

**Oakland Housing Authority**  
Procurement Policy

Amended – February 24, 2003

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# **OAKLAND HOUSING AUTHORITY**

## **PROCUREMENT POLICY**

### **I. POLICY STATEMENT**

It is the policy of the Housing Authority of the City of Oakland (OHA) that all contracts for services and/or materials shall be in accordance with the Federal Procurement Requirements of 24 CFR (Code of Federal Regulations) Parts 85.36 and 941 Subpart F, state, and local laws and regulations that are applicable to this Authority.

### **II. GENERAL PROVISIONS**

#### **A. APPLICATION**

This Procurement Policy applies to the Authority's procurement of supplies, service, and construction. It shall apply to every expenditure of funds by the Housing Authority for public purchasing, irrespective of the source of funds; however, nothing in this Statement shall prevent the Housing Authority from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law. The term "procurement," as used in this Statement, includes contracts (including change orders) for construction or services, and purchase, lease, and rental of supplies and equipment.

#### **B. PUBLIC ACCESS TO PROCUREMENT INFORMATION**

Procurement information shall be a matter of public record to the extent provided in appropriate state law and shall be available to the public as provided in such statutes.

### **III. PROCUREMENT AUTHORITY AND ADMINISTRATION**

#### **A. DEFINITIONS**

1. "Executive Director" - As used herein means the Executive Director of the Oakland Housing Authority or an officer specifically designated to act for the Executive Director.
2. "Contracting Officer" - The Executive Director or the person designated in writing by the Executive Director with authority to contract and act as the authorized agent of the Oakland Housing Authority in all dealings with the contractor.
3. "Contractor" - As used herein means the person or entity entering into the

- contract with the Authority to perform all of the work required under the contract documents.
4. "Procurement" - The process of obtaining goods or services, including all activities from the preparation and processing of a requisition through receipt and approval of the final invoice for payment. The acts of preparing specifications, making the purchase, and administering the contract are involved.
  5. "Small Purchase Procedures" - As used herein refers to those relatively simple and informal procurement methods for securing services or supplies that do not cost more than \$100,000.00 in the aggregate.
  6. "Formal Bid" - A bid which must be advertised and forwarded in a sealed envelope and be in conformance with a prescribed format to be opened at a specified time.
  7. "Competitive Proposal" - A technique for purchasing goods and services, usually of a technical nature, whereby qualified suppliers are solicited and the best offer (in terms of performance, quality, price, etc.) as judged against proposal evaluation criteria, is accepted. It is generally used when conditions are not appropriate for the use of sealed (formal) bids.
  8. "Noncompetitive Proposal" - Procurement through solicitation of a proposal from only one source or after solicitation of a number of sources, competition is determined inadequate.
  9. "Local Business Enterprise" - Business firm with fixed offices or distribution points located within the City of Oakland, listed in the permits and license tax paid file with an Oakland street address.
  10. "Supplies" - As used herein means and includes materials, commodities, and equipment.
  11. "Services" - As used herein means and includes labor, professional services, consulting services, or a combination of services and supplies which shall include construction projects.
  12. "Price Analysis" - An evaluation of price based on comparison to market prices, catalog prices, historical data, or other sources.
  13. "Cost Analysis" - An evaluation of elements of cost and profit which make-up the contract price. Costs must be allowable under 48 CFR Part 31 - Federal Contract Cost Principles and Procedures.
- B. All procurement transactions shall be administered by the Authority's Executive Director or a delegate of the Executive Director authorized in writing.
- C. All contracts and modifications shall be in writing, clearly specifying the desired supplies, services, or construction. All awards and proposed awards shall be supported by sufficient documentation regarding the history of the procurement, including as a minimum the method of procurement chosen, the selection of the contract type, the rationale for selecting or rejecting offers, and the basis for the contract price.
- D. The Authority shall comply with applicable HUD review requirements and

thresholds.

#### IV. PROCUREMENT OF SERVICES AND/OR SUPPLIES

##### A. PETTY CASH FUND

The Contracting Officer(s), or a representative delegated by the Executive Director in writing, is authorized to make purchases and contracts utilizing the petty cash fund for expenditures of less than \$100.00.

##### B. PURCHASES AND CONTRACTS NOT REQUIRING COMPETITIVE QUOTATIONS (UNDER \$2,500.00)

The Executive Director, or a representative delegated by the Executive Director in writing, is authorized to make purchases and contracts not to exceed \$2,500.00, utilizing city, county, state, and federal contracts and in the open market. Only one quotation in such instances is required but there must be reasonable assurance as to value received, (for example, comparison of catalog prices, vendor price lists, historical price data, or bid solicitation).

##### C. PURCHASES AND CONTRACTS (\$2,500.00 TO \$100,000.00)

The Executive Director, or a representative delegated by the Executive Director in writing shall solicit written price quotations from at least three suppliers. A tabulation of quotations received and certified by the responsible party will be retained in the purchasing files.

The Executive Director, Contract Compliance and General Services Manager, or a representative delegated by the Executive Director in writing is authorized to issue negotiated agreements and blanket open-end purchase orders. If the annual expenditures per purchase order is estimated to exceed \$2,500.00, quotes shall be solicited in writing from at least three suppliers, if available, and documentation of quotes received shall be retained in purchase order files. The agreements and orders shall not exceed a period of two years. The dollar value of any single agreement or order shall not exceed \$100,000.00 on an annual basis. If a review of an individual supply or service, at any time, indicates annual expenditures in excess of \$100,000.00, a formal bid will be invited to procure the supply or service.

##### D. SEALED BIDS AND COMMISSION APPROVAL (PURCHASES AND CONTRACTS OVER \$50,000.00)

The Executive Director, or a representative delegated by the Executive Director, shall invite sealed bids for purchases exceeding \$100,000.00 pursuant to the following provisions:

1. Conditions for Use

- a. The procurement lends itself to exact specifications.
- b. Two or more bidders are available to compete.
- c. The procurement lends itself to a fixed price contract.
- d. The selection of the successful bidder can be made principally on the basis of price.
- e. Sealed bids shall be used when service or supply contracts exceed \$100,000.00.

2. Cost Analysis

The Authority shall prepare a cost estimate before bid solicitation issuance and it shall be appropriately safeguarded for each procurement. A cost or price analysis will be conducted on the responses received.

3. Public Solicitation

The Invitation for Bid shall be publicly advertised in a newspaper of general circulation at least ten (10) days prior to receipt of bids. Solicitation shall not be sent to firms who have been removed from the bid list for cause. A tabulation of all bidders solicited shall be prepared and made part of the abstract.

4. Invitation to Bid

Bids shall be solicited from a number of suppliers or service providers sufficient to insure competition.

5. Bid Opening

Bids shall be opened publicly and in the presence of at least one witness. An abstract shall be prepared and the bids made available for public inspection.

6. Withdrawal of Bids

a. Before Bid Opening

Corrections or withdrawals of erroneous bids are permitted before bid opening by written or telegraphic notice to the Contracting Officer, received in the office designated in the invitation for bids prior to the time set for bid opening.

b. After Bid Opening

After bid opening, correction in bids may be permitted by the Executive

Director 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 the bid document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made.

- c. All decisions of the Executive Director to allow correction or withdrawal of a bid mistake shall be supported by a written determination signed by the Contracting Officer. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Authority or fair competition shall be permitted.

## 7. Rejection of Bids

Bids may be rejected for the following reasons:

- a. Late bids (bids received after bid opening time or date).
- b. Incomplete bids.
- c. Bids received from firms that the Authority has removed from the bid list for cause.
- d. The Authority may, at its discretion, decide to reject all bids.

## 8. Bonds

For any contract over \$25,000.00, the contractor shall be required to submit the following:

- a. A bid guarantee equivalent to 5% of the bid price submitted with the bid.
- b. One of the following prior to award of contract:
  - (1) A payment and performance bond for 100% of the contract price;  
or
  - (2) Separate performance and payment bonds, each for 50% or more of the contract price; or
  - (3) A 20% cash escrow; or
  - (4) A 25% irrevocable letter of credit.

## 9. Award of Contract

With respect to the purchases and contracts specified in paragraphs IV. C. and IV. D. above, the Executive Director, or a representative delegated by the Executive Director in writing shall make the purchase from, or award the contract to, the lowest responsible bidder, as to price and quality, who meets the specified requirements. Purchases in excess of \$50,000.00 must be

authorized by the Commission. In the case of a tie (when two or more low bids are equal in all respects), the selection shall be by drawing of lots or coin toss.

## E. COMPETITIVE PROPOSALS

### 1. Conditions for Use

Competitive proposals may be used when the Authority determines that conditions are not appropriate for the use of sealed bids. An adequate number of qualified sources shall be invited to submit proposals. The nature of the procurement and the sources available shall determine an adequate number, however, at least two proposals are required.

### 2. Solicitation

The Request for Proposals (RFP) shall clearly identify the relative importance of price and other evaluation factors and subfactors, including the weight given to each technical factor and subfactor. A mechanism for fairly evaluating the technical and price proposals shall be established before the solicitation is issued. The proposals shall be evaluated only on the criteria stated in the request for proposals.

### 3. Negotiations

Unless there is no need for conferences with any of the offerors, negotiations may 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. Conferences may be conducted to seek clarification, 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. 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. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award. A common deadline shall be established for receipt of proposal revisions based on conference results.

### 4. Award

After evaluation of proposal revisions, if any, the contract shall be awarded to the firm whose qualifications, price and other factors considered, are the most advantageous to the Authority.

5. Qualifications - Based Selection

Under competitive proposal procedures for qualifications-based selection, competing firms' qualifications are evaluated and the most qualified competitor is selected, subject to the negotiation of fair and reasonable compensation. Evaluation factors may include, but need not be limited to, the firms' understanding of the scope of work, their ability to perform the work and their experience and past performance. Price is not used as a selection factor under this method, but is negotiated with the firm after selection.

Qualifications-based selection procedures may only be used to procure the following:

a. Architect/Engineering Services

Architect/Engineer services in excess of \$100,000.00 (under \$100,000.00 small purchase or competitive proposal procedures shall be used) may be obtained by competitive proposals with price as an evaluation criteria or qualification-based selection procedures. Sealed bidding, however, shall not be used to obtain architect/ engineer services. Evaluation factors may include, but need not be limited to, ability of staff to perform the work, experience and past performance, location of the firm and knowledge of local building codes.

b. Developer/Partner

Under the guidelines issued by the U.S. Department of Housing and Urban Development (HUD), the selection of HOPE VI program developers/partners shall be by competitive proposals for qualifications-based procurement.

The entity created with the selected HOPE VI developer/ partner shall not be subject to the requirements of 24 CFR Part 85 unless HUD determines that the Authority exercises significant functions within the entity with respect to managing the development of the proposed units. Instead, it shall be subject to the requirements of 24 CFR Part 941 Subpart F.

6. Professional and Technical Services

Bids are not required in the purchase of services of members of professions, including attorneys, computer services, certified public accountants, and medical services, that customarily decline, as a profession, to bid. Awards in excess of \$50,000.00 shall require Commission approval.

F. NONCOMPETITIVE PROPOSALS

1. Conditions for Use

Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposals, and one of the following applies:

- a. The item is available only from a single source, determined by a good faith review of available sources.
- b. An emergency exists that threatens the health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Authority, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate need for supplies, services, or construction such that the need cannot be met through any other procurement methods, and the emergency procurement shall be limited to those supplies or services necessary to meet the emergency. Documentation shall be prepared of the conditions, facts, and circumstances that surrounded the emergency. The Department Director or the Department Director's authorized designee shall prepare this documentation and in turn submit such documentation to the Executive Director and Materials Manager.
- c. HUD authorizes the use of noncompetitive proposals.
- d. After solicitation of a number of sources, competition is determined inadequate.

## 2. Justification

Each procurement based on noncompetitive proposals (procurements over \$2,500.00) shall be supported by a written justification for using such procedures. The justification shall be approved in writing by the Executive Director or the Executive Director's authorized designee.

## 3. Price Reasonableness

The reasonableness of the price for all procurements (except emergency procedures in 1. b. above) based on noncompetitive proposals shall be determined by performing a cost analysis, as described in paragraph V. A. 4. below.

## G. COOPERATIVE PURCHASING

The Authority may participate in HUD consolidated supply programs, State, County, and City inter-governmental agreements to purchase or use common goods or services. The decision to use these agreements or conduct direct procurements shall be based on economy and efficiency.

## V. ADDITIONAL PROCUREMENT GUIDELINES

## A. COST AND PRICE ANALYSIS

### 1. General

A cost or price analysis shall be performed for all procurement actions including contract modifications.

### 2. Price Analysis

A comparison of prices shall be used in all cases other than those described in V. A. 3. below.

### 3. Conditions for Use of Cost Analysis

A cost analysis shall be performed for:

- a. Procurement based on noncompetitive proposals including contract modifications (change orders).
- b. Procurement when only one offer is received.
- c. Procurement of professional, consulting, or architect/engineer services.

### 4. Performance of Cost Analysis

The degree of analysis shall depend on the facts surrounding each procurement. It may require the vendor to submit a cost breakdown showing projected costs and profits (e.g., for professional services or contract modifications). When a cost breakdown is submitted, a cost analysis shall be performed of the individual cost elements and profit shall be analyzed separately. Cost shall be allowable only to the extent that they are consistent with applicable Federal cost principles. An estimate of contract cost shall be prepared prior to receiving proposals.

## B. CANCELLATION OF SOLICITATION

### 1. Before Bid Opening

A solicitation may be canceled before offers are due if:

- a. The Authority no longer requires the material, service, or construction;
- b. The Authority can no longer reasonably expect to fund the procurement;
- c. Proposed addendum would be of such magnitude that a new solicitation would be desirable;
- d. Or similar reasons.

### 2. After Bid Opening

A solicitation may be canceled and bids or proposals received may be rejected if:

- a. The supplies, services, or construction are no longer required.
- b. An inadequate or ambiguous specification was part of the solicitation.
- c. Prices exceed available funds.
- d. A review of the bids or proposals indicates that they may not have been independently arrived at, or may have been collusive.
- e. It is in the best interest of the Authority.

3. Documentation

Reasons for cancellation shall be documented and notice of cancellation shall be sent to all offerors solicited.

C. ETHICS

1. Conflict of Interest

There shall be inserted in all contracts, and contractors shall be required to insert in all subcontracts, the following provision:

"No member, officer, or employee of the Authority during his/her tenure, or for one year thereafter, shall have an interest, direct or indirect, in this contract or the proceeds thereof."

2. Gratuities, Kickbacks, and Confidentiality

The Authority's officers, employees, or agents shall not solicit or accept gratuities, or favors from vendors, contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for personal gain. Unsolicited items with a nominal intrinsic value (less than \$10.00) are excepted.

D. LEGAL REVIEW

All service contracts (in excess of \$50,000.00) will be submitted to the attorney of the Authority for legal review prior to action by the Commission.

VI. VENDORS QUALIFICATIONS

A. VENDOR RESPONSIBILITY

Awards will be made only to responsible vendors who satisfy the standards of having integrity, a record of compliance with public policy, a record of good past performance, and have the financial and technical resources to perform Authority

contracts.

A determination of a vendor's responsibility will be made prior to an award of contract. The Authority, after notifying a non-responsible vendor, may suspend the vendor (for a period of time determined by the Executive Director) from doing business with the Authority.

#### B. PRE-QUALIFIED LIST

Any pre-qualified lists of persons, firms, or products, which are used in procurement of supplies or services, shall be kept current and shall include enough qualified sources to insure competition. Firms shall not be precluded from qualifying during the solicitation period.

#### C. DEBARMENT AND SUSPENSION

Contracts shall not be awarded to vendors who have been debarred or suspended by the Federal Government or who have been determined to be non-responsible, or suspended by the Authority.

### VII. CONTRACT TYPES AND ADMINISTRATION

#### A. CONTRACT TYPES

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

A time and materials contract may be used only if a written determination is made that no other type is suitable, and the contract includes a ceiling price that the contractor exceeds at contractor's own risk.

#### B. OPTIONS

Options for additional quantities or performance periods may be included in contracts provided that procurement requirements are satisfied.

#### C. CONTRACT CLAUSES

In addition to containing a clause identifying the contract type, all contracts shall

include any clauses required by Federal statutes, executive orders, and their implementing regulations.

#### D. CONTRACT ADMINISTRATION

The Authority will maintain a contract administration system, which insures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

#### E. Change Orders

1. The Authority is to use a competitive procurement process any time there is a substantial change in the scope of work for any project, as required by HUD and Federal procurement regulations.
2. Where change orders are the appropriate means to complete necessary work as a part of an on-going contract, the following requirements are to be met in all cases.
  - Contractors are to be required to submit supporting cost estimates.
  - • An OHA staff member is to perform and complete, independent cost analysis.
  - An OHA staff member is to provide documentation that the proposed work is not included in the original scope of work. The work is necessary and economical, is consistent with applicable standards, cannot be practically performed under a separate contract after completion of the original contract, additional time is reasonable, and additional costs are within budget.
  - A file is to be created to preserve the contractors documentation and the authority's independent cost analysis along with all other related documentation including evidence or record of any negotiations of price or other conditions of the change order.
  - All change orders are to be carefully reviewed and concurred in by the respective OHA Department Director, and the CCGS Contract Compliance Specialist or Manager before being submitted for approval by the Contracting Officer (Executive Director).

## VIII. SPECIFICATIONS

### A. GENERAL

All specifications shall be drafted so as to promote overall economy for the purpose intended.

### B. REQUIREMENTS

The specifications shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand, which must be met by offerors, shall be clearly stated, as well as all requirements which the offerors must fulfill and any other factors used in evaluating the bid or proposal.

## IX. CLAIMS AND PROTESTS

The Authority shall be responsible for the settlement of contractual and administrative disputes and protests arising out of its procurement activity. Disputes and protests shall be resolved according to established Authority procedure. Bidders and/or contractors may appeal a decision rendered in a dispute to Authority's Board of Commissioners only after the matter at issue has been considered, and a decision rendered by the Executive Director.

X. ASSISTANCE TO SMALL AND OTHER BUSINESSES

All procurement shall conform to the Authority's policy on Equal Opportunity and Non-Discrimination in Contracting and Vending Activities.

