

Secretary's Representatives;  
Public Housing Directors;  
Area Office Managers; Housing  
Area Offices Native American  
Programs; Public Housing Agencies;  
Indian Housing Authorities; Resident  
Management Corporations; Resident  
Councils; Resident Organizations;  
National/Regional/Statewide  
Resident Organizations

Notice PIH 96-67(HA)  
Issued: 8/19/96  
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Subject: Contracting and Monitoring in the Public Housing Tenant  
Opportunities Programs (TOP)

**I. PURPOSE:** This Notice transmits instructions for procuring the services of a Public Housing Management Specialist (consultant/trainer) and the monitoring efforts required for the provision of training and technical assistance for the TOP.

The Department has determined that greater action is required by Resident Councils (RCs)/Resident Management Corporations (RMCs)/Resident Organizations (ROs) and National Resident Organizations (NROs)/Regional Resident Organizations (RROs)/Statewide Resident Organizations (SROs)( hereafter referred to as grantees), and HUD Field Offices to ensure that proper competitive procurement procedures are being implemented and that proactive measures are used to monitor these consultant services.

These instructions supplement the Procurement Standards contained in 24 CFR Part 84 (revised OMB Circular A-110), OMB Circular A-122, and the Technical Assistance Grant (TAG). A copy of the 24 CFR Part 84 is attached.

**II. BACKGROUND:** Section 20 of the U.S. Housing Act of 1937 authorizes resident management of public housing projects. Section 20 states that financial assistance to RCs/RMCs must be used for technical assistance for the "...development of resident management entities..." for leadership roles in the operation of public housing and related programs.

The public housing resident management law and Tenant Participation and Tenant Opportunities in Public Housing regulations (24 CFR 964) require all grantees -- whether a RC or RMC-- to select a Public Housing Management Specialist (hereafter referred to as consultant/trainer). The only exception is the RMC that already has a management contract with the Public Housing Authority.

The major responsibility of a consultant/trainer is to provide training and technical assistance in business development, job training and development, social services, resident management, and opportunities for other self help initiatives.

### III. APPLICABILITY.

This Notice applies to:

- A. RCs, RMCs, and ROs with FY 1989 through FY 1996 and all future years with RM/TOP TAG, and future grantees unless otherwise indicated.
- B. HUD Field Offices of Public Housing (OPH) and HUD Area Offices of Native American Programs (AONAPs).
- C. Public Housing Agencies and Indian Housing Authorities (hereinafter referred to as HAs), including HAs funded on behalf of RCs/RMCs in FY 1988.
- D. NROs, RROs, and SROs with FY 94, FY 95 and all future years with RM/TOP TAG, and future grantees unless otherwise indicated.
- E. RCs, RMCs, and ROs with RM/TOP TAG that have collaborated to organize a Technical Assistance Organization (TAO).

**IV. PURPOSE OF PROCUREMENT STANDARDS.** Procurement Standards are furnished for establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds, to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

#### A. Procurement Procedures.

All grantees shall establish written procurement procedures. Grantees may use the HAs procedures as a guide. The procedures established shall include provisions for, at a minimum, the following:

1. Avoiding the purchase of unnecessary items.
2. Preparing an analysis of lease and purchase alternatives to determine which would be the most economical and practical procurement, when appropriate.
3. Solicitation for goods and services should provide to the maximum extent possible the following:
  - a. A clear and accurate description of the technical requirement for the material, product or service to be procured. In a competitive procurement, such a description shall not contain features which unduly restrict competition.
  - b. Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
  - c. A description of all technical requirements such as functions to be performed or performance required,

including the range of acceptable characteristics or minimum acceptable standards.

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- d. The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
- e. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- f. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

**V. COMPETITIVE PROCESS.** All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The grantee shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage adhere to the following:

A. Competition

- 1. Contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for the procurement.
- 2. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to grantee, price, quality and other factors considered.
- 3. Include factors that the bidder or offeror must address regarding compliance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). Section 3 provides that, to the greatest extent feasible and consistent with existing Federal, State, and local laws, and regulations, economic opportunities generated by certain HUD financial assistance shall be directed to low-and very low-income

persons.

4. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the grantee.
5. Any and all bids or offers may be rejected when it is in the grantee's interest to do so.
6. Grantees shall provide pre-award documents such as request for proposals, or invitations for bid, cost estimates etc. to the HUD Field Office (FO) for review and approval. Any proposed contract modifications in the scope of a contract or increase in price requires approval by the FO.

B. Competitive Proposals

All grantees should follow the steps listed below when preparing competitive proposals:

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1. Prepare a Request for Proposals (RFPs) describing exactly what is to be procured.
2. Advise your Community Relations and Involvement Specialist (CRI) of your plans to do a competitive procurement. Consult with the CRI in preparation of the RFP, selection factors and estimated cost.
3. Collaborate with the local HA in the development of the statement of work.
4. Develop a list of possible offers based on known businesses and individuals, and referrals.
5. Advertise in a newspaper with sufficient circulation.
6. Develop procedures for evaluating proposals, based on the selection criteria in the RFP. You need at least three grantee representatives to review and score the proposals with numerical points assigned for each evaluation factor.
7. Maintain records of how the selection was made. A copy should be forwarded to your respective FO for approval before contract award.
8. Prior to signing a contract with the selected offeror, the CRI should review the contract.

**VI. COST AND PRICE ANALYSIS.** Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability. Price analysis may be accomplished by comparing price quotations submitted, market prices and similar indications, together with discounts.

**VII. PROCUREMENT RECORDS.** Procurement records and files for purchases shall

include the following (a) basis for contractor selection; (b) justification for lack of competition when competitive bids or offers are not obtained; and (c) basis for award cost or price.

All procurement records shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually.

**VIII. CONTRACT ADMINISTRATION.** A system of contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases and services. Grantees shall evaluate contractor performance and document, as appropriate, to ensure compliance with the contract.

**IX. CONTRACT PROVISIONS.** The grantee's shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts:

1. Contracts shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

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2. All contracts shall contain suitable provisions for termination by the grantee including the manner by which termination shall be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. All negotiated contracts awarded by grantees shall include a provision to the effect that the grantee, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
4. All contracts, including small purchases, awarded by grantees and their contractors shall contain the procurement provisions of Appendix A to 24 CFR 84 (attached), as applicable.

**X. PROGRESS REPORTS.** The consultant/trainer must submit proper reports to the grantees. The progress reporting requirement is the grantee's primary tool for monitoring the consultant/trainer's progress in carrying out the tasks during the length of the contract. Events or circumstances that have significant impact on the consultant/trainer's performance should be reported as soon as possible to the grantee and FO rather than in the next scheduled report. The submission of these reports will enable the grantee to measure and evaluate the consultant/trainer's progress. The report should include, at a minimum, a narrative on training provided, results, recommendations, participant attendance as well as a financial report. The reports serve as an additional tool for the grantee to keep data and supporting documentation of the progress in implementing the TOP Work Plan training programs and capacity

building activities. The report should be submitted to the grantee quarterly within 20 days after the end of each 3 month period. A copy should be forwarded to the CRI by the grantee.

**XI. NON-COMPLIANCE.** When the contractor/trainer's performance is not to the satisfaction of the grantee, such as inadequate and inappropriate training curriculum, inadequate delivery, time and attention to the delivery of and quality of training materials, etc., the following steps should be taken:

- A. Inform the consultant/trainer--verbally and in writing--of the problem(s) and request a solution to resolve the problem(s). Establish a deadline for response and follow-up action must be taken by the grantee if the consultant/trainer fails to correct the problem(s).
- B. If the consultant/trainer does not agree that a problem exists, the grantee should meet with the consultant/trainer to determine the appropriate course of action to resolve the matter.
- C. If the problem continues, the grantee should withhold payments or terminate the contract for cause. The grantee should notify the HUD FO immediately.
- D. The grantee should seek support and advice from the HA on the issue. The HA is encouraged to attend the meeting with the grantee and consultant/trainer to assist in resolving the issue.

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- E. Additionally, the CRI is available to the grantee to provide technical assistance towards resolving problems(s) that may arise with regard to the consultant/trainer's performance

**XII. TERMINATION OF AWARDS.** Provisions should be outlined in the contract for terminating the services of a consultant/trainer's, if he/she fails to perform according to the Contract.

**XIII. GRANTEE AND COMMUNITY RELATIONS AND INVOLVEMENT SPECIALIST (CRI)  
RESPONSIBILITIES**

- A. The Grantee is responsible for:
  - 1. Managing the day-to-day operations of the activities authorized in the TOP/TAG Work Plan, and the consultant/trainer contract;
  - 2. Overseeing the performance of the consultant/trainer, and providing quarterly written evaluations to contractor and CRI;
  - 3. Submitting a copy of the contractors quarterly progress reports of activities and expenditures by task to the CRI within 20 days after the end of each 3-month period;
  - 4. Complying with all administrative requirements of the TOP/TAG Work Plan/Budget, 24 CFR Part 84.

B. The Community Relations and Involvement Specialist (CRI) is responsible for:

1. Monitoring the grantees' performance, including progress against the TAG Work Plan, Performance Standards, performance schedule, and budget;
2. Providing technical assistance and training to the grantee to resolve performance problems;
3. Reviewing and approving the grantees' TOP/TAG Work Plan/Budget, Performance Standards, and authorizing the Line of Credit Control System/Voice Response System payments;
4. Reviewing and negotiating the TOP/TAG Work Plan, Performance Standards, and negotiating amendments to the TAG as necessary;
5. Reviewing and approving grantee's consultant contracts; determining price reasonableness, allowable costs, etc;
6. Monitoring grantees' compliance with all assistance, terms and conditions of the TOP/TAG Work Plan and Performance Standards, 24 CFR Part 84, OMB Circular A-122, and other program requirements;
7. Assuring that grantees submit required organizational financial management certifications and audits;

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8. Assuring that grantees submit semi-annual progress reports, final reports, and audit reports;
9. Suspending and terminating awards, when appropriate.

\_\_\_\_\_/s/Kevin Emanuel Marchman  
Acting Assistant Secretary for  
Public and Indian Housing

Attachment (24 CFR Part 84, dated 9/13/94 not attached.)