

CHAPTER 8. NONCOMPETITIVE PROPOSALS

8.1 General

This chapter defines noncompetitive proposals, the conditions for their use, and the requirements for documentation.

8.2 Definition

A noncompetitive proposal means a procurement through either a “sole source,” when the PHA solicits an offer from one source, or a “single source,” when the PHA solicits offers from multiple sources but receives only one or the competition is determined inadequate. As described in Chapter 15, certain contracting with resident-owned businesses and resident management corporations are exempted from these restrictions on non-competitive proposals.

8.3 Restrictions

- A. All noncompetitive proposal awards must comply with **24 CFR 85.36(d)(4)**.
- B. As described in Chapter 15, certain contracts with resident-owned businesses and resident management corporations are exempt from these restrictions on noncompetitive proposals.

8.4 Process

- A. Award of contracts from noncompetitive proposals follows a process similar to that used for competitive proposals (see Chapter 7). The proposal must be evaluated. Technical and cost aspects of the proposal may be negotiated. The offeror must be determined to be responsible at the time of award.
- B. Because there is no price competition, cost analysis (see Chapter 10) is required. Costs or price must be determined to be reasonable.
- C. PHAs are required to submit proposed noncompetitive contracts to HUD for pre-award review and approval in accordance with 24 CFR 85.36(g), unless exempted under **24 CFR 85.36(g)(3)** (see Chapter 12 for more discussion.)

8.5 Justification/Documentation

- A. Procurement by noncompetitive proposals shall be conducted only if a written justification is made as to the necessity of using this method in accordance with the procedures described in PHA’s procurement policy (see **Appendix 1** for sample). Approval to award a contract resulting from a noncompetitive proposal does not eliminate or alter any other requirements of **24 CFR 85.36** governing the contract. The justification 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, e.g., 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; and,
 7. Signature of the Contracting Officer and any higher approving official as required by the PHA's policy.
- B. The Contracting Officer shall include the written justification and approval in the contract file.