# Certification of Mixed-Finance Procurement

**U.S. Department of Housing and Urban Development**  
Office of Public Housing Investments

To be completed by Executive Director of Public Housing Authorities

| 1. Public Housing Authority Name | 2. Site Name | 3. Procurement of  
| (a) Program Manager  
(b) Developer | 4. Date of RFP/RFQ Issuance  
| mm / dd / yy | 5. Name of PHA Staff Who Attended Mixed-Finance Procurement Training | 6. Date of Training  
| mm / dd / yy | 7. Grant or Project Number |

Acting on behalf of the above named Housing Authority as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the named mixed-finance procurement:

I further certify by checking the following that:

- [ ] Yes This Public Housing Authority is authorized to certify a mixed-finance procurement, as per the list of staff members attended the HUD Mixed-Finance Procurement Training.
- [ ] N/A This Housing Authority is not troubled or mod troubled and is not otherwise required to submit procurement to HUD for review.

- [ ] Yes That the Housing Authority has followed applicable federal, state, and local laws, as well as its internal procurement procedures, in conducting this procurement.
- [ ] N/A That the Housing Authority understands and has complied with each of the following provisions of 24 C.F.R. part 85.36.

### (b) Procurement standards.

- [ ] Yes (1) Grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- [ ] N/A Grantees will maintain a written code of conduct that governs the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee shall participate in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
  1. The employee, officer or agent,
  2. Any member of his immediate family,
  3. His or her partner,
  4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.
  5. Grantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
  6. Grantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency.

**Protests**

- [ ] Yes (1) All procurement will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:
  1. Placing unreasonable requirements on firms in order for them to qualify to do business,
  2. Requiring unnecessary experience and excessive bonding,
  3. Noncompetitive pricing practices between firms or between affiliated companies.

### (c) Competition.

- [ ] Yes (2) Grantees will conduct procurements in a manner that prohibits the use of statute or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws.

When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate
(c) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

? Yes (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

? N/A (2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited when ever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business entering into contracts with such firms.

? N/A (iv) Establishing delivery schedules, where the requirement permits, which encourage the participation of small and minority businesses.

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontractors are to be let, to take the affirmative steps listed in paragraphs (e)(2)(i) through (vi) of this section.

(f) Contract cost and price.

? Yes (1) Grantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, construction and architectural engineering services contracts. A cost analysis is necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

? N/A (2) Grantees will negotiate profit 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 will 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 its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

? N/A (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(g) Awarding agency review.

? Yes (1) The grantee must make available, upon request of the awarding agency, technical specifications on proposed procurements. The awarding agency believes such review is needed to ensure that the item and/or service specified is the one being procured for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

? N/A (2) Grantees must also request more available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when:

(i) A grantee's procurement procedures or operation fail to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement;

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

? Yes (3) A grantee will exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for it to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee that it is complying with these standards. A grantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements system av ailable for review.
(i) Contract provisions.
A grantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require and have its changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

Yes

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold).

N/A

(2) Termination for cause and for convenience by the grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000).

Yes


N/A

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair).

Yes

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by Grantees when required by Federal grant program legislation).

N/A

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by Grantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers).

Yes

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

N/A

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

Yes

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

N/A

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making an audit, examination, excerpts, and transcriptions.

Yes

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

N/A

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

Yes

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

N/A

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Name of Authorized Official:

Signature: 

X

Date: / / 

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