deliberately violates the provisions of this code will be open to civil suit by (AGENCY NAME) without the legal protection of (AGENCY NAME). Furthermore, such a violation of these procurement standards is grounds for dismissal by (AGENCY NAME) (if an employee) or such sanctions as available under the law (if an elected official).

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with (AGENCY NAME).

Adopted by the (AGENCY NAME) this ____ day of _____, 20____.

(NAME)

(TITLE)