

SUBMITTAL TO THE RIVERSIDE COMMUNITY
HOUSING CORP. BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 14.1
(ID # 14174)

MEETING DATE:
Tuesday, January 26, 2021

FROM : RIVERSIDE COMMUNITY HOUSING CORP.:

SUBJECT: Riverside Community Housing Corporation (RCHC): Receive and File the 2019-2020 Annual Report for Riverside Community Housing Corp, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Directors:

1. Receive and file the Fiscal Year 2019-2020 Annual Report for Riverside Community Housing Corp.


ACTION:Consent


Heidi Marshall, Director, Housing, Homelessness Prevention 12/31/2020

MINUTES OF THE BOARD OF DIRECTORS

On motion of Supervisor Hewitt, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez, and Hewitt
Nays: None
Absent: None
Date: January 26, 2021
xc: RCHC

Kecia R. Harper
Clerk of the Board
By 
Deputy

**SUBMITTAL TO THE RIVERSIDE COMMUNITY
HOUSING CORP. BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 20/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Pursuant to the Bylaws of the Riverside Community Housing Corp. (RCHC), which were adopted by the RCHC Board of Directors (Board) on September 9, 2014, an Annual Report is to be filed after the end of the corporation's fiscal year. The purpose of such report is to summarize the corporation's activities during the previous fiscal year.

In satisfaction of this requirement of the Bylaws, a copy of RCHC's Fiscal Year 2019-2020 Annual Report, including all exhibits (Annual Report) is attached hereto for the Board's consideration and approval. The Annual Report includes a financial summary of the corporation's activities for Fiscal Year 2019-2020; a review of RCHC's Risk Management Plan; and a review of RCHC's Procurement Policy.

Staff recommends that the Board receive and file RCHC's Fiscal Year 2019-2020 Annual Report attached hereto.

Impact on Residents and Businesses

Provides an update on RCHC's activities and community impact.

Additional Fiscal Information

No impact upon the County's General Fund, all the activity listed in the annual report is funded with grant funds and rent proceeds from properties owned by RCHC.

ATTACHMENTS:

- RCHC Fiscal Year 2019-2020 Annual Report



Marcus Maltese

1/19/2021



Gregory L. Priamos, Director County Counsel

1/11/2021



Annual Report **Fiscal Year 2019-20**

Pursuant to the Bylaws of the Riverside Community Housing Corp. (RCHC), which were adopted by the RCHC Board of Directors (Board) on September 9, 2014, the Board shall cause an Annual Report to be sent to each Director within 120 days after the end of the corporation's fiscal year. The purpose of such report is to summarize the corporation's activities during the previous fiscal year.

Included in this Annual Report is an impact summary of the corporation's operations for fiscal year 2019-20; a financial summary of the corporation's activities for fiscal year 2019-20; an Annual Statement of Transaction or indemnification, if applicable; an annual review of RCHC's Risk Management Plan; and a review of RCHC's Procurement Policy.

Impact Summary

Through its programs and services, RCHC executes its charitable purpose of creating and preserving affordable housing opportunities for low- and moderate-income individuals and households in Riverside County. Following is a summary of the impact of RCHC's programs and services during fiscal year 2019-20:

- On October 2, 2019 RCHC acquired the Perris Park Apartment, located in the City of Perris, at 1450 S. Perris, Blvd., Perris, CA 92570. The Perris Park Apartments is an 80-unit affordable tax credit development in need of major rehabilitation. RCHC successfully placed 70 Section 8 project-based vouchers on the project which has allowed it to generate additional revenue and as result a number of improvements have been made to the units and common areas. The long-term plan is to resyndicate the project and apply for tax credits in 2021 to completely rehabilitate the project.
- RCHC has initiated capital improvement to three NSP properties located in the City of Desert Hot Springs at 68170, 68160 and 68150 Calle Las Tiendas. Roofs on all three complexes are being replaced and work should be completed by 2021.
- Forty (40) households were assisted as part of the new CDBG Project HOME Program. Thirty-one (31) of the Forty (40) households exited homelessness and relocated into permanent housing. This program addresses the housing needs of persons at-risk of or experiencing homelessness in the County and who need short-term supports to successfully relocate into permanent housing. The program provides participants with ongoing case management and financial assistance towards emergency housing, rental application fees, security and utility deposits, along with rental and utility assistance for up to three months.
- Eleven (11) households were assisted into permanent housing as part of the ESG Housing First Program. This program provides rapid rehousing to literally homeless households throughout Riverside County who are referred through the County of Riverside's Coordinated Entry System. Services include financial assistance towards





rental application and credit check fees, move-in costs, security and utility deposits, and rental and utility assistance. Participants are also linked to a case manager who works with them to develop an Individual Service Plan and meets with them regularly to reach self-sufficiency goals.

Financial Summary

Attached hereto as **Exhibit A** is the Independent Auditor's Report for Fiscal Year Ended June 30, 2020, which includes the following information:

1. The assets and liabilities at of the end of fiscal year 2019-20;
2. Principal changes in assets and liabilities during fiscal year 2019-20;
3. Revenue or receipts during fiscal year 2019-20;
4. Expenses or disbursements during fiscal year 2019-20; and
5. A report made by independent accountants related to the above referenced financial statement.

Annual Statement of Transaction or Indemnification

Pursuant to California Corporations Code §§6321 and 6322, unless otherwise indicated in the Bylaws, an Annual Statement of Transaction or Indemnification shall be furnished to the RCHC Board of Directors disclosing any covered transaction during the previous fiscal year involving more than fifty thousand dollars (\$50,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than fifty thousand dollars (\$50,000).

RCHC staff and Officers are not aware of any covered transactions during fiscal year 2019-20. Therefore, no Statement of Transaction or Indemnification is required for fiscal year 2019-20.

Risk Management

As part of RCHC's Risk Management Plan, the corporation's insurance policies are assessed annually to ensure that they still meet the needs of the corporation. RCHC's insurance policy was procured through the Riverside County Office of Risk Management. Specifically, the insurer is the California State Association of Counties. The insurance declaration page for coverage period July 1, 2020 to July 1, 2021 is attached hereto as **Exhibit B**.

The office of Risk Management has reviewed the policy and advised that it is satisfactory to meet the needs of the corporation and satisfies the requirements of California Corporation's Code §§5047.5, 5238 and 5239. No changes to RCHC's insurance coverage are recommended at this time.

Procurement Policy





Each odd numbered report presentation year, the Annual Report includes a review of RCHC's Procurement Policy to ensure it continues to meet the needs of the corporation and reflects current requirements. The Policy is attached hereto as **Exhibit C**.

RCHC staff and Officers have reviewed RCHC's Procurement Policy. No changes are recommended at this time



Exhibit A
To Fiscal Year 2019-2020 Annual Report
AUDIT REPORT FOR FISCAL YEAR 2019-2020
(Behind this page)

Riverside Community Housing Corp.

(A California Not-for-Profit)

**Financial Statements and
Independent Auditors' Report**

June 30, 2020



SM&Co

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Riverside Community Housing Corp.

List of Principal Officials
Year Ended June 30, 2020

Commissioner	Supervisory District	Position	Term Ending
Kevin Jeffries	First District	Supervisor	2024
Karen Spiegel	Second District	Vice Chairman	2022
Chuck Washington	Third District	Supervisor	2024
V. Manuel Perez	Fourth District	Chairman	2022
Jeff Hewitt	Fifth District	Supervisor	2022

In addition to the above Directors, the Administrator of the Corporation is Carrie Harmon, who served as the Chief Operating Officer.



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Independent Auditors' Report

The Governing Body
Riverside Community Housing Corp.

Report on the Financial Statements

We have audited the accompanying financial statements of business-type activities of the Riverside Community Housing Corp. (the Corporation) a wholly owned subsidiary of the Housing Authority of the County of Riverside (the Authority) as of and for the year ended June 30, 2020, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Corporation, as of June 30, 2020, and the respective change in financial position and cash flows thereof for the year then ended in accordance with the accounting principles generally accepted in the United States of America.

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Other Matters

Required Supplementary Information

Management has omitted the management, discussion, and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Corporation's financial statements. The supplementary information, as described in the table of contents, including the Schedule of Expenditures of Federal Awards, as required by the *Title 2 U.S. Code of Federal Regulations (CFR) Part 200*, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards, are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplementary information is the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain other procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information are fairly stated in all material respects in relation to the financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated August 21, 2020, on our consideration of the Corporation's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Corporation's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Corporation's internal control over financial reporting and compliance.

Smith Marion : 

August 21, 2020
Redlands, CA

Riverside Community Housing Corp.

Statement of Net Position
June 30, 2020

Assets and Deferred Outflows of Resources

Current assets:

Cash and equivalents - operating	\$ 1,632,165
Restricted cash and equivalents	350,484
Receivables, net of allowances	526,944
Related-party due from	352,536
Prepaid expenses and other current assets	21,769
Total current assets	<u>2,883,898</u>

Non-current assets:

Long-term receivables	119,335
Capital assets, net of accumulated depreciation	<u>8,276,615</u>
Total non-current assets	<u>8,395,950</u>

Total assets	<u>11,279,848</u>
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Total deferred outflows of resources	<u>461,193</u>
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Total Assets and Deferred Outflows of Resources	<u>\$ 11,741,041</u>
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Riverside Community Housing Corp.

Statement of Net Position
June 30, 2020

Liabilities, Deferred Inflows of Resources, and Net Position

Current liabilities:

Accounts payable	\$	66,305
Unearned revenues		103,794
Deposits held in trust, contra		350,484
Other current liabilities		75,920
Related-party due to		401,517
Accrued wages and benefits payable		109,237
Total current liabilities		<u>1,107,257</u>

Non-current liabilities:

Long-term benefits payable, net of current		2,853,194
Long-term debt, net of current		<u>3,704,000</u>
Total non-current liabilities		<u>6,557,194</u>
Total liabilities		<u>7,664,451</u>

Total deferred inflows of resources 57,360

Net position:

Net investment in capital assets		4,572,617
Restricted		-
Unrestricted		<u>(553,387)</u>
Total net position		<u>4,019,230</u>

Total Liabilities, Deferred Inflows of Resources, and Net Position \$ 11,741,041

Riverside Community Housing Corp.

Statement of Revenues, Expenses, and Changes in Net Position
Year Ended June 30, 2020

Operating revenues:	
Tenant rental revenue, net of collection losses	\$ 5,278,510
Operating grants and subsidies	346,218
Other revenue	279,811
Total operating revenues	<u>5,904,539</u>
Operating expenses:	
Administrative	1,970,568
Utilities	608,500
Ordinary maintenance and operations	1,260,515
Insurance premiums	349,535
Other general expenses	155,012
Housing assistance payments	306,059
Depreciation	658,417
Related-party fee expense	350,756
Total operating expenses	<u>5,659,362</u>
Operating income (loss)	245,177
Non-operating revenues (expenses):	
Interest income	556
Interest expense	(4,142)
Total non-operating revenues (expenses)	<u>(3,586)</u>
Change in net position before capital contributions	241,591
Capital contributions	<u>-</u>
Change in net position	241,591
Net position, beginning of year (previously stated)	3,757,776
Prior-period adjustments	19,863
Net position, beginning of year (restated)	<u>3,777,639</u>
Net Position, End of Year	<u>\$ 4,019,230</u>

See accompanying notes.

Riverside Community Housing Corp.

Statement of Cash Flows
Year Ended June 30, 2020

Cash flows from operating activities:	
Cash receipts from tenants	\$ 5,120,617
Cash receipts from grants	346,218
Cash payments for Housing Assistance payments	(306,059)
Cash payments to suppliers for goods and services	(2,756,681)
Cash payments for wages and benefits	(1,334,950)
Other cash payments and receipts	<u>(79,415)</u>
Net cash provided (used) by operating activities	<u>989,730</u>
Cash flows from capital and related financing activities:	
Payments of interest	<u>(4,142)</u>
Net cash provided (used) by capital and related financing activities	<u>(4,142)</u>
Cash flows from investing activities:	
Receipts of interest	<u>556</u>
Net cash provided (used) by investing activities	<u>556</u>
Net change in cash and equivalents	986,144
Cash at beginning of period	<u>996,505</u>
Cash at End of Period	<u>\$ 1,982,649</u>
Cash and equivalents - operating	\$ 1,632,165
Restricted cash and equivalents	<u>350,484</u>
Total Cash and Equivalents	<u>\$ 1,982,649</u>

See accompanying notes.

Riverside Community Housing Corp.

Statement of Cash Flows
Year Ended June 30, 2020

Reconciliation of operating loss to net cash provided (used) by operating activities:

Operating income (loss)	\$	245,177
Adjustments to reconcile operating loss to net cash used by operating activities:		
Depreciation		658,417
Pension		281,077
Changes in operating assets and liabilities		
Accounts receivable, net		(264,613)
Prepaid expenses and other assets		(16,692)
Intercompany		(21,018)
Accounts payable		(14,383)
Accrued wages and benefits		6,823
Deposits held in trust, contra		6,848
Unearned revenues		99,872
Other liabilities		8,222
Net Cash Provided (Used) by Operating Activities	\$	989,730

Note 1 - Summary of Significant Accounting Policies

Nature of Business and Organization

The financial statements of Riverside Community Housing Corp. (RCHC, Corporation, we, us, our) have been prepared in accordance with generally accepted accounting principles (GAAP). The Governmental Accounting Standards Board (GASB) is the standard-setting body for establishing GAAP for state and local governments through its pronouncements (Statements and Interpretations). The Corporation has previously implemented GASB Statement 34, *Basic Financial Statements – and Management's Discussion and Analysis- for State and Local Governments*. Certain significant changes in the statements are as follows: The financial statements will include a Management's Discussion and Analysis (MD&A) section providing an analysis of the Corporation's overall financial position and results of operations.

The Corporation is a non-profit corporation and is a wholly owned subsidiary of the Housing Authority of the County of Riverside (Authority) which is a special-purpose government engaged only in business-type activities and, therefore, the Corporation presents the financial statements required for proprietary (enterprise funds), in accordance with GASB Statement 34, paragraph 138 and GASB 63. For these governments, basic financial statements and required supplementary information consist of:

Enterprise fund financial statements consisting of:

- Statement of Net Position
- Statement of Revenues, Expenses & Changes in Net Position
- Statement of Cash Flows
- Notes to Financial Statements

Reporting Entity

The Corporation operates as a California non-profit public benefit corporation whose purpose is to engage in financing, acquiring, developing, rehabilitating, owning, managing, and selling affordable housing for extremely low, low and moderate-income persons within the County of Riverside. Further Corporation augments low and moderate-income resident services and housing programs sponsored by the Housing Authority of the County of Riverside and/or the County of Riverside Economic Development Agency.

Basic Financial Statements

All activities of the Corporation are reported in proprietary fund types. The focus of proprietary fund measurement is upon determination of operating income, changes in net position, financial position and cash flows. The generally accepted accounting principles applicable are those similar to businesses in the private sector. Enterprise funds are required to be used to account for operations for which a fee is charged to external users for goods or services and the activity (a) is financed with debt that is secured by the Authority's capital assets and by a pledge of the net revenues, (b) has third party requirements that the cost of providing services, including capital costs, be recovered with fees and charges or (c) establishes fees and charges based on a pricing policy designed to recover similar costs.

In the Statement of Net Position, equity is classified as net position and displayed in three components:

- Net investment in capital assets – Consists of capital assets, net of accumulated depreciation and reduced by the outstanding balance of any notes or other borrowings attributable to those capital assets.
- Restricted net position – Consists of assets with constraints placed on the use either by external groups, such as grantors or laws and regulations of other governments, or law through constitutional provisions or enabling legislation.
- Unrestricted net position – All other assets that do not meet the definition of “restricted” or “net investment in capital assets”.

When both restricted and unrestricted net positions are available for use, generally it is the Corporation’s policy to use restricted resources first.

Accrual Basis of Accounting

Basis of accounting refers to the point at which revenues or expenses are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made regardless of the measurement focus applied.

Proprietary fund financial statements are presented on the accrual basis of accounting. Revenues are recognized when earned and expenses are recognized when incurred.

Budgetary Data

Enterprise fund service delivery levels are determined by the extent of consumer demand. Because enterprise fund revenues and expenses fluctuate with changing service delivery levels, generally accepted accounting principles do not require the financial statements to include budgetary comparisons and, accordingly, these comparisons have not been included.

Budgets are prepared for regulatory purposes in accordance with the Corporation’s contract with HUD. The Corporation prepares annual budgets for each program. Prior to the beginning of each budget year, the Authority's annual budget is approved by its governing body. Budgetary amendments require approval by the governing body. All budgetary appropriations lapse at the end of each year. Budgets for Capital Fund Programs are approved in the Authority's 5-year and annual plans.

Revenues

All revenues are accrued. These revenues consist of user charges for rents, utilities, repairs and other miscellaneous charges. Monies received from customers for security deposits are recorded as a liability upon receipt. Subsidies and grants, which finance current operations, are reported as operating revenues. Subsidies and grants, which finance capital operations, gain/loss on sale of fixed assets, and interest income/expense, are reported as non-operating revenues. Revenues for government-mandated and voluntary exchange transactions, are recorded when all applicable eligibility requirements, including time requirements, are met. Resources received before all eligibility requirements are met are reported as deferred inflows of resources or unearned revenues.

Expenditures

Expenditures are recognized when the liability is incurred. Inventory costs are reported in the period when inventory items are purchased due to triviality of inventory balances.

Cash and Equivalents

The Corporation defines cash to include certificates of deposit, money market funds, savings accounts, demand deposits, and other short-term securities for the Statement of Cash Flows.

Restricted Cash

The Corporation considers restricted cash as cash and investments that are held for reserves, as well as other cash and investments that are restricted for specific purposes.

Accounts Receivable from Tenants

Tenant accounts receivable consists of all amounts charged for rent and related items at year end and not yet received. Allowances for uncollectible accounts are based upon historical trends and periodic aging of accounts receivable. As of June 30, 2020 we had an allowance of \$243,611.

Accounts for which no possibility of collection is anticipated are charged to bad debts expense which is netted against tenant revenues on the Statement of Revenues, Expenses, and Changes in Net Position. The amount of bad debt related to tenant receivables written off for the year ended June 30, 2020 was \$60,101.

Accounts Receivable from HUD and Other Governments

The amounts reported as accounts receivable from HUD or due from other governments represent reimbursable costs or grant subsidies earned that have not been received as of year-end; these amounts are considered fully collectible.

Capital Assets

Capital assets purchased or acquired with an original cost of \$5,000 or more are reported at historical cost or estimated historical cost. Contributed assets are reported at fair market value as of the date received. Additions, improvements, and other capital outlays that significantly extend the useful life of an asset are capitalized. Other costs incurred for repairs and maintenance are expensed as incurred.

Depreciation of exhaustible capital assets is charged as an expense against operations utilizing the straight-line method. Accumulated depreciation is reported on the Statement of Fund Net Position. The estimated useful lives for each major class of depreciable fixed range from 5 – 25 years.

Compensated Absences

Compensated absences are absences for which employees will be paid, i.e., vacation and other approved leaves, with the exception of those employees that are terminated on grounds of gross misconduct. The Corporation accrues the liability for those absences for which the employee has earned the rights to the benefits. Accrued amounts are based on the current salary rates. Permanent Corporation employees earn from 10 to 20 vacation days a year, depending upon their length of employment, and 13 sick days a year. Employees can carry forward up to the equivalent number of vacation days earned in the immediately preceding thirty-six-month period and an unlimited number of unused sick leave days.

Upon termination or retirement, permanent employees are entitled to receive compensation at their current base salary for all unused vacation leave. If an employee retires, the employee is entitled to a portion of accumulated sick leave hours. In no event, however, shall the total payment exceed a sum equal to 960 hours. It is the policy of the Corporation to reflect the employee vacation leave benefits liability in the financial statements.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Tenant Security Deposits

Security deposits consist of amounts held in trust with the Corporation in order for tenants to secure apartment leases.

Unearned Revenue

Unearned revenues, if any, consist of rental payments made by tenants in advance of their due date, and rental supplements to be paid to owners of private dwellings during the first month of the next fiscal year as well as grant advances that are only subject to performance milestones in order to recognize revenues.

Deferred Inflows/Outflows of Resources

The Corporation is allocated a percentage of the pension and related items of the Authority's pension obligations. For a more detailed discussion on the pension as well as the related deferred outflow/inflows of resources see the Authority's financial statements for the year ended June 30, 2020.

In accordance with GASB 63, in addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, *Deferred Outflows of Resources*, represents a consumption of net position that applies to a future period and so will not be recognized as an expense or expenditure until then. The Corporation had deferred outflows of resources consisting of pension activity. The balance as of June 30, 2020 was \$461,193.

Also, in addition to liabilities, the statement of net position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *Deferred Inflows of Resources*, represents an acquisition of net position that applies to a future period and so will not be recognized as revenue until then. The Corporation deferred inflows of resources consist of pension activity. The balance as of June 30, 2020 was \$57,360.

Pension Plan

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the County Employees Pension Plans (CEPP) and additions to/deductions from CEPP's fiduciary net position have been determined on the same basis as they are reported by the California Public Employee's Retirement System (CalPERS) Financial Office. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Income Taxes

The Corporation is exempt from federal income tax under Internal Revenue Code Section 501 (c)(3) and by California Revenue and Taxation Code Section 23701d. Contributions from donors qualify for income tax deductions.

The Corporation has evaluated tax positions and the certainty as to whether those positions will be sustained in the event of an audit by taxing authorities at the federal and state levels. The primary tax positions evaluated are related to the Corporation's continued qualification as a tax-exempt organization and whether there are unrelated business income activities conducted that would be taxable. Management has determined that all income tax positions are more likely than not (>50%) of being sustained upon potential audit and/or examination; therefore, no disclosures of uncertain income tax positions are required.

The Corporation files informational returns in the U.S. federal jurisdiction, as well as the State of California. The statute of limitations for federal and state purposes are generally three and four years, respectively.

Leasing Activities

The Corporation is the lessor of dwelling units to eligible residents. The rents under the leases are determined generally by the residents' income as adjusted for eligible deductions regulated by HUD, although the residents may opt for a flat rent. Leases may be cancelled at any time or renewed annually. The Corporation may cancel the leases only for a cause. Revenues associated with these leases are recorded in the accompanying financial statements and related schedules within dwelling rent revenue.

Subsequent Events

We evaluated subsequent events through August 21, 2020, the date these financial statements were issued.

On March 3rd, 2020, in response to the Coronavirus Disease 2019 (COVID-19) outbreak in the United States, the Federal government issued guidelines to help slow the spread of COVID-19. In response local and state governments instituted a variety of social distancing measures that impacted the usual course of business. An estimate of the financial effect of this event cannot yet be determined.

New Accounting Pronouncements

During the fiscal year ended June 30, 2020, we implemented the following new accounting standards:

- Statement No. 88, "Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements". GASB Statement No. 88 has the primary objective to improve footnote disclosures related to debt by requiring additional essential information be included therein.
- Statement No. 84, "Fiduciary Activities". GASB Statement No. 84 establishes criteria for identifying fiduciary activities of all state and local governments for accounting and financial reporting purposes and how those activities should be reported.

The adoption of the above GASB Statements did not have a significant effect on the financial statements of the Corporation for the year ended June 30, 2020.

Note 2 - Cash and Equivalents

Acknowledging that deposits and investments of state and local governments are subject to various risks, the Governmental Accounting Standards Board Statement 40 (GASB 40) requires note disclosures about investment policies and five deposit and investment risks identified as custodial credit risk, credit risk, concentration of credit risk, interest rate risk and foreign currency risk.

Authorized Types of Deposits and Investments

All types of deposits with financial institutions and all types of investments made by the Corporation were authorized by its own Investment Policy, by HUD and by the CGC.

Custodial Credit Risk

For deposits, custodial credit risk is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover its deposits or will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party.

The Investment Policy of the Corporation, HUD and the California Government Code do not address legal or policy requirements that would limit the exposure to custodial credit risk for deposits or investments, other than the following provision for deposits: The California Government Code requires that a financial institution secure deposits made by state or local government units by pledging securities in an undivided collateral pool held by a depository regulated under state law. The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agencies. California law also allows financial institutions to secure such deposits by pledging first trust deed mortgage notes having a value of 150% of the secured public deposits.

Investment Policy

On November 5, 2015, the Board of Directors of the Corporation ratified, approved, and adopted the Investment Policy, effective July 1, 2015. This Investment Policy identifies the specific types of deposits and investments which are authorized by that Investment Policy, by the Department of Housing and Urban Development (HUD) and by the California Government Code (CGC). As a blended component unit of the Housing Authority the Corporation follows the same investment policy.

Restricted Cash

Restricted cash was comprised of the following:

Tenant security deposits	\$ 350,484
Total Restricted Cash and Equivalents	\$ 350,484

Note 3 - Capital Assets

A summary of activity for capital assets for the year ended June 30, 2020 is as follows:

	6/30/19	Additions	Deletions	6/30/20
Non-Depreciable				
Land	\$ 3,197,517	\$ -	\$ -	\$ 3,197,517
	<u>3,197,517</u>	<u>-</u>	<u>-</u>	<u>3,197,517</u>
Depreciable				
Buildings	36,987,641	-	-	36,987,641
Furniture & equipment - dwellings	212,529	-	-	212,529
Furniture & equipment - administration	175,386	-	-	175,386
	<u>37,375,556</u>	<u>-</u>	<u>-</u>	<u>37,375,556</u>
Total acquisition costs	40,573,073	-	-	40,573,073
Accumulated depreciation	(31,638,041)	(658,417)	-	(32,296,458)
Capital Assets, Net	\$ 8,935,032	\$ (658,417)	\$ -	\$ 8,276,615

Note 4 - Notes Receivable

A summary of activity for notes receivable for the year ended June 30, 2020 is provided below:

	2019	Additions	Deletions	2020	Current Portion
Mobile Home Loans	\$ 119,335	\$ -	\$ -	\$ 119,335	\$ -
	<u>\$ 119,335</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 119,335</u>	<u>\$ -</u>

Mobile Home Loans

The Corporation sells mobile homes to qualified individuals. Instead of cash payment or outside financing the Corporation places a lean against the property with a 0% non-interest-bearing note with a 45-year maturity. The notes require no payments, after the maturity date the loan will be forgiven. There was a total of three outstanding loans with maturities between 2059 and 2060.

Note 5 - Long-Term Liabilities

Changes in long-term liabilities of the Corporation for the fiscal year ended June 30, 2020 are summarized below:

	2019	Additions	Reductions	2020	Current Portion
Notes from Direct Borrowings	\$ 3,704,000	\$ -	\$ -	\$ 3,704,000	\$ -
Compensated absences	\$ 347,916	\$ -	\$ (75,135)	\$ 272,781	\$ 27,279
Net pension liability	2,585,469	22,223	-	2,607,692	-
Accrued Employee Benefits	\$ 2,933,385	\$ 22,223	\$ (75,135)	\$ 2,880,473	\$ 27,279

Notes from direct borrowings:

County of Riverside (County) –Related Party

Neighborhood Stabilization Program (NSP) Loan - On October 25, 2016, the Corporation entered into a covenant agreement with the County for \$3,204,000, funded by the Neighborhood Stabilization Program (NSP). An additional NSP loan of \$500,000 for rehabilitation costs, unpaid property taxes and operating reserves was acquired increasing the original loan of \$3,204,000 to \$3,704,000. There are no required payments and the loans bears a zero percent interest rate. The NSP loan matures July 1, 2067 at which point the loan will be fully forgiven. As of June 30, 2020, the balance of the loan was \$3,704,000.

Aggregate maturities of debt due in future years are as follows”

Year ending June 30,	Principal	Interest	Total
2067	\$ 3,704,000	\$ -	\$ 3,704,000
	\$ 3,704,000	\$ -	\$ 3,704,000

Note 6 - Related Party Transactions

Housing Authority of the County of Riverside (Authority)

Rental assistance

The Corporation receives tenant rental assistance payments from the Authority as part of the RAD conversion deal the Authority entered into with HUD and the Corporation. During the year ended June 30, 2020, the Authority made \$2,738,736 in tenant rental assistance payments which are included in tenant rental revenue on the Statement of Revenues, Expenses, and Changes in Net Position. These payments represent approximately 52% of net tenant rental revenue.

Management fees

For the year ended June 30, 2020 the Corporation incurred management fees of \$322,026 to the Authority.

Bookkeeping fees

For the year ended June 30, 2020 the Corporation incurred bookkeeping fees of \$28,730 to the Authority.

Due to and due from

Amounts reported on the Statement of Net Position as due to/due from represent various short-term operating advances and intercompany transactions between the Corporation and the Authority.

Note 7 - Prior Year Restatements

During the fiscal year ended June 30, 2020, it was discovered that the Corporation had erroneously double booked certain expense charges on their financial statements and in their general ledger. Also, the Corporation included a fund of the Authority that should not have been included. The correction of these errors resulted in an increase of opening net position of \$19,863 as reflected in the Statement of Revenues, Expenses, and Changes in Net Position.

Ending net position as previously reported June 30, 2019	<u>\$ 3,757,776</u>
Correction of expense error	40,309
Equity transfer to the Authority	<u>(20,446)</u>
Total adjustments	<u>19,863</u>
Net Position as Restated as of June 30, 2019	<u><u>\$ 3,777,639</u></u>

Riverside Community Housing Corp.

Schedule of Expenditures of Federal Awards
Year Ended June 30, 2020

Federal Program	CFDA No.	Direct	Indirect	Total
US Dept. of Housing and Urban Development (HUD)				
Community Development Block Grant [1]	14.218			
Grant		\$ -	\$ 292,620	\$ 292,620
Loan		-	3,704,000	3,704,000
<i>Total CDBG Entitlement Grant Cluster</i>		-	3,996,620	3,996,620
Emergency Solutions Grant Program [2]	14.231	-	53,598	53,598
Total HUD		-	4,050,218	4,050,218
Total Expenditures of Federal Awards		<u>\$ -</u>	<u>\$ 4,050,218</u>	<u>\$ 4,050,218</u>

Pass-through from the County of Riverside. [1]
Pass-through from the County of Riverside EDA. [2]

Note 1 - Summary of Significant Accounting Policies

Basis of Presentation

The accompanying schedule of expenditures of federal awards (the Schedule) includes the federal awards activity of Riverside Community Housing Corp. under programs of the federal government for the year ended June 30, 2020. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Because the Schedule presents only a selected portion of our operations, it is not intended to and does not present our financial position, changes in net positions, or cash flows.

Summary of Significant Accounting Policies

The expenditures on the Schedule are reported on an accrual basis of accounting, such expenditures are recognized following the cost principles contained in the Uniform Guidance and/or OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, wherein certain types of expenditures are not allowable or are limited for reimbursement.

Note 2 - Indirect Cost Rate

We have elected not to use the 10% de minimis indirect cost rate as allowed in the Uniform Guidance, Section 414.

Note 3 - Federal Loans

Riverside Community Housing Corp. participates in housing programs where funds have been provided by Federal agencies as loans. Outstanding balances for these loans were as follows:

<u>FEDERAL PROGRAM</u>	<u>CFDA No.</u>	<u>6/30/20</u>	<u>Net Change</u>	<u>6/30/19</u>
US Dept. of Housing and Urban Development (HUD)				
Community Development Block Grant				
Pass-through:				
County of Riverside	14.218	\$ 3,704,000	\$ -	\$ 3,704,000
Total Community Development Block Grant		<u>3,704,000</u>	<u>-</u>	<u>3,704,000</u>
Total US Department of HUD		<u>3,704,000</u>	<u>-</u>	<u>3,704,000</u>
FEDERAL LOAN BALANCE		<u>\$ 3,704,000</u>	<u>\$ -</u>	<u>\$ 3,704,000</u>



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Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards

The Governing Body
Riverside Community Housing Corp.

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of the Riverside Community Housing Corp. (the Corporation), as of and for the year ended June 30, 2020, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements, and have issued our report thereon dated August 21, 2020.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Corporation's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control. Accordingly, we do not express an opinion on the effectiveness of the Corporation's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing the assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a significant deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Corporation's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.



Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Corporation's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Corporation's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Smith Marion & Co.

August 21, 2020
Redlands, CA



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Independent Auditors' Report on Compliance for Each Major Federal Program; and Report on Internal Control Over Compliance Required by OMB Uniform Guidance

The Governing Body
Riverside Community Housing Corp.

Report on Compliance for Each Major Federal Program

We have audited Riverside Community Housing Corp.'s (the Corporation) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the Corporation's major federal programs for the year ended June 30, 2020. The Corporation's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the requirements of laws, regulations, contracts and grants applicable to its major federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the Corporation's major federal programs based on our audit of the type of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Corporation's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the Corporation's compliance.

Opinion on Each Major Federal Program

In our opinion, the Corporation complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2020.



Report on Internal Control Over Compliance

Management of the Corporation is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the Corporation's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Corporation's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal controls over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of the internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of OMB Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Smith Marion & Co.

August 21, 2020
Redlands, CA

SECTION I – Summary of Auditors’ Results

Financial Statements

1. Type of Auditor Report on the financial statements: Unmodified
2. Internal control over financial reporting:
- a. Material weakness(es) identified? Yes No
- b. Significant deficiency(ies) identified that are not considered to be material weaknesses? Yes None noted
3. Noncompliance material to financial statements? Yes No

Federal Awards

4. Type of auditors’ report on compliance for major programs: Unmodified
5. Internal control over major programs:
- a. Material weakness(es) identified? Yes No
- b. Significant deficiency(ies) identified that are not considered to be material weaknesses? Yes None noted
6. Audit findings noted which are required to be reported in accordance with 2 CFR Section 200.516(a)? Yes No

7. Identification of Major Programs:

CFDA	Program(s) Name
14.218	CDBG Entitlement Grant Cluster

8. The Dollar Threshold Used to Distinguish Between Type A and Type B Programs: \$ 750,000
9. Auditee qualified as a low-risk auditee? Yes No

SECTION II – Financial Statement Findings

None reported.

SECTION III – Federal Award Findings and Questioned Costs

None reported.

None reported.



Exhibit B
To Fiscal Year 2019-20 Annual Report

INSURANCE POLICY

(Behind this page)



**PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (PRISM)
GENERAL LIABILITY 1 PROGRAM
MEMORANDUM OF COVERAGE
DECLARATIONS**

- ITEM 1: MEMBER:** Housing Authority of the County of Riverside
- ITEM 2: MEMORANDUM PERIOD:** From July 1, 2020 to July 1, 2021, 12:01 a.m. local time of the Member as stated herein.
- ITEM 3: MEMORANDUM NUMBER:** PRISM-PE 20 EL-47
- ITEM 4: DEDUCTIBLE:** \$ 10,000

Ultimate net loss as the result of: any one **occurrence**, offense, **wrongful act** or any combination thereof.

- ITEM 5: PRISM'S LIMIT OF LIABILITY:** \$25,000,000 inclusive of deductible stated in Item 4

- A. Deductible Buy Down Layer:** \$ 90,000
Ultimate net loss excess of the deductible as the result of: any one **occurrence**, offense, **wrongful act** or any combination thereof, including **defense costs**.

- B. Pool Layer:** \$ 4,900,000
Ultimate net loss excess of the self-insured retention as the result of: any one **occurrence**, offense, **wrongful act** or any combination thereof, and annual aggregate as respects the **completed operations hazard**.

- C. Excess Layers:**
\$5,000,000 **ultimate net loss** excess of \$ 5,000,000 as the result of any one **occurrence**, offense, **wrongful act** or any combination thereof, and annual aggregate as respects the **completed operations hazard**. Reinsured by Great American Insurance Co. (100%)

\$5,000,000 **ultimate net loss** part of \$5,000,000 excess of \$10,000,000 as the result of any one **occurrence** offense, **wrongful act** or any combination thereof, and annual aggregate as respects the **completed operations hazard**. Reinsured by Everest Reinsurance Company (75%), Watford Re (10%), Arch Reinsurance Limited (5%), and 10% of the layer is retained by PRISM.

\$5,000,000 **ultimate net loss** part of \$5,000,000 excess of \$15,000,000 as the result of any one **occurrence** offense, **wrongful act** or any combination thereof, and annual aggregate as respects the **completed operations hazard**. Reinsured by Markel Global Reinsurance Company (50%), Everest Reinsurance Company (25%), Watford Re (10%), Arch Reinsurance Limited (5%), and 10% of the layer is retained by PRISM.

\$5,000,000 **ultimate net loss** excess of \$20,000,000 as the result of any one **occurrence** offense, **wrongful act** or any combination thereof, and annual aggregate as respects the **completed operations hazard**. Reinsured by Allied World National Assurance Company (45%), Markel Global Reinsurance Company (25%), Watford Re (20%), and Arch Reinsurance Limited (10%)

- ITEM 6: RISK PREMIUM:** \$257,713 (inclusive of all layers & fees)

- ITEM 7: FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION:** PRISM GL1 MOC 07/01/2020, Endorsement No. U-1, U-2, U-3, U-4, U-5, U-6, U-7, U-8, U-9, U-10, U-11, 1, 2

Countersigned by: 
Authorized Representative
Public Risk, Innovation, Solutions, and Management (PRISM)

Issue Date: June 29, 2020

PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (PRISM)

GENERAL LIABILITY 1 PROGRAM MEMORANDUM OF COVERAGE

In consideration of the payment of the premium, if paid, in reliance upon the statements in the Declarations made a part hereof and subject to all of the terms of this General Liability 1 Program Memorandum of Coverage (Memorandum), PRISM agrees with the Member as follows:

COVERAGE AGREEMENT

PRISM will reimburse the **covered party** for **ultimate net loss** in excess of the self-insured retention hereinafter stated which the **covered party** shall become legally obligated to pay as **damages** by reason of liability imposed by law or liability assumed by contract because of:

Coverage A. **Bodily injury and property damage**

to which this Memorandum applies, caused by an **occurrence**;

Coverage B. **Personal injury**

to which this Memorandum applies, caused by an offense;

Coverage C. **Public officials errors and omissions liability** or

Coverage D. **Employment practices liability**

to which this Memorandum applies, caused by a **wrongful act**.

DEFENSE AND SETTLEMENT COSTS

After the amount of the **covered party's** self-insured retention has been exhausted by payment of judgments, settlements and/or **defense fees and costs**, PRISM will reimburse the **covered party** for **excess defense fees and costs** the **covered party** incurs on covered losses. A final coverage determination will be made at the conclusion of a claim or **suit**, and if deemed not covered, then the associated defense costs will not be covered. PRISM's liability for **excess defense fees and costs** is subject to, and not in addition to, PRISM's limit of liability.

PRISM has no duty to defend under the Memorandum. PRISM; however, shall have the right, but not the duty, to associate itself, at its own cost, with the **covered party**, in the control, investigation, defense or appeal of any claim or **suit** which, in the opinion of PRISM, is or may be covered by the Memorandum. The **covered party** shall fully cooperate in all matters pertaining to such claim or **suit**.

ENDORSEMENT NO. 1

**PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (PRISM)
GENERAL LIABILITY 1**

COVERED PARTY AMENDATORY ENDORSEMENT

It is understood and agreed that the section **COVERED PARTY, COVERED PERSONS OR ENTITIES** is amended to include:

Riverside Community Housing Corporation

It is further agreed that nothing herein shall act to increase PRISM's limit of liability.

This endorsement is part of the Memorandum and takes effect on the effective date of the Memorandum unless another effective date is shown below. All other terms and conditions remain unchanged.

Effective Date:

Memorandum No.: PRISM-PE 20 EL-47

Issued to: Housing Authority of the County of Riverside

Issue Date: June 29, 2020



Authorized Representative

Public Risk Innovation, Solutions, and Management (PRISM)



Exhibit C
To Fiscal Year 2019-20 Annual Report

PROCUREMENT POLICY

Following is an excerpt from RCHC's Policies and Procedures Manual addressing RCHC's procurement policies. These procedures are annotated with citations to applicable laws, alternatives and recommended practices (parenthetical citations are found at the end of the applicable sentence or paragraph).

Following is an excerpt from RCHC's Policies and Procedures Manual addressing RCHC's procurement policies, specifically. These procedures are annotated with citations to applicable laws, alternatives and recommended practices (parenthetical citations are found at the end of the applicable sentence or paragraph).

Procurement is the acquiring by contract of supplies and services (including construction) through purchase, lease, or other means. Procurement begins at the point when RCHC's needs are established and includes the description of requirements to satisfy those needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling corporate needs by contract (HUD Handbook 7460.8, Rev. 2).

RCHC shall maintain and adhere to a written code of standards governing the awarding and administration of contracts (24 CFR §85.36). RCHC shall: provide for a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by RCHC; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to RCHC; and assure that RCHC purchasing actions are in full compliance with applicable laws and the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law (HACR Procurement Policy).

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with these policies, automatically supersede these policies (HACR Procurement Policy).

Where multiple funding sources are involved (such as in mixed-finance projects) and the procurement standards among those funding sources differ, RCHC shall adhere to the stricter standard.

Public Housing Projects: Special Procurement Considerations

As an instrumentality of HACR, RCHC is subject to the Public Housing Authority (PHA) procurement requirements of 24 CFR §85.36 and 24 CFR §941 Subpart F for projects which involve public housing or public housing funds. On those projects, RCHC must procure third party members, partners and sub-contractors of its operational or development team (e.g. architects, consultants, contractors, attorneys, etc.) in compliance with the standards set forth at 24 CFR §85.36 and the Procurement Handbook for Public Agencies, HUD Handbook 7460.8, Rev. 2 (HUD Notice PIH 2007-15 extended as PIH 2011-47).

Because these distinct set of standards apply to RCHC activities on projects which involve public housing or public housing funds, policies and procedures for these particular project requirements are prefaced with the subcategory title "Public Housing Project". For the purposes of this section, "Public Housing Project" applies to any project which involves public housing or public housing funds.



Pursuant to HUD Handbook 7460.8 Rev. 2, funds provided by HACR's Central Office Cost Center (COCC) to RCHC are not considered federal funds.

Responsibility for Procurement Actions

Other than approval of this Procurement Policy and subject to RCHC's Delegated Authority Policy, approval by the RCHC Board of Directors is not required for any procurement action, as permitted under state and local law. Rather, it is the responsibility of the Chief Operating Officer (COO), or designee, to make sure that all procurement actions are conducted in accordance with the policies contained herein (HACR Procurement Policy).

While the COO is responsible for ensuring that the RCHC's procurements comply with this policy, the COO may delegate all procurement authority as is necessary and appropriate to conduct the business of the corporation as authorized in the RCHC's Bylaws and/or delegated authority limits. Further, and in accordance with this delegation of authority, the COO shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this policy (HACR Procurement Policy).

Contracting Officer Signature/Obligation of Funds

Each contract or purchase action (e.g., new contract, modification, interagency agreement, purchase order, etc.) that obligates RCHC to pay a contractor or vendor must be signed or otherwise authorized by an individual to whom RCHC has expressly delegated the authority to make such an obligation (HUD Handbook 7460.8, Rev. 2).

The signature of the Contracting Officer on RCHC contracts is a legal commitment and requires continuing performance by RCHC 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 (HUD Handbook 7460.8, Rev. 2).

Caution: if an individual is not an authorized Contracting Officer, that individual must not bind RCHC 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, RCHC may be liable for, or bound by, the acts of an RCHC employee or volunteer, if such person (who is not a Contracting Officer) appears to an offeror to have been given authority by RCHC. Therefore, all actions that could be misinterpreted as committing RCHC to purchase should 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" (HUD Handbook 7460.8, Rev. 2).

Unauthorized Agreements

No employee shall enter into any agreement, written or unwritten, without prior approval from the Board of Directors, or designee, that involves any direct payment or other form of compensation as a result of any program administered by RCHC, either directly or indirectly, through agreements with other parties (HACR 2014 Administrative Plan).

Public Housing Projects: Conflicts of Interest in Procurement

For projects involving public housing or public housing funds, RCHC's procurements shall observe the conflict of interest standards set forth in RCHC's approved Conflict of Interest Code including the requirements in subsection of this Manual titled "Projects Involving Public Housing and/or Public Housing Funds".

Public Housing Projects: Gratuities, Kickbacks, and Use of Confidential Information

No RCHC Officer, Board member, current employee, former employee within one year of employment, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value



from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain (HACR Procurement Policy).

It is a breach of ethical conduct and prohibited for any payment, gratuity, or offer of employment to be made by, or on behalf of, a contractor or subcontractor under contract to the prime contractor, higher tier subcontractor, or any person associated therewith as an inducement for the award of a subcontractor order (HUD Handbook 7460.8, Rev. 2).

Disclosure of confidential information to any person not authorized by the Contracting Officer to receive such information is a breach of ethical standards. Confidential information includes but is not necessarily limited to: the contents of a bid (prior to bid opening) or proposal (prior to contract award using competitive proposals), names of individuals or firms that submitted bids (prior to bid opening) or proposals (prior to contract award); RCHC-generated information related to a procurement (including RCHC cost estimates, contractor selection and evaluation plans, specifications [before solicitation is issued]); and any other information the disclosure of which would have a direct bearing upon the contract award or the competitive process. It is a breach of ethical conduct for any current or former employee, Officer, or agent to knowingly use confidential information for actual or anticipated personal gain or for actual or anticipated personal gain of any other person (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Prohibition against Contingent Fees

Contractors wanting to do business with RCHC on projects involving public housing or public housing funds must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies (HACR Procurement Policy). This prohibition includes the employment of former RCHC officials and employees on a contingency basis to obtain contracts with RCHC by a business seeking RCHC contracts (HUD Handbook 7460.8, Rev. 2).

Actions to Promote Efficiency

RCHC shall review proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach (24 CFR §85.36).

Before initiating any contract, RCHC shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification (HUD Handbook 7460.8, Rev. 2).

Interactions between RCHC and HACR

HUD considers RCHC to be HACR in conjunction with public housing development activities. For projects involving public housing or public housing funds, RCHC is required to follow HACR's Annual Contributions Contract (ACC) and conflict-of interest provisions of 24 CFR § 85, as though it were a PHA (HUD Notice PIH 2007-15 extended as PIH 2011-47).

Pursuant to HUD Handbook 7460.8 Rev. 2, funds provided by HACR's COCC to RCHC are not considered public housing funds and are therefore not subject to the procurement standards set forth at 24 CFR §85.36 and the Procurement Handbook for Public Agencies, HUD Handbook 7460.8, Rev. 2

Intergovernmental/Interagency Noncompetitive Procurement. RCHC may enter into agreements with HACR or other state or local government agencies to obtain needed supplies or services if such agreements will foster economy and efficiency. For the purposes of this section, an agreement

between RCHC and HACR or another state or local agency would be considered “intergovernmental” or “interagency” because of RCHC’s status as an instrumentality of HACR. The use of these types of agreements can significantly reduce the amount of time required to contract for supplies or services, while allowing RCHC to take advantage of prices obtained through volume purchasing by HACR or another local or state agency (HUD Handbook 7460.8, Rev. 2).

For projects involving public housing or public housing funds, RCHC may enter into such intergovernmental or interagency purchasing agreements (including with HACR) without competitive procurement provided the following conditions are met:

1. The agreement provides for greater economy and efficiency and results in cost savings to RCHC. Before utilizing an interagency agreement for procurement, RCHC should compare the cost and availability of the identified supplies or services on the open market with the cost of purchasing them through HACR or another unit of government to determine if it is the most economical and efficient method;
2. The agreement is used for common supplies and services that are of a routine nature only. In deciding whether it is appropriate for RCHC to obtain supplies or services through an intergovernmental agreement rather than through a competitive procurement, the nature of the required supplies or services will be a determining factor. If services, required by RCHC, are provided by HACR or the state and are part of that government’s normal duties and responsibilities, it is permissible for RCHC to share the services and cost of staff under an agreement. For example, RCHC could enter into an intergovernmental agreement, without competitive procurement, to use the services of HACR’s accounting office to conduct an annual audit of its books. RCHC could not, however, without competitive procurement, enter into an intergovernmental agreement with a local police department to purchase cabinets manufactured by the police department (the manufacturing of cabinets is not a normal function of a law enforcement agency);
3. RCHC must take steps to ensure that any supplies or services obtained using another agency’s contract are purchased in compliance with 24 CFR 85.36;
4. RCHC’s procurement files should contain a copy of the Intergovernmental Agreement and documentation showing that cost and availability were evaluated before the agreement was executed, and these factors are reviewed and compared at least annually with those contained in the agreement; and
5. The agreement must be between RCHC and HACR or other state or local governmental agency (HUD Handbook 7460.8, Rev. 2).

Terms of Intergovernmental/Interagency Agreements. RCHC should consider inclusion of the following provisions in its intergovernmental agreements:

1. Identification of the parties;
2. Effective date;
3. Basic purpose of the agreement;
4. Procedures for providing lists of needed items;
5. Description of items to be purchased;
6. Identification of lead party in the procurement;
7. Rules or codes that should be followed in the procurement (RCHC procurement policy, state procurement code, federal regulations, etc.);
8. Delivery terms;
9. Type of contract;
10. Warranty terms;
11. Any fees to be paid to the lead agency;
12. Procedures for resolving disputes with contractors;
13. Procedures for resolving disputes between the parties;
14. Procedures for bilateral modification or early termination of the agreement.

15. Any provisions for meetings on specification issues;
16. Non-exclusivity clause (the right to conduct separate procurements, notwithstanding the existence of a cooperative purchasing agreement); and
17. Authorized signatures and titles (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Ownership Entity Considerations

If RCHC is a general partner or managing member of the owner entity on a project involving public housing or public housing funds or occupies a position that allows RCHC (or HACR) to exercise significant functions as to the management of the development, then procurements by the owner entity are subject to the provisions of 24 CFR §85.36 (24 CFR §941(d) and HUD Notice PIH 2007-15 extended as PIH 2011-47).

Actions that are considered to be exercising significant functions are:

1. When RCHC (or HACR) is acting as the sole or managing general partner in the owner entity.
2. When RCHC (or HACR) is acting as developer (HUD Handbook 7460.8, Rev. 2).

The following are examples of actions that are not considered significant functions:

1. Monitoring units receiving operating subsidy to ensure compliance with various regulations.
2. Coordinating communications with agencies regarding project financing and operations.
3. Providing Community and Supportive Services (CSS) services.
4. Attending construction meetings, reviewing and approving draws.
5. Maintaining the waiting list.
6. Reviewing and approving operating and capital budgets (HUD Handbook 7460.8, Rev. 2).
7. Having limited rights as a limited partner or minority member, including a purchase option or right of first refusal (HUD Notice PIH 2007-15 extended as PIH 2011-47).

When both public housing and non-public housing funds are used for a project, the work to be accomplished with the funds should be separately identified prior to procurement so that appropriate requirements can be applied, if necessary. If it is not possible to separate the funds, public housing procurement regulations shall be applied to the total project (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Contracting with Sub-Grantees

For projects involving public housing or public housing funds, RCHC may decide to use sub-grantees to complete elements of the project including development and CSS programs. RCHC is responsible for ensuring that sub-grantees are aware of the requirements imposed on them by federal statutes and regulations as well as any requirements of grant agreements. RCHC must ensure that sub-grants include any clauses required by federal statutes and executive orders and their implementing regulations. RCHC shall monitor compliance by sub-grantees (HUD Handbook 7460.8, Rev. 2).

Sub-grantees are considered to be acting as RCHC. Sub-grantees who procure supplies or services will be subject to 24 CFR §85 if the sub-grantee is a governmental agency, or 24 CFR §84 if it is a non-profit sub-grantee (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Competition

For projects involving public housing or public housing funds, all procurement transactions will be conducted in a manner providing full and open competition. 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,
4. Noncompetitive awards to consultants that are on retainer contracts,
5. Organizational conflicts of interest,

6. 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
7. Any arbitrary action in the procurement process. (24 CFR §85.36)

HUD Review Requirements

HUD review of RCHC's procurement activity is limited to those actions involving public housing or public housing funds (HUD Handbook 7460.8, Rev. 2).

The following contracting actions shall have prior HUD approval when public housing or public housing funds are involved:

1. Noncompetitive procurements expected to exceed the federal small purchase threshold;
2. Brand name-only procurements expected to exceed the federal small purchase threshold;
3. Awards over the federal small purchase threshold to other than the apparent low bidder under a sealed bid;
4. Proposed contract modifications that change the scope of the contract (as per the "Changes" clause in forms HUD-5370, HUD-5370-C or HUD-5370-EZ) or increasing the contract amount by more than the federal small purchase threshold;
5. Use of the RFQ method of procurement for other than architecture and engineering (A/E) services, joint venture partners or developers, or energy service contracts;
6. If HACR (and therefore RCHC) is operating under the "old" ACC 53010 and 53011, any agreement or contract for professional, management, fee accountants, legal, or other professional services with any person or firm if the total period or term of the contract, including renewal option provisions, exceeds two years;
7. Procurements for legal or other non-personal services in connection with litigation, per HUD's Litigation Handbook, that exceed \$100,000;
8. Procurements that exceed the amount included in:
 - a) the HUD-approved development cost budget; or
 - b) Where HUD has required prior approval on a Notice of Deficiency or corrective action order under the Capital Fund Program;
9. Contracts that exceed five years, including options. To approve terms in excess of five years, the HUD field office must determine there is no practical alternative;
10. If HACR (and therefore RCHC) is operating under the "old" ACC and RCHC enters into a transaction with any joint venture, subsidiary, affiliate, or other identity-of-interest entity. Section 515 of the old ACC specifies that such transactions must comply with the conflict of interest provisions that apply to RCHC. If HACR (and therefore RCHC) is operating under the "new" ACC, RCHC must comply with the conflict of interest provisions under section 19 of the new ACC; and
11. Solicitations, and any resulting contracts, related to energy performance contracting and utility add-ons (HUD Handbook 7460.8, Rev. 2).

For development projects, RCHC shall submit to the HUD field office for prior approval A/E contracts, fee appraiser contracts, development manager contracts, construction solicitations, construction contracts, and contract modifications (HUD Handbook 7460.8, Rev. 2).

RCHC shall be exempt from HUD's pre-award review required if:

1. RCHC requests, and HUD subsequently certifies, that its procurement system be reviewed by the field office to determine if its systems meet the standards under 24 CFR 85.36 and the essential requirements of HUD Handbooks 7485.1 and 7460.8, Rev. 2; or
2. RCHC self-certifies that its procurement system meets the standards under 24 CFR 85.36 and the essential requirements of this Handbook and HUD Handbook 7485.1.

Public Housing Projects: Self-Certification

RCHC self-certifies that this Procurement Policy and RCHC's procurement system comply with all applicable federal regulations. As such, RCHC is exempt from prior HUD review and approval of individual procurement actions (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Procurement Methods

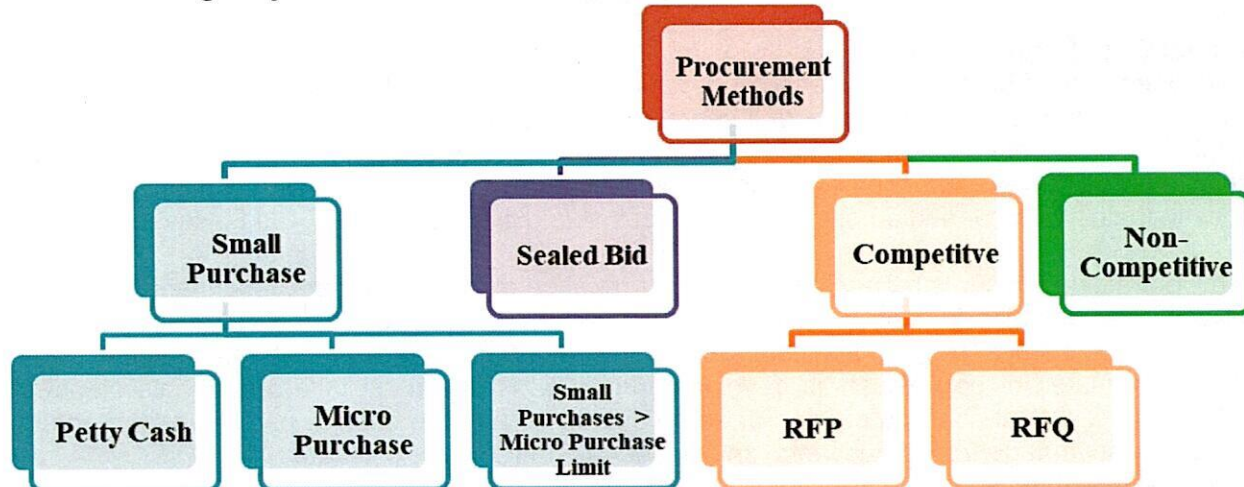


Figure 2. Procurement methods for projects involving public housing or public housing funds

For projects involving public housing or public housing funds, RCHC shall encourage full and open competition in procurement matters. The following methods of procurement are acceptable.

1. **Small Purchase.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at the lesser of HACR's small purchase threshold (currently set at \$50,000) or the limit set forth in 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. There are three (3) small purchase procurement methods:
 - a) *Petty Cash.* Purchases under \$50 may be handled through the use of a petty cash account. Petty cash accounts may be established in an amount sufficient to cover small purchases made during a reasonable period (e.g., one month). RCHC shall ensure that security is maintained, and only authorized individuals have access to the account. These accounts should be reconciled and replenished periodically.
 - b) *Micro Purchases.* Purchases of less than \$2,000 are micro purchases.
 - c) *Small Purchases.* Purchases of \$2,000 to \$50,000 are small purchases.
2. **Sealed Bids.** Sealed bidding shall be used for all contracts that exceed the small purchase threshold and that are not competitive proposals or non-competitive proposals, as these terms are defined in this section. Under sealed bids, RCHC publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid is responsive (conforming exactly with all the material terms and conditions of the invitation to bid) and is the lowest in price. Sealed bidding is the preferred method for procuring construction, supply, and non-complex service contracts that are expected to exceed \$50,000. Further information on the sealed bid method may be found below in the sub-section titled "Public Housing Projects: Sealed Bid Procedures".
3. **Competitive Proposals.** Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. This procurement method is generally used when conditions are not appropriate for the use of sealed bids. Further information on the competitive proposal method may be found below in the sub-section titled "Public Housing Projects: Competitive Proposal Procedures".

4. *Noncompetitive Proposals.* Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate (24 CFR §85.36 and HACR Procurement Policy). Further information on the competitive proposal method may be found below in the subsection titled "Public Housing Projects: Noncompetitive Proposal Procedures".

Independent Cost Estimate (ICE)

The Independent Cost Estimate (ICE) is RCHC's estimate of the costs of the goods or services to be acquired under a contract or a modification. It serves as a yardstick for evaluating the reasonableness of the contractor's proposed costs or prices. The ICE also helps the procurement staff determine the contracting method to be used. For example, if the costs can be estimated with a high degree of confidence in their accuracy, sealed bidding may be possible (HUD Handbook 7460.8, Rev. 2).

While the Contracting Officer is responsible for the preparation of the ICE, other personnel are usually involved and may actually do most of the preparation. RCHC may develop the ICE using its own personnel, outside parties (e.g., consultants), or a combination of the two. If any outside party (whether compensated or not) assists in developing the ICE, RCHC must take appropriate steps to ensure that organizational conflicts of interest are avoided and that the outside party does not obtain any competitive advantage from its advance knowledge of RCHC's cost estimate (HUD Handbook 7460.8, Rev. 2).

For all purchases above the Micro Purchase threshold, RCHC shall prepare an ICE prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased (HACR Procurement Policy).

Public Housing Projects: Cost Principles

For projects involving public housing or public housing funds, RCHC shall use the applicable set of cost principles which have been issued by the federal government when performing a cost analysis. In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Each set of cost principles applies to contracts with a specific group or type of organizations, so one set will not work for all contracts. The cost principles and the type of contractor entity to which they apply are as follows:

1. OMB Circular A-122 for contracts with most nonprofit organizations.
2. OMB Circular A-21 for educational institutions.
3. Federal Acquisition Regulation (FAR), found at 48 CFR Chapter 1, Subpart 31.2 for profitmaking entities (e.g., commercial business concerns) and certain nonprofit organizations listed in Attachment C of OMB Circular A-122 (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Specifications and Statements of Work

A specification is a description of the technical requirements of a contract including a detailed description of materials, supplies, equipment, pre-cuts, or construction work that is used in the procurement process to tell prospective contractors precisely what RCHC desires to purchase. A statement or scope of work (SOW) is a written description of work to be performed that establishes the standards sought for the supplies or services furnished under the contract and is typically used for service contracts (HUD Handbook 7460.8, Rev. 2).

Properly prepared or described specifications and SOWs (1) enhance competition, and (2) clarify the relationship between the contractor and RCHC, resulting in improved contract administration. The SOW also becomes the standard for measuring contractor performance. When a question arises over



an apparent increase in the scope of the work to be performed, the SOW is the baseline document for resolving the question. For projects involving public housing or public housing funds, the specifications or SOW must be designed so as not to restrict competition to one supplier (HUD Handbook 7460.8, Rev. 2).

Most specifications contain a combination of design and performance requirements and may include brand name or equal descriptions of components.

1. Functional or performance specifications contain performance characteristics that are desired for the item or that identify how the item functions. A functional or performance specification is inherently risky. Performance specifications state the overall requirements so that each contractor may furnish its own item to meet the required performance.
2. Design specifications contain a description of the item desired as opposed to performance standards and may be as detailed as needed. Depending on the nature of the item, the design specifications may contain precise measurements, tolerances, materials, product tests, quality control, and other detailed information, provided competition is not being limited to one product. The information furnished in the specification should be sufficiently detailed to ensure that all items manufactured to the specifications will be virtually the same.
3. Brand name or equal specifications provide clear and accurate product descriptions. References to brand names shall be followed by the words "or equal" and a description of the item's essential characteristics so that competition is not restricted. When brand names or catalog numbers are used, inform the offerors that such references establish only design or quality standard; in fact, any other products that clearly and demonstrably meet the standard are also acceptable.
4. RCHC shall avoid geographic restrictions not mandated or encouraged by applicable federal law (except for architecture/engineering contracts, which may include geographic location as a selection factor if adequate competition is available) (HUD Handbook 7460.8, Rev. 2).

The particular issues to be addressed in a SOW will vary with the nature, purpose, size, and complexity of the work. At a minimum, every SOW should include:

1. Detailed work and task requirements;
2. End results and deliverables, including the criteria which a deliverable must meet to be considered acceptable;
3. Delivery schedules/period of performance;
4. Any reporting and compliance requirements;
5. A precise statement of the objectives;
6. RCHC contact person/contract administrator; and
7. Other special considerations (warranties, personnel and required classifications, testing procedures, procedural safeguards, etc.) (HUD Handbook 7460.8, Rev. 2).

Contractors funded to develop or draft specifications, requirements, statements of work, invitations for bid, or requests for proposals shall be excluded from competing in the procurement (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Small Purchase Procedures

Cost Analysis. RCHC shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

1. *Petty Cash and Micro Purchases.* No formal cost or price analysis is required for petty cash and micro purchases. Rather, the execution of a contract by the Contracting Officer (through a Purchase Order or other means) shall serve as the Contracting Officer's determination that the price obtained is reasonable, which may be based on the Contracting Officer's prior experience or other factors.



2. *Small Purchases of \$2,000 to \$50,000.* A comparison with other offers shall generally be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes is not obtained to establish reasonableness through price competition, RCHC shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the procurement staff's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis (HUD Handbook 7460.8, Rev. 2).

RCHC shall 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 (24 CFR §85.36).

In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Solicitation. For *petty cash* and *micro purchases*, RCHC may contact only one source if the price is considered reasonable (HUD Handbook 7460.8, Rev. 2). To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotes may be obtained orally (either in person or by phone), by fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to RCHC. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. RCHC shall not break down a purchase into into several purchases that are less than the applicable threshold merely to avoid any requirements that apply to micro purchases.

For *small purchases between \$2,000 and \$50,000*, RCHC shall obtain a reasonable number of quotes (preferably three). A no-bid from a vendor does not constitute one of the three bids. If no bids are received, at least five vendors must be contacted to complete the procurement process. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Award shall be made to the qualified vendor that provides the best value to RCHC. If an award is to be made for reasons other than lowest price, documentation shall be provided in the contract file.

Written solicitations shall be used when it is necessary to provide vendors with detailed information that cannot be effectively conveyed orally.

1. For small purchases of \$2,000 to \$20,000, solicitations may be obtained orally, by telephone or in writing.
2. For small purchases of \$20,000 to \$50,000, solicitations must be obtained in writing.
3. Award shall be made to the lowest responsive and responsible bidder, unless justified in writing based on other specified factors, such as non-competitive, qualification-based, or sole source. If non-price factors are used, they shall be disclosed to all those solicited. The names, addresses and phone numbers of the offerors and persons contacted, the date and the amount of each quotation shall be recorded (HACR Procurement Procedures).

RCHC shall not break down a purchase into several purchases that are less than the applicable threshold merely to avoid any requirements that apply to purchases that exceed the micro purchase threshold.



Purchase Order. Most purchases under the small purchase method will be done via a Purchase Order (PO) sent or given to the contractor to initiate delivery of the item(s) or performance of the service(s). The issuance of a PO by RCHC and its acceptance by the contractor (either through performance or signature on the purchase order) constitute a contract. It is crucial, therefore, that the PO clearly specifies the item(s) or service(s) being purchased and the terms and conditions of the purchase (HUD Handbook 7460.8, Rev. 2).

RCHC hereby adopts HACR's PO format and procedures as set forth in HACR's Procurement Policy and Procurement Procedures manuals, as it may be amended from time to time.

Credit (or Purchasing) Cards. Credit card usage should follow the rules for all other small purchases (HUD Handbook 7460.8, Rev. 2).

Documentation. RCHC shall document its small purchase procurements as follows:

1. *Petty Cash.* Receipts and invoices shall be maintained.
2. *Micro Purchases.* Identification of the solicited vendors and a brief explanation for the award decision shall be maintained.
3. *Small Purchases of \$2,000 to \$50,000.*
 - a) Records of oral price quotations sufficient to reflect clearly the propriety of placing the orders at the price paid with the particular vendor shall be established and maintained.
 - b) Written records of solicitations or offers shall show prices, delivery, references to printed price lists used, the vendors contacted, and any other pertinent information.
 - c) In special situations, include additional statements explaining the absence of competition if only one source is solicited; or supporting the award decision if other than price-related factors were considered in selecting the vendor.

Public Housing Projects: Sealed Bid Procedures

For projects involving public housing or public housing funds, sealed bidding shall be used for contracts that exceed the small purchase threshold and that are not competitive proposals or non-competitive proposals (HUD Handbook 7460.8, Rev. 2).

Conditions for Use. Sealed bidding is the preferred method for procuring construction, supply, and non-complex service contracts that are expected to exceed \$50,000 (HUD Handbook 7460.8, Rev. 2). The sealed bid method shall be used if the conditions in 24 CFR §85.36(d) (2) (i) apply as follows:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price (HUD Handbook 7460.8, Rev. 2).

Invitation for Bid (IFB). The IFB packages for supplies, services, or construction are quite similar. The major difference is the length and complexity of the specifications or scope of work and the variety of attachments. All IFBs must be in writing. The basic documents to be included in an IFB package are:

1. Cover Page with Table of Contents, which states the name, address and phone number of the corporation, a person to contact for information regarding the solicitation, the project name and solicitation number, and a table of contents for the complete solicitation package (HUD Handbook 7460.8, Rev. 2).
2. A statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation.
3. A statement indicating the time and place for both receiving the bids and the public bid opening (HACR Procurement Policy).
4. A Bid Form on which bidders enter their bid or price(s). The form must be clear, accurate, and unambiguous.



5. Specification and Statement of Work with a description of the work or items required.
6. Form HUD-5369, Instructions to Bidders for Contracts, Public and Indian Housing Programs (construction) or form HUD-5369-B, Instructions to Offerors Non-Construction.
7. Form HUD-5369-A, Representations, Certifications, and Other Statements of Bidders, Public and Indian Housing Programs (construction) or form HUD-5369-C, Certifications and Representations of Offerors Non- Construction Contract.
8. Form HUD-5370, General Conditions of the Contract for Construction or form HUD-5370-C, General Conditions for Non-Construction Contracts, along with any appropriate Davis-Bacon or HUD wage decision for construction and maintenance work. (HUD Handbook 7460.8, Rev. 2).

Solicitation. Solicitations must be done publicly. While any of the following methods of solicitation can be employed, RCHC should choose the method, which, considering matters of economy provides for full and open competition.

1. Advertising in newspapers or other print mediums of local or general circulations.
2. Advertising in various trade journals or publications (for construction).
3. Through the internet using e-procurement systems. However, all e-procurements must otherwise comply with 24 CFR 85.36, state and local requirements, and RCHC's own procurement policy. Steps must be taken to meet the requirements for full and open competition to avoid potential protests (HUD Handbook 7460.8, Rev. 2).

Notices/advertisements should state, at a minimum, the place, date, and time that the bids are due, the solicitation number, a contact who can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s). A minimum of 30 days shall generally be provided for preparation and submission of sealed bids (HUD Handbook 7460.8, Rev. 2).

The solicitation must be run for a period sufficient to achieve effective competition, which, in the case of paid advertisements, should generally be run not less than once each week for two consecutive weeks. State or local law may impose additional advertising requirements (HUD Handbook 7460.8, Rev. 2).

Amendments. If a change to the IFB (e.g., specifications, plans, date or time for bid opening, etc.) becomes necessary after it has been issued, the change must be accomplished by issuing a written amendment, sometimes called an addendum. The amendment must indicate the IFB number, project title, issue date of the original IFB, and formally detail each change. Each amendment must be noted on RCHC's solicitation log. A copy of the amendment should be mailed to each prospective bidder who was provided the initial IFB package with acknowledgement required. If an amendment needs to be issued just before the scheduled bid opening date, the bid opening should be postponed for an adequate period of time to permit the potential bidders to fully analyze the change and to submit timely bids (HUD Handbook 7460.8, Rev. 2).

Cancellation. RCHC may cancel IFBs when necessary or when otherwise considered to be in the best interest of the corporation (HUD Handbook 7460.8, Rev. 2).

An IFB may be cancelled before bids/offers are due if any of the following apply:

1. The supplies, services or construction is no longer required.
2. The funds are no longer available.
3. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best.
4. Other similar reasons (HUD Handbook 7460.8, Rev. 2).

A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if any of the following apply:

1. The supplies or services (including construction) are no longer required.
2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
3. All factors of significance to RCHC were not considered.
4. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds.
5. There is reason to believe that bids or proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith.
6. For good cause of a similar nature when it is in the best interest of RCHC (HUD Handbook 7460.8, Rev. 2).

Cancellations must be done in accordance with RCHC's written procurement policy and procedures. A procurement official shall document the procurement file with the reasons and supporting facts for canceling the IFB (HUD Handbook 7460.8, Rev. 2).

A notice of cancellation shall be sent to all bidders/offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items (HUD Handbook 7460.8, Rev. 2).

If all otherwise acceptable bids received in response to an IFB are at unreasonable prices, an analysis should be conducted to see if there is a problem in either the specifications or RCHC's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, RCHC may cancel the solicitation and either

1. Re-solicit using an RFP; or
2. Complete the procurement by using the competitive proposal method. RCHC must determine, in writing, that such action is appropriate, must inform all bidders of RCHC's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate (HUD Handbook 7460.8, Rev. 2).

If problems are found with the specifications, RCHC should cancel the solicitation, revise the specifications and re-solicit using an IFB (HUD Handbook 7460.8, Rev. 2).

Pre-Bid Conference. After the IFB is issued and before bids are due, a pre-bid conference may be held with prospective contractors to discuss the project requirements and details of the IFB. The conference should be attended by procurement staff. A pre-bid conference is normally conducted for large or complex procurements. Notice of any scheduled conference should be included in the IFB. The timing of the conference should allow bidders enough time to review the IFB before the conference and adequate time to prepare or revise their bids before the bid opening. At the conference, procurement staff should state that nothing said at the conference will change any of the terms of the IFB unless a subsequent written amendment to the solicitation is issued. A written summary of the conference should be made available to anyone requesting it. The summary should also be provided to all those who submitted IFBs or solicitations, not just those who attended the pre-bid conference. Attendance by offerors at the pre-bid conference, while desirable, should not be mandatory, and non-attendees should not be deemed non-responsive. RCHC should consider the need for all potential bidders to attend. Attendance may not be necessary for firms familiar with the work and others may be unable to schedule a representative to attend, although they may be well qualified to do the work at a reasonable price. To impose a requirement to attend a pre-bid conference could unnecessarily limit competition (HUD Handbook 7460.8, Rev. 2).



Cost Analysis. The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, when the bid received is substantially more than the ICE or where RCHC cannot reasonably determine price reasonableness, RCHC must conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable. If only one responsive bid is received from a responsible bidder, award shall not be made unless the price can be determined to be reasonable, based on a cost or price analysis (HUD Handbook 7460.8, Rev. 2).

RCHC shall 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 (24 CFR §85.36).

In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Bid Opening. Each bid must be dated and time-stamped immediately upon receipt by RCHC. Sealed bids should be stored in a locked bid box, cabinet, or safe to ensure that they are not opened or mishandled prior to the bid opening. Sealed bids received after the time specified in the IFB should be recorded as a late bid and kept unopened in the contract file. A late bid received before the award is made may only be considered in accordance with the procedures listed in the form HUD-5369, Item 5, or form HUD-5369-B, Item 6 (HUD Handbook 7460.8, Rev. 2).

To ensure fairness in the award process, bids shall be publicly opened on the scheduled date and time shown in the solicitation. A tabulation of all bids is prepared showing the name of each bidder and their bid prices including alternates, if any, and the document becomes part of the official contract file. The tabulation is public information and a copy may be sent to interested parties when requested. No commitment or statement regarding contract award should be made to any bidder at the bid opening (HUD Handbook 7460.8, Rev. 2).

Mistakes in Bids. While bidders must be bound by their bids (the "firm bid rule"), circumstances may arise where correction or withdrawal of bids is proper and may be permitted. Unless otherwise prohibited by state or local law, bidders shall be permitted to withdraw or modify their bids by written or facsimile notice prior to bid opening (HUD Handbook 7460.8, Rev. 2).

After the bid opening, the procurement staff should carefully review all bids to ensure that the bidders have not made any obvious mistakes in their bids (e.g., the sum of individual bid line items does not equal the total bid price). An item-by-item recalculation of the bid costs will often reveal the miscalculation or error. If a bidder appears to have made a mistake, procurement staff should immediately notify a bidder of any apparent mistake in his/her bid and request verification of the bid as submitted. An RCHC procurement official should notify the bidder by phone, issue a follow-up letter containing the information conveyed in the call and add a copy of that letter to the contract file (HUD Handbook 7460.8, Rev. 2).

In general, bidders should not be permitted to change a bid after bid opening. In rare cases, the revision of a bid may be permitted if the bidder is able to present clear and convincing evidence of a mistake and the intended bid price. Examples of evidence may include: original work papers, bids from suppliers and subcontractors used to develop the bid, bonding or insurance evidence supporting a different bid price, etc. Failure or refusal by a bidder to provide adequate evidence shall result in the



original bid remaining unchanged. RCHC personnel should consult with legal counsel before allowing a change in bid. If justified, a low bidder can be replaced with the next lowest bidder (HUD Handbook 7460.8, Rev. 2).

After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of RCHC or fair competition shall not be permitted (HACR Procurement Policy).

Withdrawal of Bids. Withdrawal of a bid is permissible if there is an obvious error in the bid such as a math error, but the mistake must be readily apparent from the bid itself. A bidder may be permitted to withdraw a low bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident. A bidder may also be permitted to withdraw a low bid if the bidder submits written evidence that clearly and convincingly demonstrates that a mistake was made. If RCHC allows withdrawal, the bid bond (if any) should be returned to the bidder upon verification of the error. In cases of alleged mistakes or requests for withdrawal, the decision to allow a correction or withdrawal should only be made after consultation with RCHC's legal counsel (HUD Handbook 7460.8, Rev. 2).

Bonds/Guarantees. The purpose of these bonds is to ensure bidders will honor their bids, complete work as contracted, and pay their subcontractors and suppliers. In sealed bid construction contracts, bonds or guarantees are required as follows:

1. **Bid Bonds/Guarantees.** A bid bond or guarantee ensures that if awarded the contract, the bidder will accept and perform the work under the contract. It also ensures that the bidder will not attempt to withdraw or otherwise not fulfill the contract. Finally, the bid bond ensures that the bidder will execute the contractual documents that are required within the time specified in the solicitation or forfeit all or part of the guarantee (HUD Handbook 7460.8, Rev. 2).
 - a) For construction contracts exceeding \$25,000, each bidder shall be required to submit a bid guarantee equivalent to 10% of the bid price (HACR Procurement Policy).
 - b) A certified check, bank draft, U.S. Government Bonds at par value, bid bond secured by an acceptable surety company, or other negotiable instrument may be accepted as a bid guarantee.
 - c) If the successful bidder refuses to sign the contract after award, the bid bond is forfeited, and award will go to the next lowest responsive, responsible bidder. If there is not a responsive and responsible next lowest bidder, the procurement should be re-bid. If a bid bond or guarantee is not submitted with the bid, RCHC should reject the bid as non-responsive. RCHC should not return any bid bonds until the contract has been awarded and the required performance and payments bonds have been furnished, until all bids have been rejected, or the time specified for acceptance of bids has expired.

2. **Performance Bonds.** The performance bond guarantees that if the contractor is unable to complete the contract, the surety company will step in to finish the work (HUD Handbook 7460.8, Rev. 2). For construction contracts exceeding \$25,000, the successful bidder shall furnish any one of the following:
 - a) A performance and payment bond in a penal sum of 100% of the contract price; or
 - b) Separate performance and payment bonds, each for 50 % or more of the contract price; or
 - c) A 20 % cash escrow; or
 - d) A 25 % irrevocable letter of credit (HACR Procurement Policy).

3. **Payment Bonds.** The payment bond is a method of ensuring that the contractor pays the subcontractors and suppliers. Failure to pay subcontractors for work performed in commercial contracts may often lead to the subcontractor filing a mechanic's lien against property owners to obtain payment for services rendered (HUD Handbook 7460.8, Rev. 2). For construction contracts exceeding \$25,000, the successful bidder shall furnish any one of the following:



- a) A performance and payment bond in a penal sum of 100% of the contract price; or
- b) Separate performance and payment bonds, each for 50 % or more of the contract price; or
- c) A 20 % cash escrow; or
- d) A 25 % irrevocable letter of credit (HACR Procurement Policy).

An acceptable surety (bonding) company is one that is authorized to do business in California. The surety must be listed on the most recently published U.S. Treasury Circular 570 (often referred to as the T-List). Individual sureties are not permitted (HUD Handbook 7460.8, Rev. 2).

If the low bidder fails to provide acceptable payment and performance bonds after award of the contract, RCHC should consider the bid guarantee forfeited and notify the surety company. The contract is then terminated for default. The amount to be recovered from the bid bond or guarantee should equal at least the difference between the defaulted bid and the next higher acceptable bid or the amount by which the bid accepted by resoliciting exceeds the defaulted contract (HUD Handbook 7460.8, Rev. 2).

Contract Award. The following steps should be used in awarding a contract based on the sealed bids method of procurement:

1. Evaluate bids and any alternates. If the apparent low bid exceeds the project budget, any deductive alternates should be deducted, one at a time, to identify the bidder whose resulting price falls within the budget. If alternate bid items are employed, and the apparent low bid falls below the available budget, a similar process of applying the alternates one at a time may be employed to identify the low bidder who includes the greatest number of alternates within the available funding. RCHC should not use alternate prices as a way to select a preferred bidder.
2. Review the low bid for responsiveness. To be considered responsive, a bid must conform to the material requirements of the IFB. RCHC must examine the low bid to be sure that the bidder did not alter the specifications or other terms and conditions (e.g., delivery schedules, payment terms, etc.) or attempt to impose different terms and conditions. If the bid does not conform to the solicitation, it must be rejected, and the next lowest bid examined for responsiveness. Procurement staff shall document their findings regarding the low bidder's responsiveness in the procurement file. Minor informalities are not grounds for determining a bid to be nonresponsive.
3. Determine if the bidder is responsible. Details are provided in the sub-section "Public Housing Project: Contractor Responsibility" (HUD Handbook 7460.8, Rev. 2).

In the rare case when two or more low bids are equal in all respects, the award should be decided by drawing lots or other random means of selection. Authority to use this method should be stated in the IFB (HUD Handbook 7460.8, Rev. 2).

The Contracting Officer may waive minor informalities or allow the bidder to correct them. Minor informalities are matters of form rather than substance. They are insignificant mistakes that can be waived or corrected without prejudice to the other bidders and have little or no effect on price, quantity, quality, delivery, or contractual conditions. Examples include failure to: return the number of signed bids required by the bid package; sign the bid, provided that the unsigned bid is accompanied by other documents indicating the bidder's intent to be bound (e.g., a signed cover letter or a bid guarantee); complete one or more certifications; or acknowledge receipt of an amendment or addendum, provided that it is clear from the bid that the bidder received the amendment/addendum and intended to be bound by its terms, or the amendment/addendum had a negligible effect on price, quantity, quality, or delivery (HUD Handbook 7460.8, Rev. 2).

After evaluation of each bid, the responsive and responsible bidder that submits the bid whose dollar value is lowest overall and meets all specified requirements shall be awarded the contract.



Unsuccessful bidders also should be notified in writing of the contract award (HUD Handbook 7460.8, Rev. 2).

Bid Rejection. Rejection of any bid during the evaluation process shall be fully documented, including all reasons for the rejection. Any bid may be rejected if the Contracting Officer determines that the price is unreasonable. Determining a bid price to be unreasonable includes not only the total price of the bid, but the prices for individual items as well. Any bid may be rejected if the prices for any of the items are materially unbalanced (such as bidding a high price for the first items to be provided and then low prices for subsequent items). A bid is materially unbalanced if and when there is a reasonable doubt that the bid would result in the lowest overall cost to RCHC even if it is the lowest bid, or if the bid is so grossly unbalanced that accepting it would amount to an advance payment (HUD Handbook 7460.8, Rev. 2).

Multi-Step Bids. RCHC may use two-step or multi-step sealed bidding procedures where appropriate. This process is described in more detail in HUD Handbook 7460.8, Rev. 2)

Public Housing Projects: Competitive Proposal Procedures

For projects involving public housing or public housing funds, the competitive proposal method is the primary alternative to sealed bidding for contract requirements that exceed the small purchase threshold (HUD Handbook 7460.8, Rev. 2).

The competitive proposal method permits: consideration of technical factors other than price; discussion with offerors concerning offers submitted; negotiation of contract price or estimated cost and other contract terms and conditions; revision of proposals before the final contractor selection; and the withdrawal of an offer at any time up until the point of award. Award is normally made on the basis of the proposal that represents the best overall value to RCHC considering price and other factors (e.g., technical expertise, past experience, quality of proposed staffing, etc.) set forth in the solicitation and not solely the lowest price (HUD Handbook 7460.8, Rev. 2).

Conditions for Use. This technique 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. Generally, the competitive proposals method should be used whenever any of the following conditions exist:

1. The project requirements cannot be described specifically enough to permit the use of sealed bidding. In other words, the work is not definite enough to accurately estimate the total cost of the contract.
2. The nature of the requirements are such that RCHC needs to evaluate more than just price to be sure that the prospective contractor understands the corporation's needs and can successfully complete the contract, especially when contracting for professional services (e.g., legal, architect-engineer, accounting, etc.) where RCHC needs specific expertise and experience.
3. The requested work lends itself to different approaches, e.g., proposals (HUD Handbook 7460.8, Rev. 2).

If not self-evident, the rationale for choosing competitive proposals rather than sealed bidding procedures should be documented in the procurement file (HUD Handbook 7460.8, Rev. 2).

Types of Competitive Proposals. There are two types of competitive proposals:

1. Request for Proposals (RFP)
2. Requests for Qualifications (RFQ) (HUD Handbook 7460.8, Rev. 2).

Request for Proposals (RFP) Format. The RFP should contain the following information:

1. Cover Page
2. Table of Contents
3. Statement of Work (SOW)
4. Submission requirements, along with pricing instructions
5. Evaluation factors
6. Attachments (including mandatory forms)
7. Mandatory forms/contract provisions
 - a) Form HUD-5369-B, Instructions to Offerors – Non-Construction.
 - b) Form HUD-5369-C, Certifications and Representations of Offerors – Non-Construction Contract (HUD Handbook 7460.8, Rev. 2).

RCHC should make sure that the submission requirements are consistent with the factors used for evaluation. For example, if the RFP indicates that proposals will be evaluated based on similar experience in the particular activity, RCHC should make sure that it requests respondents to include information on relevant past experience (HUD Handbook 7460.8, Rev. 2).

RFP Evaluation Factors. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued (HACR Procurement Policy). The RFP must contain a clear statement of the evaluation factors to guide the offerors in structuring their proposal.

1. Non-price factors; also called “technical factors.” The written statement of evaluation factors and their relative values clarifies each important factor to the offerors and ensures a fair selection process. The evaluation criteria should be tailored to fit each procurement (HUD Handbook 7460.8, Rev. 2).

Typical evaluation criteria include the following:

- a) Demonstrated understanding of the requirement.
 - b) Appropriateness of the technical approach in the proposal (including labor categories, estimated hours, and skill mix).
 - c) Quality of the work plan.
 - d) Technical capabilities (in terms of personnel, equipment, and materials) and management plan (including staffing of key positions, method of assigning work, and procedures for maintaining level of service, etc.).
 - e) Demonstrated experience in performing similar work.
 - f) Demonstrated successful past performance (including meeting costs, schedules, and performance requirements) of contract work substantially similar to that required by the solicitation as verified by reference checks or other means.
2. Price must be a factor in making awards. In terms of evaluating price, RCHC has two options, which must be indicated in the RFP:
 - a) Where price is assigned an explicit point(s)- RCHC may award price a specific number of points. For example, RCHC may rank proposals on a 100-point scale. Of the total points, RCHC may award, for example, 80 points for technical merit and 20 points for price. The amount of weight will be given to price versus technical factors must be determined as well as how to convert price into a point scale.
 - b) Where price and other technical factors are considered- technical factors are first determined and offerors are ranked. Then, prices are evaluated. RCHC can award to the offeror whose price and technical factors are the most advantageous to the corporation (HUD Handbook 7460.8, Rev. 2).

RFP Solicitation. Solicitations must be done publicly. While any of the following methods of solicitation can be employed, RCHC should choose the method, which, considering matters of economy provides for full and open competition.

1. Advertising in newspapers or other print mediums of local or general circulations.
2. Advertising in various trade journals or publications (for construction).
3. Through the internet using e-procurement systems. However, all e-procurements must otherwise comply with 24 CFR 85.36, State and local requirements, and RCHC's own procurement policy. Steps must be taken to meet the requirements for full and open competition to avoid potential protests (HUD Handbook 7460.8, Rev. 2).

Notices/advertisements should state, at a minimum, the place, date, and time that the bids are due, the solicitation number, a contact who can provide a copy of, and information about, the solicitation, and a brief description of the needed item(s). A minimum of 15 days shall generally be provided for preparation and submission of competitive proposals (HUD Handbook 7460.8, Rev. 2).

The solicitation must be run for a period sufficient to achieve effective competition, which, in the case of paid advertisements, should generally be run not less than once each week for two consecutive weeks. State or local law may impose additional advertising requirements (HUD Handbook 7460.8, Rev. 2).

RFP Bonds/Guarantees. Non-construction projects should generally not require bid bonds. RCHC may require bonding/guarantees in circumstances when deemed appropriate (HACR Procurement Policy).

RFP Amendment. RCHC may amend RFPs when necessary or when otherwise considered to be in the best interest of the corporation.

1. If changes to the RFP are needed after it has been issued but before proposals are due, RCHC should issue a written amendment to all potential offerors who were furnished a copy of the original solicitation. The amendment should then be provided with the original RFP to those who request the RFP after the amendment is made.
2. If changes to the RFP are needed after the due date for receipt of proposals, RCHC should provide a written amendment to all offerors who submitted a proposal. If, however, the changes are significant enough that potential offerors who did not submit offers might have if the changes had been made before the proposal due date, RCHC should consider extending the proposal due date.
3. If the need for changes is discovered after RCHC has determined the competitive range (discussed below), RCHC should provide the amendment to all offerors determined to be within the competitive range. If the changes may have had an impact on the acceptability of any offeror who was not included in the competitive range, RCHC should consider re-determining the range to include such offerors and provide them with the amendment.
4. If at any time in the process any needed changes are substantial enough to constitute an essentially new requirement, RCHC should cancel the RFP, make the needed changes, and issue a new RFP with a new proposal due date. This will be a judgment call on the part of the Contracting Officer (HUD Handbook 7460.8, Rev. 2).

RFP Cancellation. RCHC may cancel RFPs when necessary or when otherwise considered to be in the best interest of the corporation (HUD Handbook 7460.8, Rev. 2).

An RFP may be cancelled before offers are due if:

1. The supplies, services or construction is no longer required;
2. The funds are no longer available;



3. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
4. Other similar reasons (HUD Handbook 7460.8, Rev. 2).

A solicitation may be cancelled and all proposals that have already been received may be rejected if:

1. The supplies or services (including construction) are no longer required;
2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
3. All factors of significance to RCHC were not considered;
4. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
5. There is reason to believe that proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith; or
6. For good cause of a similar nature when it is in the best interest of RCHC (HUD Handbook 7460.8, Rev. 2).

Cancellations must be done in accordance with RCHC's written procurement policy and procedures. Procurement staff shall document the procurement file with the reasons and supporting facts for canceling the IFB (HUD Handbook 7460.8, Rev. 2).

A notice of cancellation shall be sent to all bidders/offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items (HUD Handbook 7460.8, Rev. 2).

RFP Submissions. Proposals are to be date and time stamped when they are received and held unopened in a secure place until the established date for receipt of proposals has passed. Since proposals are submitted in confidence and may contain proprietary information (such as trade secrets or other confidential business information regarding the offeror's approach to the work), they are not opened publicly. After the closing date, all proposals received are opened and evaluated. Proposals and any changes to those proposals are shown only to RCHC personnel who have been authorized by the Contracting Officer as having a legitimate interest in them on the condition that information in the proposals will not be released to anyone who has not been so authorized (HUD Handbook 7460.8, Rev. 2).

Any offer received at the designated place after the specified time should not be considered unless it is the only proposal received (HUD Handbook 7460.8, Rev. 2).

No information regarding any of the proposals, including the names of the offerors or the number of proposals received, should be provided to anyone without the Contracting Officer's permission. Each member of the evaluation committee and any advisors to the evaluation committee should be required to sign a certification of nondisclosure. A sample certification of nondisclosure is provided in Appendix 9 of the HUD Handbook 7460.8, Rev. 2 (HUD Handbook 7460.8, Rev. 2).

RFP Evaluation Process. Evaluation of RFP submissions shall be based on the evaluation factors set forth in the RFP. Factors not specified in the RFP shall not be considered (HUD Handbook 7460.8, Rev. 2). RFPs shall generally be evaluated by an appropriately appointed Evaluation Committee (HACR Procurement Policy).

Initially, proposals should be evaluated on an individual basis against the requirements stated in the RFP; at this point proposals are not analyzed in comparison with each other. Also, during the initial evaluation, the committee evaluates only the content of the proposals. No personal knowledge of the offeror not based on the contractor's written submission is or should be part of the written proposals'



initial evaluation; however, the contractor's prior performance with RCHC should be included as part of the standard review of offeror responsibility (HUD Handbook 7460.8, Rev. 2).

The results of proposal evaluation may or may not be disclosed; either before or after the contract is awarded. Disclosure will depend on state or local law (HUD Handbook 7460.8, Rev. 2). Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals until after award (HACR Procurement Policy). However, evaluators should be especially careful to make the evaluations as thorough, objective, and well documented (e.g., citing the specific areas of the proposal that led to the particular portion of the evaluation) as possible. Procurement staff is responsible for ensuring that the evaluation results are sufficiently documented and included in the contract file. To be safe, procurement staff should always assume that an award will be protested (HUD Handbook 7460.8, Rev. 2).

Procurement staff must be vigilant to attempts by offerors to change the requirements of an RFP by inserting conditions in their offers or otherwise altering the contract's requirements. While proposals are not required to be "responsive," as that term is used in sealed bidding, offerors may not impose conditions or change requirements to suit their own needs or desires (HUD Handbook 7460.8, Rev. 2).

When possible, procurement staff should be willing to negotiate changes unless the changes violate federal, state or local law or regulation, are required by HUD policy, or prejudice the other offerors (e.g., making a change that benefits a single offeror) (HUD Handbook 7460.8, Rev. 2).

RCHC shall prepare an evaluation report to document the ranking of the proposals by technical merit, using point scores, or similar methodology. If price is included in the point scoring, the evaluation report will also include the price or cost analysis, as appropriate. In addition, a narrative should accompany the scores to explain how the scores were derived, detailing the significant strengths, weaknesses, and deficiencies in the proposal. The level of detail for the evaluation report will be influenced by the complexity of the procurement, with more complex procurements likely requiring more detailed reports (HUD Handbook 7460.8, Rev. 2).

RFP Competitive Range. After the evaluation committee has evaluated all proposals, RCHC should determine a competitive range. The competitive range includes the proposals that have a reasonable chance of being selected for award considering their technical evaluation results and their proposed costs or prices (HUD Handbook 7460.8, Rev. 2).

RCHC examines the evaluation results contained in the evaluation report to decide if each offer is technically acceptable (i.e., appears to be able to perform the technical requirements of the contract). RCHC analyzes the proposed cost or pricing information to decide if the offers propose a reasonable total cost or price. RCHC then considers the combination of technical and cost presented by each proposal to decide if it should be kept in the running for negotiations and possible award (HUD Handbook 7460.8, Rev. 2).

Technical proposals included in the competitive range should be classified as one of the following:

1. "Acceptable." This means that based upon the proposal as submitted, RCHC could contract with the offeror and expect that the work would be completed. The proposal is not perfect, but it contains no significant weaknesses.
2. "Potentially acceptable." This means that the technical part of the proposal contains weaknesses that keep it from being acceptable, but with relatively minor changes or additional information from the offeror, it might be made acceptable. Once additional information is obtained via initial negotiations, this type of proposal must become either acceptable or unacceptable.



3. "Unacceptable." This means that the proposal is seriously flawed to the point that no amount of negotiation would lead to improve it, or the offer would have to be substantially rewritten to be found acceptable. Either the offeror simply did not understand RCHC's requirement or did not elect to prepare a sufficient proposal. Technically unacceptable proposals should never be included in a competitive range (HUD Handbook 7460.8, Rev. 2).

The competitive range, including the rationale for it, must be documented in the contract file (HUD Handbook 7460.8, Rev. 2).

The Contracting Officer may re-determine the competitive range after the initial round of negotiations. For example, a potentially acceptable offer becomes unacceptable. In that case, procurement staff should not ask the offeror for a best and final offer. Instead, the Contracting Officer should re-determine the range and remove that proposal. This may be done after successive rounds of negotiation, if more than one is used (HUD Handbook 7460.8, Rev. 2).

RFP Negotiations. If, after the initial evaluation of proposals, there is a clear winner, and there is no need to negotiate or obtain further clarification or information from that offeror (e.g., the price is reasonable), RCHC may proceed directly to award, provided that the RFP clearly stated that award could be made without negotiations (HUD Handbook 7460.8, Rev. 2).

In some instances, a "potentially acceptable" offer may have been included in the competitive range. Answers or clarification relative to the areas of the proposal that made it potentially acceptable must be obtained. Negotiations are exchanges between RCHC and offerors that are undertaken with the intent of allowing the offeror to revise its proposal. These negotiations may include bargaining (HUD Handbook 7460.8, Rev. 2). Offerors shall be treated fairly and equally with respect to any opportunity for negotiation and revision of their proposals (HACR Procurement Policy).

Negotiations take place after establishment of the competitive range and are called discussions. Discussions are tailored to each offeror's proposal and shall be conducted with each offeror within the competitive range (HUD Handbook 7460.8, Rev. 2).

The primary objective of discussions is to maximize RCHC's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. RCHC shall indicate to, or discuss with, each offeror still being considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in RCHC's opinion, be altered or explained to enhance materially the proposer's potential for award (HUD Handbook 7460.8, Rev. 2).

The scope and extent of discussions are a matter of RCHC's judgment. The Contracting Officer may inform an offeror that its price is considered by RCHC to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible to indicate to all offerors the cost or price that RCHC's price analysis, market research, and other reviews have identified as reasonable (HUD Handbook 7460.8, Rev. 2).

No offeror shall be given any information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal (HACR Procurement Policy). "Auctioning" (revealing one offeror's price in an attempt to get another offeror to lower their price) is prohibited (HUD Handbook 7460.8, Rev. 2).

RFP Best and Final Offers. After initial negotiations are complete, RCHC shall invite the offerors in the competitive range to submit their best and final offers, making any changes they wish in their technical



proposal and the price. All offerors in the competitive range should be provided an opportunity to present best and final offers (HUD Handbook 7460.8, Rev. 2).

The best and final offers shall be evaluated in essentially the same manner as the initial offers. At his/her discretion, the Contracting Officer may have the entire evaluation committee or only a subset of the committee evaluate the best and final offers. In either case, RCHC shall ensure that a full evaluation is conducted sufficient to support the award decision (HUD Handbook 7460.8, Rev. 2).

Best and final offers are usually requested only once in a competition. However, in exceptional circumstances, the Contracting Officer may determine that it is in RCHC's best interest to conduct another round of negotiations and request a second best and final offer. The Contracting Officer may also re-determine the competitive range based upon the best and final offers. In that case, only those offerors still in the competitive range are asked to submit another revised best and final offer. RCHC should document in the contract file the rationale for re-opening negotiations and requesting any additional best and final offers (HUD Handbook 7460.8, Rev. 2).

RCHC shall establish a common date and time for submission of offers. Late responses should be treated the same as late initial offers. When requesting best and final offers, procurement staff shall clearly inform offerors that should they fail to submit a best and final offer, or fail to submit one by the due date, their initial offer will be deemed to be their best and final offer (HUD Handbook 7460.8, Rev. 2).

RFP Contract Award. The contract shall be awarded to the responsible firm whose technical approach to the project, qualifications, price and/or any other factors considered, are most advantageous to RCHC provided that the price is within the maximum total project budget (HACR Procurement Policy). Contracts shall be awarded only in accordance with the terms of the solicitation. Awards shall be made only to offerors who have been determined to be responsible contractors as defined below (HUD Handbook 7460.8, Rev. 2).

RCHC should notify each unsuccessful offeror and the awardee in writing. In accordance with any applicable state or local law, the notice should identify the successful offeror, the contract price and the basis for the offeror not being selected for contract award. The basis should clearly describe the offer's salient weaknesses and deficiencies that resulted in it not being considered for award (HUD Handbook 7460.8, Rev. 2).

The notice to unsuccessful offerors should also provide them with the opportunity to request a debriefing by procurement staff. The notice should state any time frame during which the request must be made (e.g., within 10 business days after receipt of notice). The debriefing should explain how the offer was unsuccessful (e.g., by comparing it to the requirements of the RFP). The debriefing should not include a detailed point-by-point comparison with the successful offer or any other offer, and may not reveal any information about another offer that is protected from disclosure (e.g., personal information, proprietary business information, etc.) (HUD Handbook 7460.8, Rev. 2).

Request for Qualifications (RFQ). The qualifications-based selection method is conducted using an RFQ. With the RFQ, RCHC first selects the highest-ranked respondent on technical factors and then negotiates price. Price is not used as an evaluation factor. The most common use of RFQs is for architect/engineer (A/E) contracts. RFQs can also be used to select development partners for mixed financed projects (HUD Handbook 7460.8, Rev. 2).

RCHC requests technical qualifications statements from prospective firms and then ranks the statements according to their qualifications as related to the project. RCHC then opens negotiations with the top-ranked firm with intentions to reach agreement on a fair and reasonable price. If

agreement cannot be reached, RCHC terminates negotiations with this firm and proceeds to the next-highest rated firm until a price determined to be fair and reasonable to both parties is obtained. Once negotiations have been terminated with a firm, RCHC may not go back to that firm for additional negotiations – even if the next lower ranked respondent is higher in price (HUD Handbook 7460.8, Rev. 2).

RFQ Eligible Uses. The RFQ method can only be used for A/E services, or developer related contracts, or when specifically authorized by HUD. Further, the RFQ method cannot be used to contract for other types of services provided by A/E firms, even though A/E firms are a potential source for performing the proposed effort. (Details regarding alternatives for contracting for the full range of services offered by A/E firms are provided in HUD Handbook 7460.8, Rev. 2) (HUD Handbook 7460.8, Rev. 2).

RFQ Solicitation. Solicitations must be done publicly. While any of the following methods of solicitation can be employed, RCHC should choose the method, which, considering matters of economy provides for full and open competition.

1. Advertising in newspapers or other print mediums of local or general circulations.
2. Advertising in various trade journals or publications (for construction).
3. Through the internet using e-procurement systems. However, all e-procurements must otherwise comply with 24 CFR 85.36, state and local requirements, and RCHC's own procurement policy. Steps must be taken to meet the requirements for full and open competition to avoid potential protests (HUD Handbook 7460.8, Rev. 2).

Notices/advertisements should state, at a minimum, the place, date, and time that the bids are due, the solicitation number, a contact who can provide a copy of, and information about, the solicitation, and a brief description of the needed items(s). A minimum of 15 days shall generally be provided for preparation and submission of competitive proposals (HUD Handbook 7460.8, Rev. 2).

The solicitation must be run for a period sufficient to achieve effective competition, which, in the case of paid advertisements, should generally be run not less than once each week for two consecutive weeks. State or local law may impose additional advertising requirements (HUD Handbook 7460.8, Rev. 2).

RFQ Bonds/Guarantees. Non-construction projects should generally not require bid bonds. RCHC may require bonding/guarantees in circumstances when deemed appropriate (HACR Procurement Policy).

RFQ Amendment. RCHC may amend RFQs when necessary or when otherwise considered to be in the best interest of the corporation.

1. If changes to the RFQ are needed after it has been issued but before proposals are due, RCHC should issue a written amendment to all potential offerors who were furnished a copy of the original solicitation. The amendment should then be provided with the original RFQ to those who request the RFQ after the amendment is made.
2. If changes to the RFQ are needed after the due date for receipt of proposals, RCHC should provide a written amendment to all offerors who submitted a proposal. If, however, the changes are significant enough that potential offerors who did not submit offers might have if the changes had been made before the proposal due date, RCHC should consider extending the proposal due date.
3. If at any time in the process any needed changes are substantial enough to constitute an essentially new requirement, RCHC should cancel the RFP, make the needed changes, and issue a new RFQ with a new proposal due date. This is a judgment call on the part of the Contracting Officer (HUD Handbook 7460.8, Rev. 2).



RFQ Cancellation. RCHC may cancel RFQs when necessary or when otherwise considered to be in the best interest of the corporation (HUD Handbook 7460.8, Rev. 2).

An RFQ may be cancelled before offers are due if:

1. The supplies, services or construction is no longer required;
2. The funds are no longer available;
3. Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
4. Other similar reasons. (HUD Handbook 7460.8, Rev. 2).

A solicitation may be cancelled and all proposals that have already been received may be rejected if:

1. The supplies or services (including construction) are no longer required;
2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
3. All factors of significance to RCHC were not considered;
4. Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
5. There is reason to believe that proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith; or
6. For good cause of a similar nature when it is in the best interest of RCHC (HUD Handbook 7460.8, Rev. 2).

Cancellations must be done in accordance with RCHC's written procurement policy and procedures. Procurement staff shall document the procurement file with the reasons and supporting facts for canceling the IFB (HUD Handbook 7460.8, Rev. 2).

A notice of cancellation shall be sent to all bidders/offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items (HUD Handbook 7460.8, Rev. 2).

RFQ Evaluation Factors. The following evaluation factors may be used for modernization and development A/E contracts:

1. Evidence of the A/E's or firm's ability to perform the work as indicated by profiles of the principals' and staffs' professional and technical competence/experience, and their facilities.
2. Capability to provide professional services in a timely manner.
3. If design work is involved, evidence that the A/E is currently registered in California and carries Errors and Omissions insurance. (Note that this is a yes or no criterion: if the answer is no, the firm is disqualified, not point-scored).
4. Past performance in terms of cost control, quality of work, and compliance with performance schedules.
5. Demonstrated knowledge of local building codes and federal building alterations requirements.
6. Other factors determined to be appropriate by RCHC (HUD Handbook 7460.8, Rev. 2).

RFQ Forms for A/E Contracts. The form HUD-51915, Model Form of Agreement Between Owner and Design Professional, is required for use by RCHC for A/E contracts that exceed the small purchase threshold (HUD Handbook 7460.8, Rev. 2).

RFQ Inadequate Response to Solicitation. If fewer than three proposals are received, RCHC should analyze and document the reasons for the inadequate response. Depending on the results of the analysis, RCHC may either reject the proposals and issue a revised solicitation, or evaluate the proposals as deemed appropriate. If only one responsive proposal was received, documentation is



required by RCHC to demonstrate price reasonableness, including any cost analyses (HUD Handbook 7460.8, Rev. 2).

Cost Analysis. The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient proposals are not received, RCHC must compare the price with the ICE. For competitive proposals where prices cannot be easily compared among offerors, where there is not adequate competition, or where the price is substantially greater than the ICE, RCHC must conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable (HUD Handbook 7460.8, Rev. 2).

RCHC shall 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 (24 CFR §85.36).

In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Noncompetitive Proposal Procedures

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. For projects involving public housing or public housing funds, procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

1. The item is available only from a single source;
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
3. The awarding agency authorizes noncompetitive proposals; or
4. After solicitation of a number of sources, competition is determined inadequate (24 CFR §85.36 and HACR Procurement Policy).

For the purposes of this section, an emergency is defined as a situation that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the corporation, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate and serious need for supplies, services, construction, or contractual services that the need cannot be met through any other procurement method. The emergency procurement shall be limited to those supplies, services, construction, or contractual services necessary to meet the emergency. Goods and services must be provided immediately by the vendors in order to constitute an emergency situation (HACR Procurement Procedures).

Process. Award of contracts from noncompetitive proposals follows a process similar to that used for competitive proposals. 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 (HUD Handbook 7460.8, Rev. 2).

HUD Approval. Proposed noncompetitive contracts must be submitted to HUD for pre-award review and approval unless RCHC is exempted from doing so under 24 CFR §85.36 (g)(3) (HUD Handbook 7460.8, Rev. 2).

Cost Analysis. Cost analysis, e.g., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required. Costs or price must be determined to be reasonable (24 CFR §85.36 and HACR Procurement Policy).

RCHC shall negotiate profit as a separate element of the price 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 (24 CFR §85.36).

In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Justification/Documentation. 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 RCHC's procurement policy. 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 (HUD Handbook 7460.8, Rev. 2).
8. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this policy (HACR Procurement Policy).

The written justification and approval shall be maintained in the contract file (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Solicitation Requirements

For projects involving public housing or public housing funds, RCHC shall ensure that all solicitations:

1. 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
2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals (24 CFR §85.36).

3. Comply with the standards set forth in forms HUD-5369, 5369-A and 5369-B, as applicable (HACR Procurement Policy).
4. Include the thirteen (13) clauses contained in 24 CFR 85.36(i). As some of these clauses may directly affect negotiations with partners, these clauses must be included in the solicitation documents (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Procurement of Legal Services

RCHC may employ an attorney directly (house counsel), or it may enter into a procurement contract with an attorney or firm. For projects involving public housing or public housing funds, RCHC shall obtain outside legal services through procurement contracts subject to the requirements set forth in 24 CFR §85. The costs of legal services incurred under federal grants (including those obtained under contract) must be reasonable and necessary. Contracts for litigation services are also to meet the requirements of the HUD Litigation Handbook 1530.1 REV-5 dated May 2004 (the "Litigation Handbook") (HUD Handbook 7460.8, Rev. 2).

RCHC may choose the method of procurement that is reasonable based on the facts surrounding the particular situation. The competitive proposal method is generally preferred as it allows for the consideration of technical quality or other factors. Noncompetitive proposals may only be used when the other methods of procurement are infeasible and the circumstances described in 24 CFR 85.36(d)(4) are applicable (e.g., legal services are available from only a single source; public exigency or emergency for the requirements will not permit a delay resulting from competitive solicitation; after solicitation of a number of sources, competition is determined inadequate; or HUD authorizes the use of noncompetitive proposals.) The sealed bid method is normally not appropriate. Legal services can be procured on an hourly basis using time-and-materials (or "labor-hour") contracts. RCHC may use this type of contract only after it determines that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Procurement of Development Partners

For projects involving public housing or public housing funds, RCHC shall procure development partners in accordance with the regulations at 24 CFR §85.36 (HUD Handbook 7460.8, Rev. 2).

HUD Handbook 7460.8, Rev. 2 states that this requirement does not apply between a PHA and its instrumentality. RCHC meets the indicia of control in Section II B of HUD Notice PIH 2007-15 necessary to be considered an instrumentality of HACR. Therefore, RCHC's selection of HACR as a development partner is exempted from the procurement requirements of 24 CFR §85.36.

A development partner is a for-profit or nonprofit partner of RCHC or a development affiliate of RCHC, carrying out the physical revitalization of a mixed-finance project site, bearing financial risk. A development partner is an entity with whom RCHC enters into a partnership or other contractual arrangement in order to provide for mixed-finance development projects. The development partner has primary responsibility with RCHC for the development of the housing units and/or non-residential structures under the terms of the approved mixed-finance proposal (HUD Handbook 7460.8, Rev. 2).

RCHC is permitted to use the RFQ method of procurement to select a development partner, under an exception that parallels the selection of an A/E and where price is negotiated with the highest-ranked offeror based on responses to the RFQ. The RFQ method is not permitted for the procurement of mixed-finance program managers. Requirements and guidance governing the selection of a development partner (or master developer) can be found in 24 CFR 941.602(d)(1) of the Mixed-Finance Interim Rule (HUD Handbook 7460.8, Rev. 2).



Procurement of development partners must be conducted in a manner that provides full and open competition. A cost or price analysis must be completed prior to the submission of proposals to determine an estimated value for the requested services (HUD Handbook 7460.8, Rev. 2).

Once the developer has been selected in accordance with 24 CFR §85.36, the selected development partner is not subject to 24 CFR 85.36 except where RCHC (or HACR) exercises significant functions within the owner entity with respect to managing the development of the proposed units. Actions that are considered to be exercising significant functions are:

1. Acting as the sole or managing general partner in the owner entity.
2. Acting as developer (HUD Handbook 7460.8, Rev. 2).

The following are examples of actions that are not considered significant functions:

1. Monitoring units receiving operating subsidy to ensure compliance with various regulations.
2. Coordinating communications with agencies regarding project financing and operations.
3. Providing Community and Supportive Services (CSS) services.
4. Attending construction meetings, reviewing and approving draws.
5. Maintaining the waiting list.
6. Reviewing and approving operating and capital budgets (HUD Handbook 7460.8, Rev. 2).

24 CFR 85.36 applies to the developer when a city agency is acting as a developer through a sub-grantee agreement with RCHC (HUD Handbook 7460.8, Rev. 2).

As private entities, developers, procured by RCHC in accordance with 24 CFR 85.36 and 941.602(d), are not required to comply with 24 CFR 85.36 in selecting their subcontractors (see also paragraph 16.7.B.2 and 24 CFR 941.606(n)(1)(ii)) (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Procurement of Joint Venture Partners

In connection with the provision of administrative or management functions of public housing, or the provision of supportive and social services for public housing projects, RCHC may use one of the following options for the selection of joint venture partners:

1. Using an RFQ, subject to the negotiation of a fair and reasonable price; or
2. The solicitation of a sole source proposal, under the following conditions:
 - a) The proposed joint venture partner has under its control and will make available to the partnership substantial, unique, and tangible resources or other benefits that would not otherwise be available to RCHC on the open market (such as planning expertise, program experience, or financial or other resources). In this case, RCHC must carefully and thoroughly document both the cost reasonableness and the unique qualifications offered by its proposed partner; or
 - b) A resident group or RCHC subsidiary is willing and able to act as the partner in performing the administrative or management function or to provide supportive or social services. A resident group or RCHC subsidiary must comply with the requirements of 24 CFR Part 84 (if the entity is a nonprofit) or 24 CFR Part 85 (if it is a state or local government) in selecting members of the team. Team members must be paid on a cost reimbursement basis only. RCHC must document the cost reasonableness of its selection of a resident group or subsidiary and the group's ability to act as a RCHC partner (HUD Handbook 7460.8, Rev. 2).

Joint venture transactions involving public housing or public housing funds must comply with RCHC's conflict of interest provisions as well as those of 24 CFR 85.36 and any other grant funding sources. Additionally, all joint venture partners and the joint venture as a whole must comply with conflict of interest provisions in HACR's ACC, state and local procurement and conflict of interest requirements in conducting activities to acquire supplies and services (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Employment Contracts

There is a distinction between employing an individual via employment contract and contracting for independent services via independent service contract. The former is part of the personnel process and is subject to those rules and regulations. Employment contracts are not subject to 24 CFR 85.36 and need not be competitively procured. The latter is considered to be a procurement action, subject to the standards in 24 CFR 85.36(d)(3). In an independent services contract, there is no employer-employee relationship (HUD Handbook 7460.8, Rev. 2).

An Executive Director may be hired as an RCHC employee or may be retained under an independent services contract. If the latter is chosen, HUD recommends that RCHC issue the contract for two base years with three one-year option periods. Fees or salaries paid by RCHC shall comply with the ACC's provisions for economy and efficiency (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Contractor Responsibility

For projects involving public housing or public housing funds, RCHC shall not award any contract until the prospective contractor, e.g., low responsive bidder or successful offeror, has been determined to be responsible. A responsible bidder/offeror must be determined to be responsible at the time of the award and must:

1. Have adequate financial resources to perform the contract, or the ability to obtain them;
2. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
3. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them;
4. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the bidder's/offeror's existing business commitments;
5. Have a satisfactory performance record;
6. Have a satisfactory record of integrity and business ethics; and
7. Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not being suspended, debarred or under a HUD-imposed Limited Denial of Participation (LDP) (HUD Handbook 7460.8, Rev. 2).

Evidence of Responsibility. It is incumbent upon bidders/offerors to provide acceptable evidence of their ability to meet these requirements. Acceptable evidence normally consists of a commitment or explicit arrangement that will be in existence at the time of contract award to rent, purchase, or otherwise acquire the needed facilities, equipment, financing, personnel or other resources (HUD Handbook 7460.8, Rev. 2).

Procurement staff shall conduct research to determine that a prospective contractor is responsible. The size and complexity of the contract, the degree of prior experience of RCHC with the offeror, and the extent to which RCHC can cancel the contract and install a replacement vendor will all influence the extent of research required (HUD Handbook 7460.8, Rev. 2). Examples of these methods are provided in HUD Handbook 7460.8, Rev. 2.

Before a contract is awarded, RCHC shall check to determine if HUD has issued an LDP or if a contractor has been debarred or suspended. A list of persons and contractors for which LDPs have been issued may be found at www.hud.gov/enforce. Persons or contractors that have been suspended or debarred from federal programs are listed at <http://epls.gov> (HUD Handbook 7460.8, Rev. 2).

Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined to be ineligible by HUD in accordance with HUD regulations (24



CFR Part 24) or by other federal agencies, e.g., Dept of Labor for violation of labor regulations (HACR Procurement Policy).

Prime contractors are responsible for determining that potential subcontractors are not on any of the above lists. RCHC shall advise potential contractors of their responsibility to confirm in their proposals the acceptability of their subcontractors. RCHC shall also advise potential contractors of their responsibility to provide evidence that a check has occurred on each proposed subcontractor before the award is made or before new subcontractors will be allowed to participate in the contract (HUD Handbook 7460.8, Rev. 2).

Determination of Non-Responsibility. With the exception of a finding that a bidder/offeror is suspended, debarred or under a HUD LDP, a determination of non-responsibility will be a matter of judgment on the part of RCHC, given a preponderance of evidence. If the facts indicate that the bidder/offeror fails to meet the requirements for responsibility, RCHC shall document the findings of fact that led to the determination. A written determination of non-responsibility shall be included in the official contract file. RCHC shall notify the prospective contractor, advising him/her of the reasons for the determination (HACR Procurement Policy).

Public Housing Projects: Contract Types and Pricing

For projects involving public housing or public housing funds, any type of contract which is appropriate to the procurement and which will promote the best interests of RCHC may be used, provided the cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods are not used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and RCHC (HACR Procurement Policy). Details about each contract type are provided in HUD Handbook 7460.8 Rev. 2.

For all cost reimbursement contracts, RCHC must include a written determination as to why no other contract type is suitable. Further, the contract must include a ceiling price that the contractor exceeds at its own risk (HACR Procurement Policy).

RCHC shall 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 (24 CFR §85.36).

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 24 CFR §85.22). RCHC may reference its own cost principles that comply with the applicable federal cost principles (24 CFR §85.36). In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Options for additional quantities or performance periods may be included in contracts subject to the limitations referenced at 24 CFR §85.36 and 24 CFR §990, and provided that:

1. The option is contained in the solicitation;
2. The option is a unilateral right of RCHC;
3. The contract states a limit on the additional quantities and the overall term of the contract;
4. The options are evaluated as part of the initial competition;
5. The contract states the period within which the options may be exercised;

6. The options may be exercised only at the price specified in or reasonably determinable from the contract; and
7. The options may be exercised only if determined to be more advantageous to RCHC than conducting a new procurement (HACR Procurement Policy).

Contract Provisions

All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by RCHC. Contracts must contain the following provisions:

1. For contracts more than the simple purchase threshold - 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.
2. For contracts in excess of \$10,000 - termination for cause and for convenience by RCHC including the manner by which it will be affected and the basis for settlement.
3. For construction contracts in excess of \$10,000 - 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).
4. For all contracts for construction or repair - compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR §3).
5. For construction contracts in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers- 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 §5).
6. For contracts, subcontracts and sub-grants of amounts in excess of \$50,000 - 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
7. Notice of awarding agency requirements and regulations pertaining to:
 - a) Reporting.
 - b) Patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
 - c) Copyrights and rights in data.
8. Access by RCHC, 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 audit, examination, excerpts, and transcriptions.
9. Requirement for contractor to retain all contract-related records for not less than three years after RCHC makes final payments and all other pending matters are closed (40 CFR §15).

Public Housing Projects: Additional Contract Provisions

Contracts related to projects involving public housing or public housing funds must contain the following provisions in addition to the other contract provision requirements of this manual:

1. All thirteen (13) clauses contained in 24 CFR §85.36(i). As some of these clauses may directly affect negotiations with partners, these clauses must be included in the solicitation documents (HUD Handbook 7460.8, Rev. 2).
2. 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 (24 CFR §85.36).
3. 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).

4. Small purchases exceeding \$2,000 (excluding contracts for construction or maintenance) must incorporate the mandatory clauses required by 24 CFR §85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
5. Small purchase construction contracts that are between \$2,000 and \$50,000 must incorporate the clauses contained in form HUD-5370-EZ, General Conditions for Small Construction/Development Contracts, and the applicable Davis-Bacon wage decision. Form HUD-5370-EZ has been designed for small construction jobs. RCHC may use form HUD-5370 in lieu of the HUD-5370-EZ if the former is more appropriate given the nature of the work.
6. Small purchase maintenance contracts between \$2,000 and \$50,000 must incorporate the clauses required by 24 CFR §85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; Section II of form HUD-5370-C, General Conditions for Non-Construction Contracts; and the applicable HUD wage decision (HUD Handbook 7460.8, Rev. 2).
7. Contracts greater than \$50,000 must include the clauses and certifications set forth in form HUD-51915-A.
8. Construction/development contracts greater than \$50,000 must incorporate the clauses contained in form HUD-5370, General Conditions of the Contract for Construction, and the applicable Davis-Bacon wage decision.
9. Non-construction contracts (without maintenance work) greater than \$50,000 must incorporate the clauses contained in Section I of form HUD-5370-C, General Conditions for Non-Construction Contracts.
10. Maintenance Contracts (including non-routine maintenance work) greater than \$50,000 must incorporate the clauses contained in Sections I and II of form HUD-5370-C, General Conditions for Non-Construction Contracts (HUD Handbook 7460.8, Rev. 2 and HACR Procurement Policy).
11. Section 3 covered contracts must include mandatory contract clauses at 24 CFR §135.38. Covered contracts described at 24 CFR §135.3(a) include developments, operating and modernization assistance. This clause is included in forms HUD-5370, HUD- 5370-C, and HUD-5370-EZ (HUD Handbook 7460.8, Rev. 2).
12. RCHC shall assure in all solicitations or advertisements for employees placed by or on behalf of RCHC that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, handicap or national origin. RCHC must incorporate the foregoing requirements of this paragraph in all of its contracts for project work, except contracts for standard commercial supplies or raw materials, and must require all of its contractors for such work to incorporate such requirements in all subcontracts for project work (HUD Guide to ACC Contract Administration).
13. RCHC shall require contractors to provide evidence of insurance carried with companies which are financially responsible and admitted doing business in the state of California. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to RCHC. Insurance coverage shall include:
 - a) Automobile Liability on owned and non -owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$1,000,000;
 - b) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000.00;
 - c) Public Liability and Automobile, Property in the amount of \$1,000,000;
 - d) Worker's Compensation Insurance; and
 - e) When required, Builder's Risk Insurance (HACR Procurement Policy).

Contracts must *not*

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or other related federally funded construction project; or
2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories, or otherwise adhere to agreements with one or more labor organizations, on the same or other related federally funded construction project (HUD Handbook 7460.8, Rev. 2).

RCHC may utilize any one or any combination of the following methods to incorporate mandatory clauses and applicable wage decisions into bid specifications and contracts. RCHC may:

1. Attach the language required by 24 CFR §85.36(i) and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; and/or wage decisions, as printed;
2. Incorporate the clauses/text of the applicable HUD form and wage decision into other documents (e.g., into RCHC's own forms) that are bound/attached to the contract (and bid specifications, if applicable) or incorporated by reference.
3. Incorporate the clauses or HUD forms and/or any applicable Davis-Bacon or HUD wage decision by reference. The reference must be specific as to the exact clauses or form(s) that are incorporated, and where the clauses or forms(s) may be accessed or obtained (e.g., HUD Clips). A Davis-Bacon wage decision may be incorporated by reference to www.wdol.gov and to the specific number, modification number, and date of the wage decision. HUD maintenance wage decisions are not available at HUD's web site; however, RCHC may post any applicable HUD wage decision to its own web site and reference that site. RCHC must provide hard copies of any referenced clauses, forms, and/or wage decisions on request (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Awarding of a Contract

For projects involving public housing or public housing funds, RCHC shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement (24 CFR §85.36). Details about contracting responsibility are provided in sub-section "Public Housing Projects: Contractor Responsibility".

Labor Standards and Wage Rates

Certain projects may be subject to specific requirements for labor standards and payment of prevailing wage rates. The applicability of such requirements depends on the project's funding source(s). RCHC is responsible for the administration and enforcement of any applicable labor standard requirements on covered projects.

Federal Funds and/or Public Housing Projects. Projects involving the use of federal funds and/or public housing or public housing funds are subject to federal labor standards promulgated by the Department of Labor pursuant to the Davis-Bacon Act. Federal prevailing wages must generally be paid to all laborers and mechanics involved in construction contracts in excess of \$2,000. Details regarding the Davis-Bacon Act, including exclusions, are provided at 40 U.S.C. §§276a - 276a-7; 3141; 29 CFR §§1, 3 and 5; and HUD Handbook 1344.1. Davis-Bacon Wage Decisions can be obtained at www.wdol.gov (HUD Handbook 7460.8, Rev. 2).

Thresholds triggering Davis-Bacon requirements may vary for specific federal funding sources such as:

1. HOME- if the contract is in excess of \$2,000 and involves 12 or more units (24 CFR §92.354);
2. CDBG- if the contract is in excess of \$2,000 and involves 8 or more units (24 CFR §570.603).



State Funds Projects. Projects involving the use of state funds are subject to labor and wage standards prescribed by the California Department of Industrial Relations. California state prevailing wages must be paid to all workers employed on a public works project when the public works project is over \$1,000. State prevailing wage determinations can be obtained at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

In some instances, state prevailing wages are preempted by federal prevailing wages. Details describing such circumstances may be found at 24 CFR §965. Appropriate Federal preemption language is included in the labor standards clauses found in forms HUD-5370, 5370-EZ, and 5370-C (HUD Handbook 7460.8, Rev. 2).

Other and/or Multiple Funding Sources. Specific grants and other funding sources may contain their own labor standard and wage provisions. Where there is more than one funding source and more than one set of labor standards and/or wage provisions, the most restrictive of the requirements shall apply.

Volunteers on Prevailing Wage Projects. On projects in which RCHC receives the services of volunteers, RCHC must maintain records relating to any work that is performed on projects or contracts otherwise covered by federal prevailing wage requirements.

1. For projects that utilize all-volunteer labor, these records must include the name and address of the agency sponsoring the project, a description of the project, the number of volunteers, the hours of work they performed, and where a waiver of prevailing rates is involved, the type of work performed by the volunteers (See 24 CFR, Part 70, §70.5(c)) .
2. For projects that utilize a mix of volunteer and paid workers, these records must include the items above, and the names of the volunteers (HUD Handbook 1344.1 Ch. 2).

Disclosures and Record-Keeping. Solicitations (e.g., Invitations for Bids) and contracts subject to the above labor standards and wage requirements must contain the applicable wage decision and labor standards provisions (HUD Handbook 7460.8, Rev. 2).

RCHC shall retain all compliance monitoring records, including employee interview records, for a period of not less than ten (10) years from the date of contract completion and acceptance by RCHC, or from the date of resolution of any labor standards issues outstanding at contract completion (HUD Handbook 7460.8, Rev. 2 and RCHC Records Retention Policy).

Funding and Payment

RCHC shall ensure that funds are available for any purchases made and that there is an orderly process to pay contractors promptly. Work performed shall be inspected in a timely manner and contractor invoices for work accepted by RCHC shall be paid in a timely manner RCHC shall utilize appropriate internal controls such as budgets and purchasing thresholds to assure the proper expenditure of funds (HUD Handbook 7460.8, Rev. 2).

Upon receipt of goods, fiscal staff processing accounts payable will match a copy of the PO and the packing slip, receiver or receipt to the invoice before processing for payment. If any discrepancies exist with the amount of the PO, project number, account number, etc., fiscal staff will contact the requesting procurement staff before payment is made (HACR Procurement Procedures).

Procurement staff is responsible for approving the invoice and assuring that the total amount of the purchases does not exceed the balance of the PO. Fiscal Services will ensure that the total amount of the invoice does not exceed the balance remaining on a Blanket Purchase Order (BPO), if applicable (HACR Procurement Procedures).

Public Housing Projects: Small, Minority, Woman-Owned and Labor Surplus Area Firms

For projects involving public housing or public housing funds, RCHC will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible (24 CFR §85.36).

Affirmative steps shall include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. 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;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in items (1) - (5) of this paragraph (24 CFR §85.36).

Following are related definitions:

1. A small business is defined as a business that is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR §121 should be used to determine business size.
2. A minority-owned business is defined as a business which is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. Minority group members include, but are not limited to Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.
3. A women's business enterprise is defined as a business that is at least 51% owned by a woman or women who are U.S. citizens and who control and operate the business.
4. A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in 20 CFR §654, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration (HUD Handbook 7460.8, Rev. 2).

For projects involving public housing or public housing funds, RCHC shall additionally adhere to Section 3 requirements set forth at 24 CFR §135. Covered contracts described at 24 CFR §135.3(a) include developments, operating and modernization assistance. Section 3 covers contracts for work and does not apply to contracts for the purchase of supplies and materials (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Equal Opportunity

For projects involving public housing or public housing funds, RCHC shall comply with all statutory, regulatory and executive order requirements pertaining to civil rights, equal opportunity and nondiscrimination, as those requirements now exist or as they may be enacted, promulgated or amended from time to time. These requirements include, but are not limited to:

1. The Fair Housing Act, 42 U.S.C. §§3601-3619 (implementing regulations are at 24 CFR §§100 et seq.)



2. Title VI of the Civil rights Act of 1964, 42 U.S.C. §2000 (d) (implementing regulations are at 24 CFR §1).
3. The Age Discrimination Act of 1975, 42 U.S.C. §§6101-6107 (implementing regulations are at 24 CFR §146).
4. Executive Order 11063, Equal Opportunity in Housing (1962), as amended; Executive Order 12259, 46 FR §1253 (1980), as amended; and Executive Order 12892, 59 FR§ 2939 (1994) (implementing regulations are at 24 CFR §107).
5. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 (implementing regulations are at 24 CFR §8).
6. Title II of the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq. (ACC Form HUD-53012A).

RCHC shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, handicap or national origin. RCHC shall take affirmative action to ensure that applicants and employees are treated without regard to race, color, creed, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship (HUD Guide to ACC Contract Administration).

RCHC shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this nondiscrimination clause. RCHC shall assure in all solicitations or advertisements for employees placed by or on behalf of RCHC that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, handicap or national origin. RCHC must incorporate the foregoing requirements of this paragraph in all of its contracts for project work, except contracts for standard commercial supplies or raw materials, and must require all of its contractors for such work to incorporate such requirements in all subcontracts for project work (HUD Guide to ACC Contract Administration).

Public Housing Projects: Protests

In accordance with sound business judgment, RCHC is responsible for the settlement of protests arising from the procurement process. RCHC shall have written procedures for handling and resolving protests against their contract awards (HUD Handbook 7460.8, Rev. 2).

Protestors shall be required to submit protests in writing, clearly stating the basis for their protest (HUD Handbook 7460.8, Rev. 2). Any protest against a solicitation must be received before the due date for the receipt of bids or proposals, and any protest against the award of a contract must be received within ten (10) calendar days after the contract receives notice of the contract award, or the protest will not be considered (HACR Procurement Policy).

The Contracting Officer, or designee, shall be responsible for receipt of protests and may, at his/her discretion, request a conference on the claim and/or suspend the procurement pending resolution of the protest if the facts presented so warrant. The Contracting Officer shall render a decision which shall include notice to the contractor of its appeal rights to the next higher level of authority at RCHC (HACR Procurement Policy). The COO, or designee, shall hear any appeals of the initial protest decision.

RCHC shall fully document the protest and the protest decision in the contract file (HUD Handbook 7460.8, Rev. 2).

For projects involving public housing or public housing funds, contractor claims shall be governed by the Changes clause in form HUD-5370 (HACR Procurement Policy).

Public Housing Projects: Contract Administration

Administration refers to all the actions taken regarding a contract after award to ensure that it is successfully performed and that RCHC receives the required supplies or services (HUD Handbook 7460.8, Rev. 2).

For projects involving public housing or public housing funds, RCHC shall have a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders (24 CFR §85.36). These systems shall provide for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on major projects including construction contracts, and similar matters (HACR Procurement Policy).

Pre-construction Conference and the Notice to Proceed. Following the award of a construction contract, a pre-construction conference should be held to thoroughly discuss key construction and contract administration-related issues. RCHC should issue a Notice to Proceed to the contractor stating the starting and completion dates and typical contract-related information. The notice should be prepared in an original with at least two copies signed by the Contracting Officer. The contractor should retain the original and sign, date, and return the copies. This Notice may be hand-delivered to the contractor at the conference and signed immediately. RCHC should retain one copy for the official contract file and, if requested, send the other copy to HUD (HUD Handbook 7460.8, Rev. 2).

For relatively complex non-construction projects, it is advisable to meet with the contractor soon after contract award to ensure that all parties understand the contract's performance requirements. Terms of the contract should be thoroughly discussed. Formal minutes of the meeting should be recorded and subsequently issued to all meeting attendees (HUD Handbook 7460.8, Rev. 2).

Progress Meetings. RCHC should meet with its architect and the contractor on a regular basis (usually weekly for large or complex projects) to discuss work progress, payments, any problems or deficiencies noted during inspection visits, overdue reports, and the construction schedule. RCHC should prepare a written record of the items discussed at each meeting and place a copy in the construction contract file (HUD Handbook 7460.8, Rev. 2).

Inspection Reports. All progress inspections should be documented using an appropriate RCHC inspection report form. The inspection report should include a description of the work completed and a determination as to whether or not the work is acceptable. If payment is made on a unit price basis, quantities must be verified. If payment is made on a time and materials basis, the report should show that the time charged was spent on RCHC work and that materials were charged at cost. A copy of the inspection report should be included in the contract file (HUD Handbook 7460.8, Rev. 2).

Deficiencies. Upon being notified of construction deficiencies, RCHC shall promptly notify the contractor in writing of the deficiencies observed. This notification should also advise the contractor that failure to make timely corrections will be an infraction of the contract and that the contractor will be held liable for any resulting losses or delays (HUD Handbook 7460.8, Rev. 2).

Labor Standards. RCHC is responsible for the administration and enforcement of labor standards requirements as provided in HUD Handbook 1344.1, REV 1, Ch 1 as required by DOL regulations applicable to Davis-Bacon covered work (29CFR §5) (HUD Handbook 7460.8, Rev. 2).

Progress Payments. If progress payments are necessary, RCHC shall require the contractor to prepare a construction progress schedule for each project immediately after issuing the Notice to Proceed. RCHC should review the contractor's construction progress schedule to ensure that the



scheduled dates and amount of work to be completed are reasonable and consistent with the contract. After RCHC approves the construction progress schedule, a copy shall be kept in the official contract file (HUD Handbook 7460.8, Rev. 2).

The contractor shall prepare a schedule of amounts of payments immediately after execution of the contract using form HUD-51000, Schedule of Amounts for Contract Payments. RCHC shall review the schedule to determine that both the scheduled work to be completed by the specified dates and the amount of payment for such work are reasonable (HUD Handbook 7460.8, Rev. 2).

RCHC is responsible for making progress payments to the contractor based on the RCHC approved schedule of amounts for contract payments. Generally, progress payments for acceptable work and materials delivered and stored on the site are made at 30-day intervals. HUD authorization of progress payments based on the approved payment schedule is not required (HUD Handbook 7460.8, Rev. 2).

The contractor should submit a request for payment for each project on form HUD-51001, Periodic Estimate for Partial Payment. The request shall be accompanied by the contractor's written designation of a certifying Officer. In addition, the contractor should submit the following HUD forms or other appropriate forms, if applicable, with each periodical estimate for partial payment: form HUD-51002, Schedule of Change Orders; form HUD-51003, Schedule of Materials Stored; and form HUD-51004, Summary of Materials Stored (HUD Handbook 7460.8, Rev. 2).

Delays and Time Extensions. The contractor is responsible for completing the work within the timeframe established in the contract. RCHC is responsible for monitoring the contractor to ensure that work will be completed as scheduled. RCHC may authorize justifiable time extensions without prior HUD review and approval, unless RCHC is subject to prior HUD approval under a HUD established threshold that is less than the requested amount. The "Default" clause on the forms HUD-5370, 5370-C and 5370-EZ prescribes the conditions under which a time extension may be granted. The basic principle is that delays arising from unforeseeable causes beyond the control and without the fault or negligence of the contractor may be grounds for allowing a time extension. Such time extensions should be formalized in a written modification to the contract (HUD Handbook 7460.8, Rev. 2).

RCHC should maintain a construction log to record potential causes for delays that may be used as the basis for granting time extensions or for denying a request for a time extension.

In order to be considered for approval by RCHC, requests for time extensions should meet the following criteria:

1. The contractor should submit a written notice to RCHC within 10 calendar days of the start of any delay;
2. The severity and extent of adverse weather could not have been reasonably foreseen by the contractor (normal seasonal levels of rain, snow, cold or heat should have been considered by the contractor); and
3. The cause of the delay was beyond the contractor's control (HUD Handbook 7460.8, Rev. 2).

Immediately upon receipt of the contractor's notification of delay or request for time extension, RCHC should send a letter of acknowledgment to the contractor. The letter should indicate that either: (1) immediate consideration will be given to the contractor's request or (2) the actual delay in work is difficult to determine and consideration will be given to the contractor's request upon completion of work (HUD Handbook 7460.8, Rev. 2).



Completion of Work. The completion of a construction contract requires some formal procedures, including the following:

1. The contractor should provide prompt written notification to RCHC when all work is completed. A final inspection of completed work shall then be conducted. Until the final inspection has been carried out and corrections made, RCHC should not advance any of the retainage or make the final payment to the contractor.
2. Upon receipt of the contractor's notification of the date when the work has been completed, RCHC should conduct a final inspection within 10 calendar days.
3. Following final inspection, RCHC should notify the contractor to submit the following documentation to RCHC:
 - a) A certificate of occupancy issued by the responsible local agency for each building (where appropriate);
 - b) One notarized original and two copies of the contractor's release, including certification that indicates:
 - i. The work was completed in accordance with the construction documents, including contract modifications, except any minor items identified on the RCHC's proposed certificate of completion;
 - ii. The total amount due the contractor and a separately stated amount for each unsettled claim against RCHC;
 - iii. Documentation noting that RCHC is released of all claims, other than those stated in the contractor's release; and
 - iv. Wages paid to laborers or mechanics were consistent with the wage rate requirements of the contract and there are no outstanding claims for unpaid wages.
 - c) Assignment of all guarantees and warranties to RCHC; and
 - d) Final partial payment excluding any amounts to be retained for disputed items and incomplete work (HUD Handbook 7460.8, Rev. 2).

Construction Warranties. The warranty period for all construction work should be at least 365 calendar days from the date of final acceptance of the work in question or such longer period as otherwise specified in the contract. For complex equipment or systems (such as boilers, air conditioning units, thermal paned windows or storefronts, or membrane roofs), RCHC should consider using a full two-year warranty. The extra year will help to ensure that RCHC can discover and report any hidden or latent deficiencies while the warranty is still in force. The contractor is fully responsible to correct any and all legitimate deficiencies reported within the warranty period (HUD Handbook 7460.8, Rev. 2).

Monitoring Receipt of Supplies, Equipment, and Services. RCHC shall ensure that the items required by contract are delivered to an appropriate location where RCHC personnel can make certain that receipt of supplies, materials, or equipment is properly handled and documented (HUD Handbook 7460.8, Rev. 2).

Once received, RCHC should monitor or inspect the supplies or services obtained in accordance with the contract. If poor contractor performance occurs, RCHC should document the file and remember that performance when awarding future contracts. RCHC is not obligated to pay for or accept supplies or services until it has had an opportunity to fully inspect them (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Contract Modification and Change Order Procedures

Occasionally, it is necessary to modify a contract or purchase order to reflect changes in the required effort, period of performance, or price. For projects involving public housing or public housing funds, contract and purchase order modifications shall be issued in writing (HUD Handbook 7460.8, Rev. 2).



Procedures. A change order is issued by RCHC after the award of a contract in any of the contract terms, including specifications, completion time, description of the work, etc., within the scope of the contract. The "Changes" clause is included in form HUD-5370 (for construction); form HUD-5370-C (for non-construction contracts); and form HUD-5370-EZ (for small construction/development contracts) (HUD Handbook 7460.8, Rev. 2).

Change orders/modifications should include at least the following: a detailed description of the proposed change in work, a reference to the applicable working drawings and specifications, when applicable, a price (credit, debit, or no change) for the change in contract work, estimate of additional time, if any, required to complete the work, the contractor's itemized breakdown of the cost of materials and labor and an itemized breakdown for any applicable subcontractors, and the change indicate on the architectural or engineering drawings, if applicable (HUD Handbook 7460.8, Rev. 2).

RCHC shall maintain accurate records and documentation regarding contract modifications by including a modification register or other record in each contract file. This register is required to provide a permanent record of all actions taken in connection with each contract. The modifications register should generally include information on the following: the number of modifications, a brief description of the change, the cost of the proposed modification, the date submitted to HUD for approval, if applicable, any critical deadline dates, the date of HUD approval or disapproval, if applicable, and the action taken, and the amount of any additional time required by the contractor (HUD Handbook 7460.8, Rev. 2).

Cost Analysis. RCHC shall require assurance that, before entering into a contract, the price is reasonable. A cost analysis, consistent with federal guidelines, shall first be conducted for all contract modifications or change orders for projects that were procured through Sealed Bids, Competitive Proposals, or Non-Competitive Proposals, or for projects originally procured through Small Purchase procedures and the amount of the contract modification will result in a total contract price in excess of \$50,000 (HUD Handbook 7460.8, Rev. 2).

RCHC shall negotiate profit as a separate element of the price 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 (24 CFR §85.36).

In all cases, proposed costs must be allowable pursuant to applicable cost principles, allocable (related to or required in the performance of the contract) and reasonable (what a prudent business would pay in a competitive marketplace) (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Contract Terminations

Contracts may be terminated either for default or termination, as prescribed in the termination clauses on forms HUD-5370, 5370-C, and 5370-EZ (HUD Handbook 7460.8, Rev. 2).

For projects involving public housing or public housing funds, RCHC shall terminate contracts for convenience or default only by a written notice to the contractor. The notice shall be sent by certified mail with a return receipt requested. The notice shall state, at a minimum, the following:

1. The contract is being terminated for default or for the convenience of RCHC under the cited contract clause authorizing the termination;
2. Whether the contract is terminated in whole or in part (for partial terminations, identify the specific items being terminated);



3. If terminated for default, the acts or omissions constituting the default, RCHC's determination that failure to perform is not excusable, RCHC's rights to charge excess costs of re-procurement to the contractor, and the contractor's appeal rights;
4. The effective date of termination;
5. The contractor's right to proceed under the non-terminated portion of the contract;
6. Any special instructions; and
7. Copies of the notice should be sent to the contractor's surety, if any, and any assignee (HUD Handbook 7460.8, Rev. 2).

A contract may be terminated for default because of the contractor's actual or anticipated failure to perform its contractual obligations. Under a termination for default, RCHC is not liable for the contractor's costs on undelivered work and may be entitled to the repayment of progress payments. If the contractor fails to make progress so as to endanger performance of the contract, RCHC should issue a written notice to the contractor (generally called a "Cure Notice") specifying the failure and providing a period of 10 days (or longer period if needed) in which to "cure" the failure. After the 10 days, RCHC may issue a notice of termination for default, unless the failure to perform has been cured (HUD Handbook 7460.8, Rev. 2).

If the contractor has failed to perform work within the required time and a termination for default appears appropriate, RCHC should, if practicable, notify the contractor in writing of the possibility of the termination. This notice shall call the contractor's attention to the contractual liabilities if the contract is terminated for default and request the contractor to "show cause" why the contract should not be terminated. If the response to this "show cause" notice is inadequate or insufficient, action is taken in response to it; the contract should then be terminated for default (HUD Handbook 7460.8, Rev. 2).

Public Housing Projects: Procurement Records

RCHC shall maintain records sufficient to detail the significant history of each procurement. These records will include, but are not necessarily limited to the following:

1. Rationale for the method of procurement (if not self-evident);
2. A copy of the solicitation;
3. Rationale of contract pricing arrangement (if not self-evident);
4. Reason for accepting or rejecting the bids or offers;
5. Basis for the contract price;
6. A copy of the contract documents awarded or issued and signed by the Contracting Officer;
7. Basis for contract modifications;
8. Related contract administration actions (24 CFR §85.36 and HUD Handbook 7460.8, Rev. 2); and
9. Related receipts, receivers or packing slips (HACR Procurement Procedures).

The level of documentation should be commensurate with the value of the procurement. Records are to be retained for a period of ten (10) years after final payment and all matters pertaining to the contact are closed (RCHC Records Retention Policy).

Certain information about RCHC procurements is normally considered public (e.g., name of the winning contractor and total contract price) and should be released to the public in accordance with RCHC's procurement policy and applicable state laws and regulations governing freedom of information. Other information related to procurement is often protected from disclosure (e.g., proprietary business information such as technical methods or processes, detailed pricing information, personal information, or RCHC's pre-decided information such as internal proposal evaluations). RCHC must exercise caution to ensure that protected information is not made public.



Contracting/procurement personnel should consult RCHC's legal counsel whenever there is any question regarding the release of information (HUD Handbook 7460.8, Rev. 2).

Review of Procurement Policy

RCHC shall review its Procurement Policy biennially. Any changes in the procurement environment (e.g., new laws, regulations, market conditions, or buying needs and practices of the corporation) should be considered when determining whether the procurement policies and procedures continue to adhere to all applicable laws and regulations and also to meet the corporation's current and future needs (HUD Handbook 7460.8, Rev. 2).

RCHC should periodically review its record of prior purchases, as well as future needs, to find patterns of procurement actions that could be performed more efficiently or economically. Items purchased repetitively might be obtained more economically through various master contracts. However, consideration should be given to storage, security, and handling requirements when planning these types of purchasing actions (HUD Handbook 7460.8, Rev. 2).