

## CHAPTER 2 – PROCUREMENT AUTHORITY & ADMINISTRATION OF THE PROCUREMENT FUNCTION



### 2.1 GENERAL

This chapter discusses the authority for procurement activity and delegation of the administration of the procurement function.

### 2.2 THE PROCUREMENT POLICY

PHAs are required to establish and follow a written procurement policy that is consistent with 2 CFR 200.317 through 200.327. A sample procurement policy may be found at Appendix 1. The policy need not contain detailed working-level procedures but should require establishment of such procedures to carry out the policy. Some PHAs prefer to combine the policy and procedures into a single publication for the convenience of staff.

While it is not required that the procurement policy be submitted to HUD for approval, PHAs that wish to be exempt from prior HUD approval of certain individual procurement actions can have their procurement policy reviewed/approved by HUD, as discussed in Chapter 12. PHAs can also self-certify that their procurement system meets all HUD requirements, which would also exempt them from certain HUD review requirements. See Chapter 12. See also 2 CFR 200.325.

### 2.3 DELEGATION OF AUTHORITY

- A. The PHA Board approves the procurement policy and usually delegates and authorizes responsibility for procurement functions to the Executive Director, with authority to redelegate all or

a portion of that responsibility to positions or individuals based on the organization and staffing of the PHA. The Executive Director is responsible for ensuring procurement actions comply with the PHA's adopted procurement policy as well as with applicable federal, state, local, and territorial requirements.

- B. A person with authority for procurement activities is referred to as the Contracting Officer when he/she performs that function, regardless of any other job or position title he/she may have.
- C. PHAs shall establish policies for the delegations of procurement authority (e.g., to the Executive Director). These policies shall be included in the PHA's written procurement policy. Delegations of procurement authority shall clearly state the limits of the authority delegated in terms of dollar value of individual obligations the person may make and any other limits (e.g., types of contracts the individual may award such as Simplified Acquisition Threshold purchases). Delegations shall also state whether the recipient may further re-delegate any of the authority and, if so, how much.

## 2.4 RESPONSIBILITY OF THE CONTRACTING OFFICER

Regardless of the authority delegated, it is the responsibility of the Contracting Officer to:

- A. Use sound judgment in accomplishing the procurement activities of the PHA;
- B. Ensure that bidders and contractors receive fair, impartial, and equitable treatment;
- C. Ensure that contract actions comply with all applicable Federal, State and local laws and rules and with the PHA's approved procurement policy; and
- D. Seek the best value and greatest overall benefit for the PHA in response to the needs desired.

## 2.5 CONTRACTING OFFICER SIGNATURE/OBLIGATION OF FUNDS

Each contract or purchase action (e.g., new contract, modification, interagency agreement, or purchase order) that obligates the PHA to pay a contractor or vendor must be signed or otherwise authorized by an individual to whom the PHA has expressly delegated the authority to make such an obligation.

The signature of the Contracting Officer on PHA contracts is a legal commitment and requires continuing performance by the PHA under the terms and conditions of the contract. Performance includes such duties as monitoring contractor performance and acceptance or rejection of contractors' requests for changes in performance, specifications, or price.

Caution: If an individual is not an authorized Contracting Officer, that individual must not bind the PHA by making an implied contract such as by making a promise or stating an intent to purchase, either orally or in writing. Under the laws of agency and apparent authority, the PHA may be liable for, or bound by, the acts of a PHA employee, if such person (who is not a Contracting Officer) appears to an offeror to have been given authority by the PHA. Therefore, all actions that could be misinterpreted as committing the PHA to

purchase shall be clarified with a statement such as, "this request for price quotation is not an offer to buy and should not be assumed as such."

## **2.6 STAFFING & TRAINING**

PHAs ensure that their procurement employees have training and experience commensurate with the requirements of their duties. PHAs should develop training and experience standards for their procurement positions and periodically review their procurement operations to ensure that procurement personnel meet those standards. PHAs should consider any changes in the procurement environment (e.g., new laws, regulations, market conditions, or buying needs and practices of the PHA) when assessing the qualifications of personnel and the need for additional training.