

MINUTES OF A REGULAR MEETING OF THE
COMMISSIONERS OF THE
CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY

The Commissioners of the City of Roanoke Redevelopment and Housing Authority met for a regular session on Monday, March 27, 2017, in the offices of the City of Roanoke Redevelopment and Housing Authority, 2624 Salem Turnpike, NW, in the City of Roanoke, Virginia.

I. CALL TO ORDER – ROLL CALL

Chair Karnes called the meeting to order at 3:00 p.m. and declared that a quorum was present.

PRESENT: Commissioners Butler, Karnes, Smith, Witten
Commissioner Garner arrived at 3:06 p.m.

ABSENT: Commissioners Anguiano, Burruss

OFFICER PRESENT: Mrs. Glenda Edwards Goh, Secretary-Treasurer

ALSO PRESENT: Jackie Austin, VP of Finance/CFO; Kathy Beveridge, Compliance and Quality Assurance Manager; David Bustamante, VP of Housing; Jessica Farmer, HCV Manager; John Garland, Roanoke City Council Liaison; Frederick Gusler, Director of Redevelopment and Revitalization; Crystal Hall, Community Support Services Director; Mark Loftis, Legal Counsel; Joel Shank, VP of Operations; Melissa Wills, Executive Assistant

Chair Karnes welcomed everyone to today's meeting.

II. REPORTS

1. Financial Report

Chair Karnes stated that Mrs. Austin provided a Financial Narrative along with a Financial Report.

Chair Karnes asked if there were any comments or questions. There were none.

2. Executive Director's Report

Chair Karnes asked for the Executive Director's report.

Mrs. Goh shared with the Board that RRHA has been awarded a \$4,000 grant from the Virginia Municipal League (VML). The grant will be used by RRHA to purchase some of the items that were recommended in the security assessment, such as Knox boxes to allow public safety personnel access to buildings during an emergency and Light Emitting Diode (LED) flashlights.

Mrs. Goh informed the Board that the 2017 Housing Symposium will be held on Thursday, May 4, 2017, from 8:00 a.m. until 2:00 p.m. at the Holiday Inn Tanglewood. She stated that this symposium is sponsored by the Roanoke Regional Housing Network (RRHN), a committee of the Council of Community Services. She encouraged any Board members who are interested in attending to contact the executive office, and Melissa will register them for the symposium.

Mrs. Goh gave an update on the Operating Fund Financing Program (OFFP). She noted that last year the Board had approved RRHA to take out a loan secured by Public Housing Operating Reserves to perform 504 accessibility modifications to existing public housing units and to construct new public housing units. She reported that the approval process with the U.S. Department of Housing and Urban Development (HUD) is moving forward for the accessibility modifications. Mrs. Goh

stated that, in anticipation of funding cuts that may occur in 2018, RRHA management staff have decided that it might be prudent to reduce the number of new public housing units to be constructed, resulting in a lesser amount of the reserves being restricted to secure a loan. This will provide some cushion should the budget cuts be as severe as they could be based on the President's budget proposal. She said that the proposal is to move forward with an additional \$500,000 loan which will be combined with Replacement Housing Factor (RHF) funding for development of 8 public housing units. An additional resolution will come before the Board when the application for the OFFP program is ready to be submitted for HUD approval. She explained that with the possibility that the reserves may be needed to continue operations next year, management was not comfortable with using a larger amount of reserves to secure a loan for development at this point. She said that once more information is known about the budget process, the opportunity to submit a separate application for a loan for additional development would still be available.

Responding to a question from Commissioner Butler regarding HUD allowing Operating Reserves to be used as collateral for a loan, Mrs. Goh confirmed that it could be used as collateral to secure a loan to develop or renovate public housing. She said that it is interesting that HUD will allow the use of reserves as collateral to secure a loan for that purpose, but not for the direct purpose of developing or renovating. When asked by Commissioner Butler about a minimum amount of reserves that need to be maintained, Mrs. Goh responded that the full amount of the loan is put into an account to secure the loan and that money becomes immediately unavailable for any other purpose.

When asked by Commissioner Witten if the reserves are still subject to an offset once they are used to secure a loan, Mrs. Goh responded that they are not and that this was one of the factors in considering using them for this purpose. She said that while RRHA could certainly use additional public housing, at this point staff is balancing concerns about an offset against concerns about having enough funds to operate programs next year. She explained that RRHA has the RHF funds which require a leverage amount, and the loan can be used as RHF leverage. She said that what is proposed is to move forward with that component and hold off on the remainder until more is known about the budget.

Chair Karnes asked if there were any other comments or questions. There were none.

3. Staff Reports

Chair Karnes asked if there were any Staff reports, comments or questions. There were none.

4. Committee Reports

Commissioner Witten reported that he was able to meet with Mrs. Goh about some language that he hopes to bring before the Board regarding a possible Legislative Committee. He said he will try to get in contact with Commissioner Anguiano to finalize the plan, which will not be expansive, and bring it back to the Board meeting next month for further discussion.

Commissioner Witten also reported that there will be an Audit Committee meeting during the month of April that will involve the annual conversation with the Auditor via conference call. Mrs. Austin confirmed that the meeting would be on

Friday, April 14, and Commissioner Witten said Board members were welcome to attend if they would like.

Chair Karnes asked if there were any other Committee reports. There were none.

5. Commissioner Comments

Chair Karnes asked if there were any Commissioner comments. There were none.

6. City Council Liaison Comments or Discussion

Chair Karnes asked if there were any City Council Liaison comments or discussion.

Council Member Garland said that with City Manager Morrill's departure on April 15, the City of Roanoke is currently seeking comments regarding what qualities people would like to see in his replacement. He encouraged the submission of comments regarding this matter.

He went on to explain that he has been attending some of the community meetings regarding the Melrose-Orange Avenue target area and has heard both exciting and concerning comments at these meetings. He said that while there is concern about lack of funds due to budget cuts and whether progress will continue in this target area, the City is hoping for the best. He shared that he is also on the Board for Community Housing Partners (CHP) and that at their last meeting, the same concerns about the budget were raised there as well.

7. Residents or other community members to address the Board

Chair Karnes asked if there were any residents or community members who

would like to address the Board. There were none.

Commissioner Garner asked to go back to the Monthly Operations reports in the Board materials and raised a question regarding the Public Housing Community vs Site report that lists a comparison of activity and what kind of efforts were being made other than the domestic violence initiative and surveillance cameras to bring RRHA more in line with the surrounding areas as far as crime is concerned. Mrs. Goh responded that above-baseline policing services were initiated last year. Off-duty police officers are paid to provide additional patrols based on the days and times that they receive the most calls to those sites.

Mr. Bustamante explained that when a site has a very low crime rate, one violent crime makes the numbers appear skewed in comparison to the community. He said that every crime that is reported is tracked by the Roanoke Police Department (RPD) along with RRHA staff so that the above-baseline police officers will schedule their patrols during times when crimes are either being committed or high volume of service calls is occurring. He went on to say that according to police and his own experience, the approach of summer will most likely be accompanied by a spike in crime.

Responding to a question from Commissioner Garner regarding any direct evidence to substantiate the benefits of the surveillance cameras, Mr. Bustamante noted the fact that RRHA has surveillance cameras rather than security cameras, meaning they are not monitored at all times. He said that while the RPD does have access to the surveillance cameras, it is more reactive instead of proactive because RRHA provides camera footage to police when incidents occur. Security cameras

would be connected directly to the RPD and monitored so that if something were occurring they would respond immediately.

Mrs. Goh went on to explain that there is also lease enforcement and that people in public housing are responsible if there is a crime that is committed by their guests or members of the household. She said that RRHA provides follow through when crimes are reported by addressing those lease violations, up to and including eviction where it is appropriate.

Commissioner Garner, referring to the Housing Choice Voucher (HCV) Housing Quality Standards (HQS) Inspection Department report inquired as to what would happen if a unit does not pass reinspection. He noted that there are a high number of units reported as not passing the reinspection. Mr. Bustamante explained that the landlord receives an abatement letter, meaning that payment of the Housing Assistance Payments (HAP) would stop and, if the landlord does not fix the issue within 30 days, then the tenant is given a moving package. He further noted that if it is a health and safety issue, the landlord has 24 hours to complete repairs and, in those instances, RRHA would act right away to get the tenant out of the unit as quickly as possible.

Commissioner Witten, referring back to the Public Housing Community vs Site report asked if there were any kind of benchmarks in place, saying that those would be helpful and that he assumed other housing authorities in Virginia were producing the same information in their monthly reports. Mrs. Goh stated that she was not aware of other locations producing the same reports and explained that, when the transition to Asset Management was made, HUD implemented a standard for a property to be

considered non-performing if it had a crime rate that was greater than 120 percent of the surrounding community. She said that, while RRHA has operated with that measure as a guide and management staff believes it is important to continue to monitor it, it is no longer a HUD requirement.

III. CONSENT AGENDA

C-1 Minutes of the Regular Meeting of the Board of Commissioners held Monday, February 27, 2017.

RECOMMENDED ACTION: Dispense with the reading thereof and approve as recorded.

C-2 Monthly Operations Report for the month of February 2017.

RECOMMENDED ACTION: File as submitted

Commissioner Garner introduced a motion to approve the Consent Agenda.

The motion was seconded by Commissioner Witten and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

Chair Karnes thereupon declared said motion carried as introduced.

IV. REGULAR AGENDA

1. RRHA and City of Roanoke HUD-funded programs - Discussion

Commissioner Witten shared that in light of the proposed budget that puts HUD-funded programs operated by both RRHA and the City of Roanoke in possible peril, he felt that it could be a good time to possibly consider a joint meeting to strategize with City Council. He stressed that he felt that there was a lack of

coordination between some of these overlapping efforts and, while the effort of the Orange-Melrose target area with the Choice Neighborhoods was a great thing, the same spirit should continue on with determining if there are some opportunities to prepare for in the future. He said that even if the Community Development Block Grant (CDBG) dollars go away and the City of Roanoke loses that capacity, there are still reporting requirements with which RRHA might be able to assist. He said that he believes the conversation needs to take place now to be prepared for possible budget cuts and that while it may not be as great of a concern as it was a few weeks ago, waiting until the budget actually passes will be too late to have that kind of dialogue.

Chair Karnes stated that while he was not in disagreement with Commissioner Witten, it is very early in the process. Commissioner Garner said that he agreed with Commissioner Witten and that it would be a good idea to begin thinking about strategizing for this and be proactive.

Responding to a question from Chair Karnes as to whether he had something concrete he wanted to propose, Commissioner Witten said that while he was unsure exactly what that would look like, it could be that there are some opportunities to look at in terms of overlap of services between RRHA and the City of Roanoke where a conversation could begin. He said that in the long-term over several years, there will continue to be funding challenges like those that have been seen in the past and, unlike the last joint meeting where funding was in peril, this would be a proactive approach to prepare for things getting worse and how the two can work together to build the community. He also stated that the discussion could be tabled and brought up at next month's meeting when more information may be available.

Chair Karnes stated that more could be known a month from now but, considering what he has seen in the past with budgets being proposed, it may be a long time before very much is known for sure.

Commissioner Garner stated that at one point in time, there was some talk about privatization of public housing in an effort to make it more akin to private housing property management and inquired as to whether that was still being discussed. Mrs. Goh stated that she has not heard any talk or seen anything recently regarding privatization.

Mr. Bustamante said that it could be that Commissioner Garner was referring to the Rental Assistance Demonstration (RAD) program that converts public housing into Section 8. Mrs. Goh added that, under RAD, the housing is still owned by the Housing Authority after the conversion. She added that RRHA could do mixed-finance housing that would be the equivalent of some of the tax credit development that has been done but with some public housing units in the mix. She said that in this case RRHA would no longer be the owner of those public housing units because they would then be owned by whatever partnership was formed to do the project.

Commissioner Garner inquired whether there was something that would be a better means of financing based on the projected severe budget cuts in the HUD budget. Mrs. Goh stated that the proposed cuts are quite severe and that what Commissioner Garner is possibly referring to is identifying funding outside the realm of public housing. She expressed that the big challenge is that it is very difficult to build housing and charge very low rents without some type of subsidy or some kind of break on financing and long-term debt costs, which the public housing program and

the Low Income Housing Tax Credit programs address. She said there are frequent conversations regarding ways to generate revenue but that often is more applicable to market-rate housing which, generally, the Board has not viewed as within RRHA's affordable housing mission of RRHA. She said that to generate revenue doing affordable housing is a little more challenging.

Council Member Garland added that Commissioner Witten's concept is very valid and that his perception is that there is generally a disconnect between City Council and some of the Boards with similar missions to RRHA's. He said that while there is expertise on both sides, there is not enough regular communication taking place. He shared that there is a lot of overlap between the City and RRHA, as well as other nonprofits such as Community Housing Partners (CHP). He said that he has recently connected Janaka Casper, CEO of CHP together with Mr. Gusler to discuss their organizations' common interest in low income housing. He went on to say that the conversation does not necessarily have to be between the Executive Director and the City Manager, but could be between staff members such as Mr. Gusler with Chris Chittum, Planning Director of Roanoke City, or between others who have common interests to see if there are areas where they can assist each other and make things move forward. He said that while it has been the custom to only meet together when there is some type of crisis or big concern, regular meetings could be very helpful.

Chair Karnes reiterated Commissioner Witten's statement about possibly tabling the conversation until the next meeting and if others have ideas, those could be discussed. He also agreed that it was not possible to over communicate.

Commissioner Witten expressed his agreement with Council Member

Garland's comment in that there is not enough communication and stated that he would much rather foster communication before an impending crisis.

Mrs. Goh reminded the Board that the federal government remains under a Continuing Resolution through April 28, and said that she has not even heard any talk about the budget for this year so it seems more likely that federal programs will operate under a Continuing Resolution for the remainder of the year. She stated that, at this point, even though funding has been reduced already, this would actually be the best option as it would stay the same versus the more severe cuts that are being proposed.

2. Resolution No. 3915

Mrs. Goh introduced Resolution No. 3915, and explained that Commissioner Witten suggested that the Board might like to formally express appreciation on behalf of everyone at RRHA for the work that City Manager Chris Morrill has done in partnership with RRHA on behalf of the City of Roanoke. She shared that, in her opinion, while there is always room for communication and coordination to be improved, Mr. Morrill brought a whole new level of cooperation by the City with RRHA when he took over the role as City Manager. She explained that this resolution is to formalize the Board's appreciation and will be framed and presented to Mr. Morrill.

Chair Karnes asked if there were any comments or questions. There were none.

Commissioner Garner introduced Resolution No. 3915 and moved its adoption as introduced:

RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND
HOUSING AUTHORITY EXPRESSING APPRECIATION TO

CHRISTOPHER P. MORRILL FOR HIS DEDICATED LEADERSHIP AND SERVICE AS ROANOKE CITY MANAGER

WHEREAS, Christopher P. Morrill has served ably and well as Roanoke City Manager since March 2010; and

WHEREAS, Christopher P. Morrill has consistently demonstrated a genuine desire to work with organizational partners and community residents in improving neighborhoods and quality of life in the City of Roanoke; and

WHEREAS, Christopher P. Morrill has enhanced the City's partnership with the City of Roanoke Redevelopment and Housing Authority (RRHA) in the shared mission of improving the availability and quality of affordable housing throughout the City; and

WHEREAS, Christopher P. Morrill enthusiastically supported RRHA's initiative to develop a Choice Neighborhoods Transformation Plan for the Loudon-Melrose/Shenandoah West neighborhood and demonstrated that support through dedication of City staff and resources to the planning effort; and

WHEREAS, it is the desire of the Board of Commissioners to recognize the unique contributions rendered by Christopher P. Morrill while serving as Roanoke City Manager.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that the Board of Commissioners does hereby express its appreciation for the dedicated service of Christopher P. Morrill to the City of Roanoke and his leadership and positive contributions as Roanoke City Manager.

The motion was seconded by Commissioner Butler and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

Chair Karnes thereupon declared said motion carried and Resolution No. 3915 adopted as introduced.

3. Resolution No. 3916

Mr. Shank introduced Resolution No. 3916, requesting the Board's approval of a revised Procurement Policy. He explained that this process dates back two years

when some changes were made by the Office of Management and Budget (OMB) regarding uniform administration requirements, cost principles and audit requirements for federal awards. He stated that while these changes became effective in December 2014, the regulations allowed RRHA until the end of the current fiscal year to implement them. He shared that all revisions have been reviewed by legal counsel and are highlighted in blue in the attached draft of the revised Procurement Policy.

Mr. Shank highlighted a few of the significant revisions which included the addition of a Disclosure if Subsequent Employment section that regards ethics; a Joint Ventures, Subsidiaries and Affiliates section; and a change to the Micro Purchase threshold from \$2,000 to \$3,000 for non-construction solicitations with the exception of acquisitions for construction which remain at \$2,000 because they are subject to the Davis-Bacon Act. He also explained that other changes were in reverse auctioning which allows bids to be done electronically in real-time, the addition of a section titled Negotiation of Profit, and some changes made regarding what is required for bonding on construction projects over \$100,000.

Responding to a question from Commissioner Garner regarding how often situations arise where profits are negotiated, Mr. Shank stated that he has not encountered the situation; however, he has raised questions when the bid price received was much greater than the estimations for the bid. He explained that in these cases, he generally tries to negotiate to come up with a price that is agreeable to both RRHA and the contractor.

Chair Karnes asked if there were any other comments or questions. There were none.

Commissioner Smith introduced Resolution No. 3916 and moved its adoption as introduced:

RESOLUTION OF THE CITY OF ROANOKE REDEVELOPMENT AND HOUSING AUTHORITY APPROVING A REVISED PROCUREMENT POLICY

WHEREAS, the City of Roanoke Redevelopment and Housing Authority (RRHA) receives operating funds from the Department of Housing and Urban Development (HUD); and

WHEREAS, RRHA's Procurement Policy was approved by the Board of Commissioners on April 23, 2007, with subsequent revisions of the Policy approved on June 18, 2007, August 20, 2007, October 15, 2007, April 21, 2008, December 15, 2008, November 8, 2011, August 27, 2012, November 16, 2015; and

WHEREAS, the Office of Management and Budget (OMB) published final guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 78 Federal Register 78590 on December 26, 2013; and

WHEREAS, OMB and the Federal award-making agencies published a joint interim final rule implementing the final guidance as requirements for recipients of Federal financial assistance on December 19, 2014 at 79 Federal Register 75871; and

WHEREAS, HUD published Notice SD-2015-01 on February 26, 2015 to identify and explain significant changes made in 2 CFR part 200, and provide guidance and links to additional resource materials for HUD and recipients of Federal financial assistance from HUD; and

WHEREAS, 2 CFR part 200 was made applicable to non-Federal entities (recipients of Federal financial assistance) effective December 26, 2014, but provides, in 2 CFR § 200.110(a), that non-Federal entities may continue to comply with the procurement standards in previous OMB guidance for two additional fiscal years after the effective date of 2 CFR part 200; and

WHEREAS, 2 CFR § 200.110(a) requires that, if a non-Federal entity chooses to use the previous standards for an additional two fiscal years before adopting the procurement standards in 2 CFR part 200, the non-Federal entity must document this decision in internal procurement policies; and

WHEREAS, the RRHA Board of Commissioners approved Resolution No.

3863 on November 16, 2015, approving a revised Procurement Policy that documented RRHA's decision to comply with the procurement standards in previous OMB guidance until September 30, 2017; and

WHEREAS, RRHA's Procurement Policy has been revised to meet the requirements in 2 CFR part 200; and

WHEREAS, the proposed revised Procurement Policy has been reviewed by RRHA's legal counsel and determined to be in compliance with legal requirements applicable to RRHA.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the City of Roanoke Redevelopment and Housing Authority that the attached revised RRHA Procurement Policy is approved.

The motion was seconded by Commissioner Butler and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

Chair Karnes thereupon declared said motion carried and Resolution No. 3916 adopted as introduced.

4. Executive Session

Commissioner Garner moved that the Commissioners enter into Executive Session for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the RRHA in accordance with Virginia Code Section 2.2-3711(A)(7).

The motion was seconded by Commissioner Butler and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

The Board of Commissioners entered into Executive Session at 3:33 p.m.

The Board reconvened into open session at 4:04 p.m.

Commissioner Garner introduced a motion stating that the members of the Board of Commissioners hereby certify to the best of their knowledge that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered by the Board in the immediately preceding Executive Session.

The motion was seconded by Commissioner Butler and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

V. ADJOURNMENT

There being no further business to come before the Board, Commissioner Smith moved that the meeting be adjourned.


The motion was seconded by Commissioner Butler and upon roll call the following vote was recorded:

AYES: Commissioners Butler, Garner, Karnes, Smith, Witten

NAYS: None

Chair Karnes declared the meeting adjourned at 4:05 p.m.


Daniel Karnes, Chair


Glenda Edwards Goh, Secretary-Treasurer



PROCUREMENT POLICY

CITY OF ROANOKE REDEVELOPMENT & HOUSING AUTHORITY

Established for the City of Roanoke Redevelopment & Housing Authority by board action on April 23, 2007.

Revision Dates: June 18, 2007, August 20, 2007, October 15, 2007, April 21, 2008, December 15, 2008, November 8, 2011, August 27, 2012, ~~and November 16, 2015, and March 27, 2017~~

This Procurement Policy complies with the Annual Contributions Contract (ACC) between City of Roanoke Redevelopment & Housing Authority (RRHA) and the Department of Housing & Urban Development (HUD), Federal Regulations at 24 CFR 85.36, 2 CFR Part 200, and applicable State and Local laws.

GENERAL PROVISIONS

General

RRHA 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 RRHA, ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to RRHA, promote competition in contracting, and assure that RRHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State, and local laws.

Application

This Procurement Policy applies to all procurement actions of the Authority, regardless of the source of funds; however, nothing in this Policy shall prevent RRHA from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law.

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. Procurement, as used in this policy, does not include direct payments for the following items: utility bills, postage, licenses, permits, purchases from other government agencies where the government agency provides goods or services not available from the private sector, travel expenses, conferences, professional association fees, stipends, public transportation, incidental parking fees, publications, and advertisements for employment or solicitation notices.

Changes in Laws and Regulations

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.

~~Notwithstanding the provisions of the preceding paragraph, in accordance with 2 CFR § 200.110(a), RRHA chooses to use the procurement standards in previous United States Office of Management and Budget guidance through the end of the fiscal year ending September 30, 2017.~~

Public Access to Procurement Information

Most procurement information that is not proprietary is a matter of public record and shall be available to the public to the extent provided in the Virginia Freedom of Information Act.

ETHICS IN PUBLIC CONTRACTING

General

RRHA 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, ~~or and~~ local law.

Conflicts of Interest

No employee, officer, Board member, or agent of RRHA shall participate directly or indirectly in the selection, award, or administration of any contract if he or she has a conflict of interest, either real or apparent, ~~would be involved. This type of~~ Such a conflict of interest ~~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 arise when:~~

- A. An employee, officer, Board member, or agent involved in making the award;
- 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);
- C. His/her partner; or
- D. An organization which employs is about to employ or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above-;

has a financial or other interest in or a tangible personal benefit from a firm competing for an award or being considered for a contract.

Disclosure if Subsequent Employment

No employee or former employee of RRHA having official responsibility for procurement transactions shall accept employment with any bidder, offeror, or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by RRHA unless the employee or former employee provides written notification to the Executive Director of RRHA prior to commencement of employment by that bidder, offeror, or contractor.

Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent of RRHA shall ask for or accept gratuities, favors, or items of more than \$50 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.

Prohibition Against Contingent Fees

Contractors wanting to do business with RRHA 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.

Joint Ventures, Subsidiaries and Affiliates

Transactions between RRHA and any joint venture, subsidiary, affiliate, or other entity in which RRHA has any interest must comply with the conflict of interest rules contained in this Procurement Policy. A person who is an employee of RRHA or a member of RRHA's Board of Commissioners, and who also serves on another governing board of a joint venture, subsidiary, affiliate, or other entity in which RRHA has any interest, may not participate in actions by RRHA that are incidental to any agreements with the other entity.

Disciplinary Action

Any officer, employee, Board member, or agent of RRHA who violates any of the provisions of this Section shall be subject to appropriate sanctions or disciplinary action consistent with RRHA's Code of Ethics and Standards of Conduct Policy. In all cases RRHA will also consider pursuing civil and administrative remedies available under applicable law.

PROCUREMENT PLANNING

Planning is essential to managing the procurement function properly. Hence, RRHA 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 RRHA's procurement costs, reduce RRHA 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.

PURCHASING METHODS

Petty Cash Purchases

Purchases under \$50 may be handled through the use of a petty cash account. Petty Cash Accounts may be established in an amount sufficient to cover small purchases made during a reasonable period, e.g., one month. For all Petty Cash Accounts, RRHA shall ensure that security is maintained and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically.

Small Purchase Procedures

For any amounts above the Petty Cash ceiling but less than ~~\$2,000~~ \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act), also known as Micro Purchases, only one quote is required. The signature of the contracting officer on the purchase order or contract signifies the contracting officer's determination that the price is reasonable, based on prior purchases of a similar nature or other sources of information.

For any amounts above the Micro Purchase ceiling but not exceeding \$30,000, RRHA may use small purchase procedures. No less than three offerors shall be solicited to submit price quotations, which may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to RRHA. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

For small purchases in excess of \$30,000 but not exceeding \$100,000, RRHA may use small purchase procedures with one exception. Small purchase procedures must not be used for single or term contracts for professional services, if the contract exceeds \$60,000.

For small purchases in excess of \$30,000 but not exceeding \$100,000, no less than four offerors

shall be solicited to submit written price quotations. Award shall be made to the qualified vendor that provides the best value to RRHA. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

RRHA shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several 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.

To the greatest extent feasible, and to promote competition, micro purchases should be distributed among qualified sources.

Sealed Bids

Sealed bidding shall be used for all contracts that exceed the small purchase threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this document. Under sealed bids, RRHA 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 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 \$100,000.

- A. **Conditions for Using Sealed Bids.** RRHA shall use the sealed bid method if the following conditions are present: (i) a complete, adequate, and realistic statement of work, specification, or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the work; (iii) the contract can be awarded based on a firm fixed price; (iv) and the selection of the successful bidder can be made principally on the [basis of the](#) lowest price.
- 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 will be publicly advertised, and must state the time and place for both receiving the bids and the public bid opening. The IFB must define the items or services in order for the bidder to properly respond. 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.
- C. **Bid Opening and Award.** Bids shall be opened publicly at the time and place prescribed in the IFB. All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection. A firm fixed price contract will be made in writing to the lowest responsive and responsible bidder. If equal low bids are received from responsible bidders, selection shall be made by drawing lots or other similar random method. The method for doing this shall be stated in the IFB. If only one 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 cost or price analysis. Where specified in the IFB, factors such as discounts, transportation costs, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. The IFB may also specify that factors such as special qualifications of potential contractors, inspection, testing, quality, workmanship, and suitability for a particular purpose may be considered as a part of the evaluation.
- D. **Mistakes in Bids.** Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written, e-mail, or facsimile notice received in the office designated in the IFB prior to the time set for bid opening. After bid opening, withdrawals of bids may be

permitted only as stated in the advertisement for bids, which normally will require a bidder to give written notice of his claim to withdraw his bid within two business days after the conclusion of the bid opening procedure, and only if the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a 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 RRHA or fair competition shall not be permitted. RRHA shall notify a bidder within 5 business days of its decision regarding the bidder's request to withdraw its bid. Correction or withdrawal of bids after bid opening may also be allowed in cases where RRHA has reason to believe that a mistake may have been made in a bid.

- E. **Tie Bids:** Tie bids, quotes or proposals are defined as instances of identical total pricing or scoring from responsive/responsible vendors that meet all requirements as set forth in the bid, quote or proposal documents. Instances of a tie will be resolved by a drawing or other similar random method. The drawing-resolution of the tie will be announced in advance giving all "tie" vendors an opportunity to attend. The drawing or other random method for resolving a tie will be conducted in the presence of three (3) individuals who will attest to the results.

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 RRHA, 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.

- A. **Conditions for Use.** 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 small purchase threshold.
- B. **Form of Solicitation.** Other than A/E services, competitive proposals shall be solicited through the issuance of a RFP. The RFP shall be publicized and shall clearly identify the importance and relative value of each of the evaluation factors as well as any subfactors and price. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals until after award. RRHA may assign price a specific weight in the evaluation criteria or RRHA may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.
- C. **Evaluation.** Proposals must be solicited from an adequate number of qualified sources. The proposals shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, RRHA shall establish a written 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.
- 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 RRHA 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 contract administrator with each offeror within the competitive range. The primary object of discussions is to maximize RRHA's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The contract administrator 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 contract administrator, be altered or explained to enhance materially the proposer's potential for award. The scope and extent of discussions are a matter of the contract administrator's judgment.

The contract administrator may inform an offeror that its price is considered by RRHA 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 RRHA'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. [Proprietary information from competing offerors shall not be disclosed to the public or to competitors.](#)

- 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 RRHA ([with price and other factors considered](#)) provided that the price is within the maximum total project budgeted amount established for the specific property or activity.
- F. **A/E Services.** RRHA must contract for A/E services using Qualification Based Selection (QBS) procedures, utilizing a Request for Qualifications (RFQ). Sealed bidding shall not be used for A/E solicitations. Under QBS procedures, competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method. QBS procedures shall not be used to purchase other types of services, though architectural/engineering firms are potential sources.

[RRHA may contract for A/E services relating to multiple construction projects to be awarded, but only as permitted under the provisions of Virginia Code § 2.2-4303.1.](#)

Noncompetitive Proposals

- A. **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:

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

sources;

2. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to RRHA, 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 without delay 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;
 3. HUD authorizes the use of noncompetitive proposals; or
 4. After solicitation of a number of sources, competition is determined inadequate.
- 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:
1. Description of the requirement;
 2. History of prior purchases and their nature (competitive vs. noncompetitive);
 3. The specific exception in 24 CFR 85.36(d)(4)(i)(A) through (D) which applies;
 4. Statement as to the unique circumstances that require award by noncompetitive proposals;
 5. 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.);
 6. Statement as to efforts that will be taken in the future to promote competition for the requirement;
 7. Signature by the Contracting Officer's supervisor (or someone above the level of the Contracting Officer); and
 8. 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.

Cooperative Purchasing/Intergovernmental Agreements

RRHA 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. RRHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with 24 CFR 85.36.

Reverse Auctioning

Reverse auctioning is a procurement method wherein bidders are invited to bid on specific goods or nonprofessional services through real-time electronic bidding, with the award being made to the

lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidder's shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening. RRHA may use reverse auctioning for the purchase of goods or nonprofessional services (but not construction or professional services). Reverse auctioning may be used only as permitted under the provisions of the Virginia Public Procurement Act, and RRHA must comply with all applicable requirements of the procurement standards contained in 2 CFR Part 200 with regard to the conditions, solicitation, and award of the contract.

COMMENTS CONCERNING SPECIFICATIONS

Each IFB or RFP issued shall contain instructions for comments concerning specifications or other provisions in the IFB or RFP to be submitted to the Contracting Officer or other individual identified by RRHA. All comments received shall be considered prior to the time set for award of the contract.

ICE

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

COST AND PRICE ANALYSIS

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

Petty Cash and Micro Purchases

No formal cost or price analysis is required. Rather, the execution of a contract by the Contracting Officer (or designee) through 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.

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

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

Competitive Proposals

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, RRHA 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, RRHA

must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.

Negotiation of Profit

Profit must be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed; the risk borne by the contractor; the contractor's investment; the amount of subcontracting; the quality of the contractor's record of past performance; and industry profit rates in the surrounding geographical area for similar work.

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 \$100,000.

SOLICITATION AND ADVERTISING

Method of Solicitation

- A. **Petty Cash and Micro Purchases.** RRHA may contact only one source if the price is considered reasonable.
- B. **Small Purchases.** Quotes may be solicited orally, through fax, or by any other reasonable method.
- C. **Sealed Bids and Competitive Proposals.** Solicitation must be done publicly. RRHA shall use one or more of the following solicitation methods, provided that the method employed provides for meaningful competition.
 1. Advertising in newspapers of general circulation.
 2. Advertising in various trade journals or publications (for construction).
 3. E-Procurement. RRHA may conduct its public procurements through the Internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with 24 CFR 85.36, State and local requirements, and the Authority's procurement policy, and may include posting on the Virginia Department of General Services' central electronic procurement website.

Time Frame

For purchases of more than \$100,000, the public notice should run not less than once each week for two consecutive weeks.

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).

Time Period for Submission of Bids

A minimum of 30 days shall generally be provided for preparation and submission of sealed bids and 15 days for competitive proposals; however, [subject to the requirements of the Virginia Public](#)

[Procurement Act](#), the Executive Director may allow for a shorter period under extraordinary circumstances.

Cancellation of Solicitations

- A. An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:
1. The supplies, services or construction is no longer required;
 2. The funds are no longer available;
 3. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
 4. Other similar reasons.
- B. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:
1. The supplies or services (including construction) are no longer required;
 2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
 3. All factors of significance to RRHA were not considered;
 4. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 5. 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
 6. For good cause of a similar nature when it is in the best interest of RRHA.
- C. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request.
- D. 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.
- E. 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 RRHA'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
1. Re-solicit using an RFP; or
 2. 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 RRHA's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.
- F. If problems are found with the specifications, RRHA should cancel the solicitation, revise the specifications and resolicit using an IFB.

Credit (or Purchasing) Cards

Authorized credit card holders may use a credit card for Micro Purchases. Micro purchases Resolution # 3916 – March 27, 2017 – Agenda Item # 3 – Attachment #1

made with a credit card must follow all procurement procedures associated with such purchase. Cash advances are prohibited. Credit card purchases will be subject to scheduled and unscheduled audits on a year round basis.

BONDING REQUIREMENTS

The standards under this section apply to construction contracts that exceed \$100,000. There are no bonding requirements for small purchases or for competitive proposals. RRHA may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.

- A. Bid Bonds. For construction contracts exceeding \$100,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.
- B. Payment Bonds. For construction contracts exceeding \$100,000, the successful bidder shall furnish ~~an assurance of completion. This assurance may be any one of the following four:~~
 - 1. A performance ~~and payment~~ bond ~~in a penal sum of for~~ 100% of the contract price; ~~or and~~
 - 2. ~~Separate performance and A~~ payment bonds, ~~each for 50 % or more of for 100% of the~~ contract price; ~~or~~
 - 3. ~~A 20 % cash escrow; or~~
 - 4. ~~A 25 % irrevocable letter of credit.~~
- C. 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.

CONTRACTOR QUALIFICATIONS AND DUTIES

Contractor Responsibility

RRHA 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:

- A. Have adequate financial resources to perform the contract, or the ability to obtain them;
- B. Be able to comply with the required or proposed delivery or performance schedule and requirements, taking into consideration all the bidder's/offeror's existing commercial and governmental business commitments;
- C. Have a satisfactory performance record;
- D. Have a satisfactory record of integrity and business ethics;
- E. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
- F. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
- G. Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended, debarred or under a HUD-imposed LDP.

- H. Register and participate in the “E-Verify program” operated by the U. S. Department of Homeland Security (or successor work verification program) to verify the work authorization status of newly hired employees, if the contractor has more than an average of 50 employees for the previous 12 months.

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.

Suspension and Debarment

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

Vendor Lists

All interested businesses shall be given the opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough qualified sources to ensure competition. Also, RRHA shall not preclude potential bidders for qualifying during the solicitation period.

CONTRACT PRICING ARRANGEMENTS

Contract Types

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

For all cost reimbursement contracts, RRHA must include Any use of a time and material type of contract must be supported by 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. RRHA may use time and material type contracts only after a determination that no other contract is suitable and only if the contract includes a ceiling price that the contractor exceeds at its own risk.

Options

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

- A. The option is contained in the solicitation;
- B. The option is a unilateral right of the Authority;
- C. The contract states a limit on the additional quantities and the overall term of the contract;
- D. The options are evaluated as part of the initial competition;
- E. The contract states the period within which the options may be exercised;
- F. The options may be exercised only at the price specified in or reasonably determinable from the contract; and

- G. The options may be exercised only if determined to be more advantageous to RRHA than conducting a new procurement.

CONTRACT CLAUSES

All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by RRHA.

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 of more than \$100,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by this Authority. To the extent that Appendix II to 2 CFR Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards contains any additional required contract clauses then such clauses shall also be included.

Where appropriate, RRHA may require a value engineering clause in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

PROCUREMENT OF RECOVERED MATERIALS

RRHA and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. This includes procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeds \$10,000; procuring solid waste management waste services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

CONTRACT ADMINISTRATION AND OVERSIGHT

RRHA shall maintain a system of contract administration and oversight designed to ensure that contractors perform in accordance with their contracts or purchase orders. 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.

SPECIFICATIONS AND REQUIREMENTS

General

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying RRHA 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.

Limitations

The following types of specifications shall be avoided:

- A. 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);

- B. brand name specifications (unless the specifications list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use); a “brand name or equivalent” description may be used as a means to define the performance of other salient requirements of the procurement).

Additionally, to promote full and open competition, the following shall be avoided:

- A. placing unreasonable requirements on firms in order for them to qualify to do business.
- B. requiring unnecessary experience and excessive bonding.

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.~~

Contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals are excluded from competing for such procurements.

APPEALS AND REMEDIES

General

~~It is RRHA's policy~~RRHA will attempt to resolve all contractual and administrative 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.

Informal Appeals Procedure

To issue a bid protest/appeal for contracts of \$100,000 or less, the bidder/contractor may request to meet with the appropriate Contract Officer.

Formal Appeals Procedure for Contracts More Than \$100,000

- A. **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 (10) calendar days after the contract receives notice of the contract award, or the protest will not be considered. All bid protests shall be in writing, 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.
- B. **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 RRHA. Contractor claims shall be governed by the Changes clause in the form HUD-5370.

ASSISTANCE TO SMALL AND OTHER BUSINESSES

Required Efforts

Consistent with Presidential Executive Orders 11625, 12138, and 12432, Section 3 of the HUD Act of 1968, and 2.2-4310 of the Virginia Public Procurement Act, all feasible efforts shall be made to ensure that small and minority-owned businesses, women's business enterprises, service disabled veteran-owned businesses, and other individuals or firms located in or owned in substantial part by persons residing in the area of RRHA project are used when possible.

Whenever solicitations are made, RRHA shall include businesses selected from a list made available by the Department of [Minority Business Enterprise Small Business and Supplier Diversity](#).

RRHA has adopted a Section 3 Policy and is available for review at G:\Purchasing\Section 3 Policy. Please refer to this document for specific policy requirements as well as procedures.

Efforts to utilize small and minority-owned businesses, women's business enterprises, service disabled veteran-owned businesses and other businesses shall include, but shall not be limited to:

- A. Including such firms, when qualified, on solicitation mailing lists;
- B. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- E. Using the services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce and the Department of [Minority Business Enterprise Small Business and Supplier Diversity](#);
- F. 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
- G. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

Goals shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business enterprises, labor surplus area businesses, service disabled veteran-owned businesses, and Section 3 business concerns in RRHA 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. [For non-federal procurements, RRHA shall apply the definition of "small business" found in the Virginia Code § 2.2-4310](#)
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.
6. A **service disabled veteran-owned business** means a business concern that is at least 51% owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

BOARD APPROVAL OF PROCUREMENT ACTIONS

The RRHA Procurement Policy and all its revisions must be submitted to the Board of Commissioners for review and approval.

All contracts having a dollar value of \$100,000 or more must be submitted to the Board of Commissioners for review and approval prior to awarding a contract. For all contracts of \$100,000 or more, any and all change orders, contract modifications, and/or amendments having a dollar value of \$25,000 or more must be submitted to the Board of Commissioners for review and approval prior to executing the contract modification.

For all contracts of \$100,000 or more, any and all change orders, contract modifications, and/or amendments that result in a cumulative dollar value that exceeds 10% of the original contract value, must be submitted to the Board of Commissioners for review and approval prior to executing the contract modification.

INTERPRETATION OF POLICY

In the event of ambiguity, contradiction or unforeseen situations not addressed clearly or directly in this policy, the Executive Director shall use his/her best professional judgment in making a decision that will best protect the interest of RRHA and ensure RRHA's compliance with applicable statutory and regulatory requirements.

DELEGATION OF CONTRACTING AUTHORITY

While the Executive Director is responsible for ensuring that RRHA's procurements comply with this Policy, the Executive Director may delegate all procurement authority as is necessary and appropriate to conduct the business of the Agency.

Further, and in accordance with this delegation of authority, the Executive Director has established operational procedures to implement this Policy. The Procurement Procedure Manual is located on the “P” drive making it available to all employees of RRHA.

~~A system of sanctions for violations of ethical standards are noted in RRHA's Code of Ethics and Standards of Conduct Policy and are consistent with Federal, State, or local law.~~

DOCUMENTATION

RRHA 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:

- A. Rationale for the method of procurement (if not self-evident) [including any pre-procurement review](#);

- B. Rationale of contract type and pricing arrangement (also if not self-evident) including any technical specifications, requests for proposals or invitations for bid, and independent cost estimates;
- C. Reason for accepting or rejecting the bids or offers;
- D. Basis for the contract price (as prescribed in this handbook);
- E. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
- F. Basis for contract modifications; and
- G. Related contract administration actions.

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

Records are to be retained for a period of five years after final payment and all matters pertaining to the contract are closed.

FUNDING AVAILABILITY

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

SELF-CERTIFICATION

RRHA self-certifies that this Procurement Policy, and RRHA's procurement system, complies with all applicable Federal regulations and, as such, RRHA is exempt from prior HUD review and approval of individual procurement action.