

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 ? Program Manager ? 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
<p>Acting on behalf on 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:</p> <p>I further certify by checking the following that:</p> <p>? Yes This Public Housing Authority is authorized to certify a mixed-finance procurement, as (a) the above listed staff member attended the HUD Mixed-Finance Procurement training; and (b) this Housing Authority is not troubled or mod troubled and is not otherwise required to submit procurement to HUD for review.</p> <p>? Yes That the Housing Authority has followed all applicable federal, state, and local laws, as well as its internal procurement procedures, in conducting this procurement.</p> <p>? Yes That the Housing Authority understands and follows the provision contained in 24 CFR 941.602(d)(1), which states that a PHA may select a partner using competitive proposal procedures for qualifications-based procurement (subject to negotiation of fair and reasonable compensation, including TDC and other applicable cost limitations).</p> <p>? Yes That the Housing Authority understands and has complied with each of the following provisions of 24 C.F.R. part 85.36:</p> <p>(b) Procurement standards.</p> <p>? 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.</p> <p>? Yes (2) Grantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.</p> <p>? Yes (3) Grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee shall participate in selection, or 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:</p> <p>(i) The employee, officer or agent,</p> <p>(ii) Any member of his immediate family,</p> <p>(iii) His or her partner, or</p> <p>(iv) 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.</p> <p>? Yes (8) Grantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.</p> <p>? Yes (9) 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.</p> <p>? Yes (11) Grantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.</p> <p>? Yes (12) 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</p> <p>the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:</p> <p>(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and</p> <p>(ii) Violations of the grantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee.</p> <p>(c) Competition.</p> <p>? 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:</p> <p>(i) Placing unreasonable requirements on firms in order for them to qualify to do business,</p> <p>(ii) Requiring unnecessary experience and excessive bonding,</p> <p>(iii) Noncompetitive pricing practices between firms or between affiliated companies,</p> <p>(iv) Noncompetitive awards to consultants that are on retainer contracts,</p> <p>(v) Organizational conflicts of interest,</p> <p>(vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and</p> <p>(vii) Any arbitrary action in the procurement process.</p> <p>? Yes (2) Grantees will conduct procurements in a manner that prohibits the use of statutorily 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</p>			

<p>number of qualified firms, given the nature and size of the project, to compete for the contract</p> <p>? Yes (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:</p> <p>? N/A (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</p> <p>? Yes (4) Grantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, Grantees will not preclude potential bidders from qualifying during the solicitation period.</p> <p>(d) Methods of procurement to be followed.</p> <p>? Yes (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:</p> <p>? N/A (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;</p> <p>(ii) Proposals will be solicited from an adequate number of qualified sources;</p> <p>(iii) Grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;</p> <p>(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and</p> <p>(v) Grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Per 24 CFR parts 941 and 85, this method, where price is not used as a selection factor, may only be used for the procurement of A/E or development services.</p>	<p>(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.</p> <p>? 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.</p> <p>? N/A (2) Affirmative steps shall include:</p> <p>? Yes (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;</p> <p>? N/A (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 enterprises;</p> <p>(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;</p> <p>(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and</p> <p>(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.</p> <p>(f) Contract cost and price.</p> <p>? 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, consulting, and architectural engineering services con-tracts. A cost analysis will be 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.</p> <p>? Yes (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.</p> <p>? Yes (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.</p> <p>? N/A</p>	<p>? Yes (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.</p> <p>? N/A</p> <p>(g) Awarding agency review.</p> <p>? Yes (1) Grantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed 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.</p> <p>? Yes (2) Grantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:</p> <p>? N/A (i) A grantee's procurement procedures or operation fails 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; or (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.</p> <p>? Yes (3) A grantee will be 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.</p> <p>? N/A (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 its system 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.</p> <p>(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 available for review.</p>
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(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 (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

? 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.

? Yes (10) Access by the grantee, the sub-grantee, 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.

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

? Yes (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).

? N/A (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).

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:

Title:

Signature:

X

Date:

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