

City Council Report

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File ID: 2018-01734

January 22, 2019

Consent Item 22

Title: (Housing Authority / City Council) Authorization for the Housing Authority to Elect to Become Subject to the California Uniform Public Construction Cost Accounting Procedures and Approval of Amended Sacramento Housing and Redevelopment Agency Procurement Policy

Location: Citywide

Recommendation: Adopt: 1) a Housing Authority Resolution: a) authorizing the Executive Director to elect under Public Contract Code Section 22030 to become subject to the California Uniform Public Construction Cost Accounting (Act) Procedures and the Uniform Construction Cost Accounting Commission's Cost Accounting Policies and Procedures Manual; b) authorizing the Executive Director to notify the State Controller of the election; and c) approving the amended Sacramento Housing and Redevelopment Agency (Agency) Procurement Policy; and 2) a City Council Resolution approving the amended Agency Procurement Policy.

Contact: Vance Kelly, Procurement Manager, (916) 440-1327; James Shields, Director of Administration, (916) 440-1319, Sacramento Housing and Redevelopment Agency

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Housing Authority Resolution
- 3-City Council Resolution
- 4-Amended Sacramento Housing and Redevelopment Agency Procurement Policy

Description/Analysis

Issue Detail: The Sacramento Housing and Redevelopment Agency (Agency), who provides staffing services for the Housing Authority of the City of Sacramento and also administers several federal community development programs on behalf of the City, is required to follow United States Department of Housing and Urban Development (HUD) rules and regulations, Federal grantee rules and regulations under 2 CFR 200, and the California Public Contract Code (PCC) when performing public projects.

Section 20163 of the PCC requires that any public project in excess of \$5,000 must be publicly bid and awarded to the lowest responsible bidder. The Uniform Public Construction Cost Accounting Act (Act) was created in 1983 as an alternative bidding procedure to PCC Section 20163 and is designed to reduce costs, expedite the awards process, reduce inefficiencies, and to streamline the administration of smaller public construction projects. The Act is found in the PCC at Sections 22000 through 22045.

Effective January 1, 2019, the Act provides for the following alternative bidding procedures when an agency performs public projects:

- a) Public projects of \$60,000 or less may be performed by the employees of a public agency by force account, by negotiated contract or by purchase order;
- b) Public projects of \$200,000 or less may be let to contract by the informal bidding procedures set forth in the Act;
- c) Public projects of more than \$200,000 must be let to contract by formal bidding procedures.

Because the cost of staff time required to develop the plans, specifications and estimates necessary to solicit bids, perform the advertising, and award a publicly bid project can often exceed \$10,000, and because the newly modified procedures brought the dollar thresholds closer to what is now allowed under Federal procurement regulations, the Agency is seeking authority to elect to become subject to the alternative bidding procedures authorized under the Act. While using the alternative procedures of the Act will not eliminate all of the costs associated with public bidding, it can greatly reduce costs by providing simpler and more reasonable procedures. Small and moderate sized dollar projects would be procured through streamlined, informal procedures. Large dollar amount projects would continue to be procured through formal bidding procedures.

The Act requires that a public agency adopt informal bidding procedures. These informal bidding procedures require that the Agency provide notice of public project opportunities by: 1)

notifying entities on the lists of qualified contractors maintained by the Agency; or 2) noticing for informal bids to all construction trade journals specified for our County; or 3) both 1) and 2). A resolution by the applicant's governing body is required to elect to become subject to the Act and the California Uniform Construction Cost Accounting Commission's Cost Accounting Policies and Procedures Manual.

Throughout the State of California, over nine hundred public entities have elected to become subject to the Act to take advantage of the benefits of streamlined procurement. In Sacramento County, almost thirty public entities have made the election including the Sacramento City School District, the Twin Rivers School District, the Sacramento Flood Control Agency (SAFCA), the Sacramento Fire District, and the County of Sacramento. The City of Sacramento, as a charter city, is not required to elect to become subject to the Act to utilize these standards.

On June 20th, 2018, the Executive Office of the President, Office of Management and Budget, Office of Federal Financial Management, issued Memorandum M-18-18 to implement recent statutory changes which raised the Micro-purchase Threshold under Federal financial assistance awards from \$3,500 to \$10,000 and the Simplified Acquisition Threshold from \$150,000 to \$250,000 for all Federal financial assistance recipients. This report also recommends changes to the Agency Procurement Policy to maintain compliance with updated Federal laws and regulations, specifically the increased thresholds.

The changes recommended to the Agency Procurement Policy to comply with this new rule are:

1. Adding definitions for Micro-purchase Threshold and Simplified Acquisition Threshold. Language is included that ties the amounts to the current approved levels and automatically incorporates the changes as they are adjusted at the government level.
2. Increasing the Micro-Purchase threshold from \$3,500 to \$10,000.
3. Authorizing entities to use Small Purchase Procedures for purchases between \$10,000 and \$250,000. Previously, the dollar range for these types of purchases was \$3,500 - \$150,000.
4. Increasing the Simplified Acquisition Threshold from \$150,000 to \$250,000. For purchases over \$250,000, formal public solicitations are required, using either the sealed or competitive proposal method.

5. Correcting language in Competitive Proposals, A. Conditions for Use to reflect that the threshold referenced should be the Simplified Acquisition Threshold, not the Micro-purchase Threshold.

As Federal guidelines and the contracting limits in the Act are modified from time to time, the amended Procurement Policy provides that when these limits are modified at the Federal and State level, the Executive Director is authorized to amend the Agency's Procurement Policy to remain in compliance.

Policy Considerations: The recommended actions are consistent with applicable Federal, state and local laws including the U. S. Department of Housing and Urban Development (HUD), Federal Regulations at 2 CFR Parts 200.67 and 200.88 and 200.317 through 200.326 and the procurement standards of the HUD Handbook 7460.8, Rev 2 and the State of California Uniform Public Construction Cost Accounting Act.

Economic Impacts: Not applicable.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed actions are administrative and therefore not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines at 14 California Code of Regulations (CCR) §15378

National Environmental Policy Act (NEPA): The proposed actions are administrative and therefore exempt from the National Environmental Policy Act (NEPA) pursuant to 24 Code of Federal Regulations (CFR) §58.34(a)(3).

Sustainability: Not applicable.

Commission/Committee Action: At its meeting of January 16th, 2019, it is anticipated that the Sacramento Housing and Redevelopment Commission will approve the staff recommendation for this item. Staff will notify the Council in the event this does not occur.

Rationale for Recommendation: Staff is recommending the election to become subject to the Act to reduce the cost of staff time required to develop plans, specifications and estimates necessary to solicit bids, perform the advertising, and award public bids.

Financial Considerations: There are no costs associated with electing to become subject the Act or implementing the amendments to the Agency Procurement Policy although staff does anticipate cost savings by reducing staff time in procuring goods and services.

Local Business Enterprise (LBE) - M/WBE and Section 3 requirements: The activities recommended in this staff report do require the expenditure of federal funding; therefore, there are no M/WBE or Section 3 requirements related to this report. Local Business Enterprise considerations do not apply to this report.

RESOLUTION NO. 2019 -

Adopted by the Housing Authority of the City of Sacramento

ELECTION UNDER THE CALIFORNIA PUBLIC CONTRACT CODE SECTION 22030 TO BECOME SUBJECT TO THE CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT PROCEDURES AND AUTHORIZATION FOR THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO NOTIFY THE STATE CONTROLLER OF THE ELECTION; APPROVAL OF THE AMENDED SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY PROCUREMENT POLICY; ENVIRONMENTAL FINDINGS

BACKGROUND

- A. The passage of California State Assembly Bill No. 1666, Chapter 1054, Statutes of 1983 established uniform cost accounting standards in the California Public Contracting Code (PCC) at Section 22000 et seq. known as the Uniform Public Construction Cost Accounting Act (Act).
- B. In order to be subject to the Act and enjoy the increased thresholds for public projects, the PCC requires a resolution by the applicants governing body to elect under PCC Section 22030 to become subject to the uniform construction cost accounting procedures and the California Uniform Construction Cost Accounting Commission's *Cost Accounting Policies and Procedures Manual*.
- C. The Agency's Procurement Policy has been amended to include the informal bidding procedures as required by PCC Section 22034.
- D. The Housing Authority of the City of Sacramento desires to elect under PCC Section 22030 to become subject to the uniform construction cost accounting procedures and the California Uniform Construction Cost Accounting Commission's *Cost Accounting Policies and Procedures Manual*.
- E. On June 20th, 2018, the Executive Office of the President, Office of Management and Budget, Office of Federal Financial Management, issued Memorandum M-18-18 to implement recent statutory changes, raising the Micro-purchase Threshold under Federal financial assistance awards from \$3,500 to \$10,000 and the Simplified Acquisition Threshold from \$150,000 to \$250,000 for all Federal financial assistance recipients.
- F. The Housing Authority of the City of Sacramento desires to amend the Sacramento Housing and Redevelopment Procurement Policy to incorporate the new thresholds, add the informal bidding procedures as required by the PCC Section 22034 and to adopt other recommended changes.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:

- Section 1. The Housing Authority of the City of Sacramento elects to be subject to the uniform public construction cost accounting procedures set forth in the Act.
- Section 2. The Housing Authority of the City of Sacramento elects to be subject to the requirements of the California Uniform Construction Cost Accounting Commission's *Cost Accounting Policies and Procedures Manual*.
- Section 3. The Housing Authority of the City of Sacramento authorizes the Executive Director or designee to notify the California State Controller in writing of the election to become subject to the uniform construction cost accounting procedures and the California Uniform Construction Cost Accounting Commission's *Cost Accounting Policies and Procedures Manual*.
- Section 4. The amended Sacramento Housing and Redevelopment Agency Procurement Policy (for the Housing Authority of the City of Sacramento), included as Attachment 3, is certified to be consistent with 2 CFR Parts 200.67 and 200.88 and 200.317 through 200.326 and all applicable laws and regulations and is hereby approved.
- Section 5. The Housing Authority of the City of Sacramento self-certifies to the United States Department of Housing and Urban Development that the attached procurement policy is in compliance with 2 CFR Parts 200.317 through 200.326 and all applicable laws and regulations.
- Section 6. The Executive Director or designee is authorized to comply with the amended Procurement Policy for all future solicitations and contracts issued in the name of the Sacramento Housing and Redevelopment Agency and its constituent entities.
- Section 7. The Executive Director is authorized to subsequently amend the Procurement Policy to remain in compliance with Federal and State laws and regulations.
- Section 8. The proposed actions are administrative and therefore not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines at 14 California Code of Regulations (CCR) §15378.
- Section 9. The proposed actions are administrative and therefore exempt from the National Environmental Policy Act (NEPA) pursuant to 24 Code of Federal Regulations (CFR) §58.34(a)(3).
- Section 10. This Resolution shall take effect upon its adoption.

RESOLUTION NO. 2019-

Adopted by the Sacramento City Council

APPROVAL OF AMENDED SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY PROCUREMENT POLICY

BACKGROUND

- A. Due to recent changes in federal and state law and U.S. Department of Housing and Urban Development regulations which allow for use of informal bidding procedures for construction projects of up to \$200,000, the Sacramento Housing and Redevelopment Agency (Agency) is proposing to update its Procurement Policy to comply with and take advantage of these changes .
- B. The California Environmental Quality Act (CEQA) does not apply to the proposed action pursuant to CEQA Guidelines at 14 California Code of Regulations (CCR) section 15378(b)(5), which excludes administrative activities of governments that will not result in direct or indirect changes in the environment. The proposed action is also exempt under the National Environmental Policy Act (NEPA) pursuant to 24 Code of Federal Regulations (CFR) section 58.34(a)(3).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The above facts, including but not limited to the environmental findings, are determined to be true and correct.
- Section 2. The amended Sacramento Housing and Redevelopment Agency Procurement Policy which incorporates the informal budding procedures allowed under federal and state law is hereby approved.



SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Subject: Procurement Policy
Effective Date: January 1, 2019
Supersedes: January 1, 2016
Approved By: La Shelle Dozier, Executive Director
Resolution No.:
Last Reviewed: December 17, 2018

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I. INTRODUCTION

This Procurement Policy for the Sacramento Housing and Redevelopment Agency (~~SHRA~~), and its constituent entities (the Housing Authorities of the City and County of Sacramento) (all three entities collectively herein “the Agency”) complies with applicable Federal, State and local laws including the U. S. Department of Housing and Urban Development (HUD), Federal Regulations at 2 CFR 200.317 through 200.326, and the procurement standards of the Procurement Handbook for PHAs, HUD Handbook 7460.8, REV 2.

II. DEFINITIONS

Micro-purchase Threshold – as used in this Policy, the threshold shall have the same meaning as that in 2 CFR Section 200.67 and is set by 48 CFR Subpart 2.1 or by Federal enactment. As of June 20, 2018 that amount is \$10,000. The threshold is periodically adjusted and this Policy will automatically incorporate those adjustments.

Simplified Acquisition Threshold – as used in this Policy, the threshold shall have the same meaning as that in 2 CFR Section 200.88 and is set by 48 CFR Subpart 2.1 or by Federal enactment. As of June 20, 2018, that amount is \$250,000. The threshold is periodically adjusted and this Policy will automatically incorporate those changes.

Procurement – as used in this Policy, includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction and maintenance, (3) professional and consultant services, (4) Architectural and Engineering (A/E) services, (5) Social Services, and (6) other services.

Public Project – As defined by Cal. Public Contracting Code § 22002 (c), means any of the following: (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility. (2) painting or repainting of any publicly owned, leased or operated facility. (3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement or repair of dams, reservoirs, powerplants and electrical transmission lines of 230,000 volts and higher. It does not include “maintenance work” as that term is defined by Cal. Public Contracting Code § 22002 (d) – (e).

Responsible Bidder – As defined in the HUD Handbook No. 7460.8 REV 2.

Responsive Bid – As defined in the HUD Handbook No. 7460.8 REV 2.

III. GENERAL PROVISIONS

A. General

Sacramento Housing and Redevelopment Agency

SHRAThe Agency shall: provide for a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by SHRAthe Agency; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to SHRAthe Agency; promote full and open competition in contracting; and assure that SHRAthe Agency purchasing actions are in full compliance with applicable Federal standards, HUD regulations, SState, and local laws.

B. Application

This Procurement Policy applies to all procurement actions of SHRAthe Agency, funded through appropriated Federal grant funds or otherwise subject to 2 C.F.R. Part 200.317 – 200.326, except as noted under “exclusions,” below. However, nothing in this Policy shall prevent SHRAthe Agency 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 regulations shall be applied to the total project. 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.

Definition

~~The term “procurement,” as used in this Policy, includes the procuring, purchasing, leasing, or renting 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.~~

C. Exclusions

This policy does not govern administrative fees earned or vouchers provided under the Housing Choice Voucher (HCV) program, ~~the award of vouchers under the HCV program,~~ the execution of landlord Housing Assistance Payments (HAP) contracts under that program, or non-program income, e.g., fee-for-service revenue under 24 CFR Part 990.

~~This policy does not govern administrative fees earned under the HCV program, the award of vouchers under the Section 8 program, the execution of landlord Housing Assistance Payments contracts under that program, or non-program income, e.g., fee for service revenue under 24 CFR Part 990.~~ This policy does not apply to transactions funded through non-Federal funds and shall not create rights on the part of participating parties in such transactions not otherwise provided by law, provided that SHRAthe Agency staff shall nonetheless follow this policy in such transactions unless waived by the Executive Director.

These excluded areas ~~remain~~are subject to applicable SState and local requirements.

D. Changes in Laws and Regulations

Sacramento Housing and Redevelopment Agency

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, to the extent inconsistent with these Policies, automatically supersede these Policies.

E. Public Access to Procurement Information

Most procurement information that is not proprietary is a matter of public record and ~~should~~shall be available to the public to the extent provided in the California Public Records Act.

IV. ETHICS IN PUBLIC CONTRACTING

A. General

~~SHRA~~The Agency hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct, ~~etc.~~, is consistent with applicable Federal, State, ~~and~~or local law.

B. Conflicts of Interest

No employee, officer, Board member, or agent of ~~SHRA~~the Agency 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 has a financial or any other type of interest in a firm competing for the award:

~~1. A.~~ _____ An employee, officer, Board member, or agent involved in making the award;

~~2. B.~~ _____ 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. C.~~ _____ His/her partner; or

~~4. D.~~ _____ An organization which employs or is negotiating to employ, or has an arrangement concerning ~~-~~prospective employment of any of the above.

C. Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than ~~\$5025~~ 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.

D. Prohibition Against Contingent Fees

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

V. PROCUREMENT PLANNING

Planning is essential to managing the procurement function properly. Hence, SHRA the Agency 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 SHRA the Agency's procurement costs; reduce SHRA the Agency administrative costs; ensure that supplies and services are obtained without any need for re-procurement, e.g., resolving bid protests; and minimize errors that occur when there is inadequate lead time. Consideration should be given to storage, security, and handling requirements when planning the most appropriate purchasing actions.

VI. PURCHASING METHODS

A. Small Purchase Procedures

For purchases at or below the Micro-purchase Threshold, the Agency may obtain a single quote if the quote is considered reasonable.

~~For any amounts above the Micro-purchase Threshold, but not exceeding the Simplified Acquisition Threshold, \$150,000 (Simplified Acquisition Threshold), SHRA the Agency may use small purchase procedures. Under small purchase procedures, SHRA the Agency shall obtain a reasonable number of quotes (preferably three or more). For purchases of less than \$3,000 or \$2,000 in the case of purchases for construction subject to the Davis Bacon Act, 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. Quotes are to be obtained in writing. Purchases for amounts between the Micro-purchase and Simplified Acquisition Thresholds of more than \$103,000 shall be obtained through the use of written or electronic invitations or solicitations that reasonably describe the product or service being procured.

Award shall be made to the qualified vendor that provides the best value to SHRA the Agency. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. SHRA the Agency shall not break down requirements aggregating more than the Micro-purchase Threshold into several smaller purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro-purchase Threshold.

B. Sealed Bids

Sealed bidding ~~can~~ shall be used for all contracts that exceed the Simplified Acquisition Threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this document. Under sealed bids, ~~SHRA~~ the Agency publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation for Bid (IFB), is the lowest in price. Sealed bidding is the preferred method for procuring construction, supply, and non-complex service contracts that are expected to exceed the Simplified Acquisition Threshold \$150,000.

~~1. A.~~ **Conditions for Using Sealed Bids.** ~~SHRTA~~ the Agency ~~shou~~ shall use the sealed bid method if the following conditions are present: ~~a~~ complete, adequate, and realistic statement of work, specification, 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.

~~2. B.~~ **Solicitation and Receipt of Bids.** ~~An~~ IFB is issued which includes the specifications and all contractual terms and conditions applicable to the procurement, and a statement that 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 the 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. C.~~ **Bid Opening and Award.** ~~Bids~~ shall be opened publicly. All bids received shall be recorded on ~~a~~ bid spreadsheet ~~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 random means of selection.~~ ~~SHRA~~ the Agency has determined that the award will be made determined by a to the winner of a single (1) coin flip. ~~The winner of the coin flip will be awarded the contract for the project.~~ If only one responsive bid is received from a responsible bidder, award shall **not** be made unless the price can be determined to be reasonable, based on a documented cost or price analysis.

4.D. Mistakes in Bids. Correction or withdrawal of bids may be 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 an unintentional mistake ~~of a nonjudgmental character~~ was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging an obvious or unintentional nonjudgmental 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. All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Contracting Officer. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of SHRAthe Agency or fair competition shall not be permitted.

C. Competitive 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 AgencyPHA, considering price and other factors, e.g., technical expertise, past experience, quality of proposed staffing, etc., set forth in the solicitation and not solely the lowest price.

1.A. Conditions for Use. 1) When the requirement cannot be described specifically enough to permit using the Sealed Bid process; 2) the nature of the requirement is such that the Agency needs to evaluate more than just price; or 3) the requested work lends itself to different approaches. Where conditions are not appropriate for the use of sealed bidding, competitive proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the Simplified Acquisition Micro Purchase ϵ Threshold.

2.B. Form of Solicitation. Other than A/E services, competitive proposals shall be solicited through the issuance of a Request for Proposals (RFP). The RFP shall clearly identify the importance and relative value of each of the evaluation factors (points or percentage) 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, identity of the offerors, and the contents of their proposals until after award. SHRAthe Agency may assign price a specific weight in the evaluation criteria or SHRAthe Agency may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.

3.C. Evaluation. The proposals shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, SHRAthe Agency shall establish an Evaluation Plan for each RFP. Generally, all RFPs shall be evaluated by an appropriately appointed Evaluation Committee. The Evaluation Committee shall be required to disclose any potential conflicts of interest and to sign a Non-Disclosure statement. An Evaluation Report, summarizing the results of the evaluation, shall be prepared prior to award of a contract.

4.D. Negotiations. Negotiations 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 negotiation and revision of their proposals. No offeror shall be given any 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. A common deadline shall be established for receipt of proposal revisions based on negotiations. Negotiations are exchanges (in either competitive or sole source environment) between the AgencyPHA 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. When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. 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 SHRThe Agency's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The contracting 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 a matter of the contracting officer's judgment. The C-contracting Officer may inform an offeror that its price is considered by the AgencyPHA 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 government's price analysis, market research, and other reviews have identified as reasonable. "Auctioning" (revealing one offeror's price in an attempt to get another offeror to lower their price) is prohibited.

5.E. ~~_____~~ 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 SHRThe Agency provided that the price is within the maximum total project budgeted amount established for the specific property or activity.

6.F. ~~_____~~ A/E Services. SHRThe Agency must contract for A/E services using 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. QBS procedures **shall not** be used to purchase other types of services, though architectural/engineering firms are potential sources.

D. Noncompetitive Proposals

A.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.1. The item is available only from a single source, based on a good faith review of available sources;

b.2. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to ~~SHRA~~the Agency, 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. The Agency may proceed at once to correct or address the threat.

c.3. HUD authorizes the use of noncompetitive proposals; or

d.4. After solicitation of a number of sources, competition is determined inadequate.

2.B. 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 Contracting 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.1. Description of the requirement;

b.2. History of prior purchases and their nature (competitive vs. noncompetitive);

c.3. Statement as to the unique circumstances that require award by noncompetitive proposals;

d.4. Description of the efforts made to find competitive sources (advertisement in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation, etc.);

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- e.5. _____ Statement as to efforts that will be taken in the future to promote competition for the _____ requirement;
- f.6. _____ Signature by the Contracting Officer’s supervisor (or someone above the level of the Contracting Officer); and
- g.7. _____ 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.

E. Cooperative Purchasing/Intergovernmental Agreements

SHRAthe Agency 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. SHRAthe Agency 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 2 CFR 200.318(e).

VII. PUBLIC PROJECTS/WORKS

~~**A. Public Works is considered the construction, alteration, demolition, repair, improvement of any structure, building, road, property, or other improvement of any kind, including maintenance, done under contract and paid for in whole, or in part with public funds.**~~
General

_____SHRAthe Agency shall comply with the Sstate Labor Code and the California Public Contract _____ Code
_____(PCC) regarding the solicitation of and contracting for Public ~~Works~~ Pprojects, including bid bonds,
_____ payment and performance bonds, prevailing wages (when applicable), and labor provisions.

1. For Public Projects at or below the Micro-purchase Threshold, the Agency may obtain a single quote if the quote is considered reasonable.
2. For Public Projects between the Micro-purchase Threshold and the amount determined in PCC Section 22032 (a) (\$60,000 as of January 1, 2019), the project may be performed: 1) by the employees of the Agency by force account; 2) by negotiated contract or 3) by purchase order. Methods 2) or 3) require obtaining a reasonable number of written quotes (preferably 3) or should otherwise be purchased in the most prudent and economical way feasible.
3. For Public Projects above the amount provided in PCC Section 22032(a) up to the

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amount provided in PCC Section 22032(b) (\$200,000 as of January 1, 2019), the contract shall be let in accordance with the Informal Bid Procedures below.

4. Public Projects above the amount provided in PCC Section 22032(b) shall be let to contract in accordance with the Formal Bid Procedures below.

B. Informal Bid Procedures for Public Projects

1. Notice to contractors shall be provided in accordance with either paragraph a. or b. below, or both.

a. The Agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the California Uniform Construction Cost Accounting Commission (CUCCAC). All contractors on the list for the category of work being bid shall be mailed, faxed or e-mailed a notice inviting formal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant to this section shall be completed not less than 10 calendar days before bids are due.

b. The Agency may elect to mail, fax or e-mail a notice inviting formal bids to the appropriate construction trade journals specified for the Agency in PCC Section 22036. The notice inviting informal bids may also be published in a newspaper of general circulation and on the Agency's website.

2. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

3. If a contract is awarded, it will be awarded to the lowest responsive and responsible bidder.

4. The Agency shall have the right to reject any or all of the bids received.

C. Formal Bid Procedures for Public Projects

1. In accordance with PCC Section 22037, a notice inviting formal bids shall be published in a newspaper of general circulation, printed and published, at least 14 calendar days before the date of opening the bids. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice inviting formal bids shall also be electronically mailed to all appropriate construction trade journals specified in PCC Section 22036. The notice shall be sent at least 15 calendar days before the date of opening the bids. Additionally, the Agency may give such other notice as it deems appropriate such as, but not limited to, posting to the Agency's website.

2. All bids shall be presented under sealed cover. If awarded, a contract will be let to the responsible bidder who submits the lowest responsive bid. If equal low bids are received from responsible bidders, the Agency has determined that the award will be made to the winner of single (1) coin flip.

3. The Agency shall have the right to reject any or all of the bids received.

VIII. COST AND PRICE ANALYSIS

SHRAThe Agency shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

A. Independent Cost Estimates (ICE)

For all purchases above the Micro-p-Purchase Threshold, SHRAthe Agency shall prepare an ICE prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased.

B. Micro Purchases

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

C. 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 Contracting Officer shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the Contracting Officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

D. 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 SHRAthe Agency cannot reasonably determine price reasonableness, SHRAthe Agency must conduct a cost analysis, consistent with Ffederal guidelines, to ensure that the price paid is reasonable.

E. Competitive Proposals

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

F. Contract Modifications

A cost analysis, consistent with Federal guidelines, shall 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 the Simplified Acquisition Threshold\$150,000.

IX. SOLICITATION AND ADVERTISING

A. Method of Solicitation

1.A. **Micro Purchases.** SHRAThe Agency may contact only one source if the price is considered reasonable.

2.B. **Small Purchases.** Quotes may be solicited through e-mail, fax, or by any other reasonable method.

3.C. **Sealed Bids and Competitive Proposals.** Solicitation must be done publicly. SHRAThe Agency must use one or more following solicitation methods, provided that the method employed provides for meaningful competition.

a1. Advertising in newspapers, ~~or~~ other print mediums of local or general circulations and the Agency website.

b2. Advertising in various trade journals or publications (for construction). For Pubilc Projects, the notice inviting formal bids shall also be electronically mailed to all appropriate construction trade journals specified in PCC Section 22036.

c3. E-Procurement. SHRAthe Agency may conduct its public procurements through the internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with **2 CFR 200.317 through 200.326**, State and local requirements, and SHRAthe Agency's Procurement Policy.

B. Time Frame

For purchases that exceed the Simplified Acquisition Threshold,of more than \$150,000, the public notice should run not less than once each week for two consecutive weeks.

C. Form

Notices/advertisements should state, at a minimum, 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

A minimum of 30 days ~~should~~ generally be provided for ~~the~~ preparation and submission of sealed bids and 15 days for competitive proposals. However, the Executive Director may allow for a shorter period under extraordinary circumstances.

E. Cancellation of Solicitations

1.A. An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:

- a1.** The supplies, services or construction ~~are~~ no longer required;
- b2.** The funds are no longer available;
- c3.** Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
- c4.** Other similar reasons.

2B. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:

- a1.** The supplies or services (including construction) are no longer required;
- b2.** Ambiguous or otherwise inadequate specifications were part of the solicitation;
- c3.** All factors of significance to ~~SHRA~~the Agency were not considered;
- d4.** Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- e5.** 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
- f6.** For good cause of a similar nature when it is in the best interest of ~~SHRA~~the Agency.

3C. _____ The reasons for cancellation or rejection shall be documented in the procurement file ~~and and he reasons for cancellation and/or rejection~~ shall be provided upon request.

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- ~~4D.~~ 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.
- ~~5E.~~ 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 SHRAthe Agency's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, the Contracting Officer may cancel the solicitation and either
- ~~a1.~~ Re-solicit using an RFP; or
 - ~~b2.~~ Complete the procurement by using the competitive proposal method. The Contracting Officer must determine, in writing, that such action is appropriate, must inform all bidders of SHRAthe Agency's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.
- ~~6F.~~ If problems are found with the specifications, SHRAthe Agency should 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 Contracting 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 Contracting Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card.

When using credit cards, SHRAthe Agency should 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).

X. BONDING REQUIREMENTS

The standards under this section apply to construction contracts that exceed \$25,000 . ~~There are no bonding requirements for competitive proposals.~~ SHRAThe Agency may require bonds for other contracts in these latter circumstances when deemed appropriate; however, non-construction contracts ~~should~~ generally do not require bid bonds.

A. Bid Bonds:

 For construction contracts exceeding \$25,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.

B. Payment and Performance Bonds:

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Unless otherwise provided in State law, prior to the execution of any contract for construction and equipment contracts exceeding \$25,000, the successful bidder shall furnish a performance and payment bond in a penal sum of 100% ~~percent~~ of the contract price; or, as may be required or permitted by State law.

~~1. A performance and payment bond in a penal sum of 100% of the contract price; or~~

C. Bond Requirements

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.

XI. CONTRACTOR QUALIFICATIONS AND DUTIES

A. Contractor Responsibility

~~SHRA~~ the Agency 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:

~~1A.~~ _____ Have adequate financial resources to perform the contract, or the ability to obtain them;

~~2B.~~ _____ Be able to comply with the required or proposed delivery or performance schedule, taking _____ into consideration all the bidder's/offeror's existing commercial and governmental _____ business commitments;

~~3C.~~ _____ Have a satisfactory performance record;

~~4D.~~ _____ Have a satisfactory record of integrity and business ethics;

~~5E.~~ _____ Have the necessary organization, experience, accounting and operational controls, and _____ technical skills, or the ability to obtain them;

~~6F.~~ _____ Have the necessary production, construction, and technical equipment and facilities, or the _____ ability to obtain them; and,

~~7G.~~ 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.

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.

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 (2 CFR 200.317 through 200.326) 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

1. 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 ensure competition.

2. ~~For Public Projects, in accordance with with PCC Section 22034,UPCCAA~~ Under UPCCAA, the Agency is required to establish a new list or update its existing list of qualified contractors by category or type of work they perform, at least once per calendar year. The Agency will mail, fax or e-mail written notice to all construction trade journals designated for the Agency under PCC Section 22036. The notice shall invite all licensed contractors to submit the name of their firm to the Agency for inclusion on the Agency's list of qualified bidders. The Agency may include any contractor names on the list but must include all contractors who have properly responded in writing to the Agency's written notice. create and maintain a list of qualified contractors, by the category of work they perform. Each year, in November, the Agency is required to publicly invite licensed contractors to submit their name for inclusion on the list.

XII. CONTRACT PRICING ARRANGEMENTS

A. Contract Types

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Any type of contract which is appropriate to the procurement and which will promote the best interests of SHRAthe Agency may be used, provided that the cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods ~~may~~ are not be used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and SHRAthe Agency.

For all cost reimbursement contracts, SHRAthe Agency 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:

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

XIII. CONTRACT CLAUSES

A. All contracts should identify the contract pricing arrangement as well as other pertinent terms _____ and conditions, as determined by SHRAthe Agency.

B. Additionally, 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 ~~that exceed of more than the Simplified Acquisition Threshold \$150,000~~, as well as any forms/clauses as required by HUD for small purchases, _____ shall be used in all corresponding solicitations and contracts issued by SHRAthe Agency.

XIV. CONTRACT ADMINISTRATION

SHRAThe Agency shall maintain a system of contract administration designed to ensure 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.

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 SHRAthe Agency needs. Specifications shall be reviewed prior to issuing any solicitation to ensure 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.

B. Limitation

The following types of specifications shall be avoided:

- 1A.** 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);
- 2B.** 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 ensure that organizational conflicts of interest do not occur.

XVI. APPEALS AND REMEDIES

A. General

It is ~~SHRA the Agency~~ 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. Appeals Procedure

The Agency shall adopt an informal bid/protest appeal procedure for contracts less than the Simplified Acquisition Threshold. The appeals procedure for solicitations/contracts that exceed the Simplified Acquisition Threshold ~~of more than \$3,000~~ shall be as follows:

1A. Bid 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 ten calendar days after the contractor receives notice of intent to award the contract, or the protest will not be considered. All bid protests shall be in writing, specifying in detail the grounds of the protest, and providing evidence and supporting documents. Protests are to be submitted to the Contracting Officer or designee, who shall issue a written decision on the matter. The Contracting Officer may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant. Refer to the Agency's Award of Contract Protest Policy.

2B. Contractor Claims. All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer for a written decision. The contractor may request a conference on the claim. The Contracting Officer's decision shall inform the contractor of its appeal rights to the next higher level of authority in SHRA the Agency. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

~~California has Public Contract Code § 9204 which provides for claims proceduresthis section needs to be reconciled with the HUS contract.~~

XVII. ASSISTANCE TO SMALL AND OTHER BUSINESSES

A. Required Efforts

Consistent with Presidential Executive Orders 11625, 12138, and 12432, 24 CFR §200.321, and Section 3 of the HUD Act of 1968, all feasible efforts shall be made to ensure 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 SHRA the Agency project are used when possible. Such efforts shall include, but shall not be limited to:

~~1A.~~ Including such firms, when qualified, on solicitation mailing lists;

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~~2B.~~ Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;

~~3C.~~ Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;

~~4D.~~ Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

~~5E.~~ Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;

~~6F.~~ 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~~

~~7G.~~ Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above; ~~and.~~

~~8. Requiring contractors to comply with the Agency's Section 3 Economic Opportunity Plan for applicable contracts.~~

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 [the Agency's SHRA](#)

~~The Agency~~ prime contracts and subcontracting opportunities.

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.~~

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- ~~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, but are not limited to 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 DOL in **20 CFR Part 654**, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.~~

XVIII. BOARD APPROVAL OF PROCUREMENT ACTIONS

Other than approval of this Procurement Policy, approval by the Sacramento Housing and Redevelopment Commission is not required for any procurement action, as permitted under State and local law. All applicable procurement activities will be presented to the appropriate governing board. It is the responsibility of the Executive Director to make sure that all procurement actions are conducted in accordance with the policies contained herein.

XIX. DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that ~~SHRA~~the Agency's procurements comply with this Policy, the Executive Director may delegate all procurement authority as is necessary and appropriate to conduct the business of ~~SHRA~~the Agency. Delegations of procurement authority shall be made in writing, which may be in electronic form.

Further, and in accordance with this delegation of authority, the Executive Director may, where necessary, establish additional operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy.

XX. DOCUMENTATION

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A. SHRA~~The Agency~~ must maintain records sufficient to detail the significant history of each procurement action. These records shall include, but shall not ~~necessarily~~ be limited to; ~~the following:~~

- 1A. Rationale for the method of procurement (if not self-evident);
- 2B. Rationale of contract pricing arrangement (if not self-evident);
- 3C. Reason for accepting or rejecting the bids or offers;
- 4D. Basis for the contract price (if not self-evident);
- 5E. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- 6F. Basis for contract modifications; and
- 7G. Related contract administration actions.

B. The level of documentation should be commensurate with the value of the procurement.

C. Records are to be retained for a period of three years after final payment and all matters pertaining to the contact are closed. Certain funding sources or projects may require longer retention periods. Refer to the Agency's Record Retention Schedule.

XXI. FUNDING AVAILABILITY

Before initiating any contract, SHRA~~The Agency~~ shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.