



COMMISSION 419 Cherry St., Lansing, MI 48933 Telephone: (517) 487-6550 Fax: (517) 487-6977

Agenda
Lansing Housing Commission
October 25, 2017

Call to Order

1. Roll Call.
2. Approval of Minutes of September 27, 2017

Action Items:

- Resolution 1279 - Approval Procurement Policy
- Resolution 1282 - Approval Customer Service Policy
- Resolution 1283 - Approval Electronic Communications & Social Media Policy
- Resolution 1284 - Approval of Davis Bacon & Related Acts Policy

Informational Items.

- a. Finance Report September 2017 Dickey May
 - b. Housing Choice Voucher Report September 2017
 - c. Asset Management Report September 2017
 - Mt. Vernon & Scattered Sites AMP 102
 - Hildebrandt, Forrest, Hoyt AMP 103 & Scattered Sites
 - LaRoy Froh & Scattered Sites AMP 111
 - South Washington & Scattered Sites AMP 112
 - d. Sustainability Agreement Update Martell Armstrong
3. Executive Director's Comments
 4. President's Comments.





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5. Public Comment – limit 3 minutes per person.
6. Other Business.
7. Adjournment.





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Minutes of the September 27, 2017

Commissioner Baltimore called the meeting to order promptly at 5:34 p.m. Mr. Armstrong, called the roll.

PRESENT AT ROLL CALL: Commissioners Baltimore, Deschaine, and Robinson were present at roll call. Commissioner Pena joined while the meeting was in progress and Commissioner Joyce was absent.

STAFF:

Kim Shirey
Lisa Parsons
Marshall Brice

Tom Barry
Marcus Hardy
Sonya Morrison

Guests:

Daniel Black
Dickey May, Financial Consultant via telephone
Tamara Warren

Commissioner Deschaine moved and Commissioner Robinson 2nd a motion to approve the minutes of the August 23, 2017 commission meeting. **The Motion was approved by all members present.**

Commissioner Deschaine moved and Commissioner Robinson 2nd a motion to approve Resolution 1278- Approval of the Ethics Policy. **The Motion was approved by all members present.**

Commissioner Robinson moved and Commissioner Deschaine 2nd a motion to approve Resolution 1279- Approval of the Procurement Policy. **The Motion was Tabled**

Commissioner Deschaine moved and Commissioner Robinson 2nd a motion to approve Resolution 1280- Approval of the Computer & Electronic Equipment Policy. **The Motion was approved by all members present**

Commissioner Robinson moved and Commissioner Deschaine 2nd a motion to approve Resolution 1275- Approval of the Annual SEMAP Certification. **The Motion was approved by all members present**





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Written Informational Reports were provided as follows:

- A. Finance Report Dicky May, Mr. May provided a brief overview of the Finance Reports for August 2017.
- B. Housing Choice Voucher Report—Kim Shirey announced that HCV recently opened and closed their waiting list and took in 3,830 applications. 400 applicants were randomly selected for the actual waiting list.
- C. Asset Management Report—Lisa Parsons announced that LIPH had an occupancy rate of 97%, which exceeds the 96% recovery plan occupancy goal. All the sites will give a summary of what has been going on with their sites.
- D. Sustainability Agreement Update: Mr. Armstrong reported that the Commission continues to abide by the monthly, quarterly, and biannual provisions enumerated in the sustainability agreement. Commissioner Robinson requested that all Mr. Armstrong updates the board on the total progress to include previously closed out items in future meetings.

Executive Director's Comments: Mr. Armstrong announced the following:

- The Executive Director expressed condolences for staff members with recent family losses and health issues.
- The Executive Director has been in frequent contact with the Detroit Field Office regarding the status of the 2013 Independent Audit. All items except finding number three (3) had been closed. Finding number three (3) involved intercompany transfers. The Executive Director, along with Mr. Dickey May, Mrs. Patricia Baines-Lake, and Mr. Edward Forrest had a conference call with the DFO on 9/15/17 to discuss and resolve the matter. Documentation has been submitted and this matter is expected to be resolved.
- Work has begun on the SWP stair repair/replacement. The work is scheduled to be done within 56 days of the start. Concerns were addressed at the preconstruction meeting, held at SWP on September 8, 2017, that the availability of steel for the job may be impeded by the recent disasters in Texas and Florida respectively. Any



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changes to the timeline of the construction and repair process would be processed as a change order with final approval of the Executive Director.

- The fiscal year end 2017 audit has begun by Plante Moran. Field work will be conducted until mid-October.
- LHC has received its REAC inspection final grade of 33 out of a possible 40 PHAS points.
- The FSS grant request in response to the 2018 Notice Of Funding Availability has been submitted. Based on the previous year's caseload, LHC has requested funding for a part time staffing position.
- The Capital Funds have been made available for draw down. The operating funds calculation have been finalized.
- LHC has received notification that the Labor Standards review has been closed. Future training for staff will be conducted by the HUD Regional Office.
- The Executive Staff, through legal representation, has been in contact with His Healing Hands Church regarding concerns to the previous ruling. Concerns have been subsided through these communications.
- The Executive Director has been notified by a representative from Commercial Bank that LHC would receive a donation of \$5,000 for programming purposes. The Executive Director will tentatively earmark the funding for potential FSS matching funding.
- The Executive Director attended the following events:
 - Willard K. Walker Stadium Dedication
 - SWAG Group meeting
- The Executive Director met with the following entities:
 - City of Lansing Human Relations department to facilitate rental assistance/eviction mitigation
 - Deborah Smith and Joseph Lowe of Wellness, InX for a meet and greet
 - The City of Lansing to facilitate Parks and Recreation activity guide delivery





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- Representatives from Mercantile Bank regarding possible financial management programming for residents and participants.

President's Comments: Chairman Baltimore announced the cancellation of the planned board retreat and strategic planning session. Future changes and streamlining will be implemented in agendas and meetings. LHC will gain a new commissioner and Dr. Pena will leave the LHC Board of Commissioners.

Public Comment – No Public Comments were submitted.

Other Business - There was on other business

Adjournment: The meeting was adjourned at 6:53 p.m.





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October 25, 2017

**Lansing Housing Commission
419 Cherry St.
Lansing, Michigan 48933**

HONORABLE MEMBERS IN SESSION:

SUBJECT:

Approval of LHC's Revised Procurement Policy- Resolution No. 1279

RECOMMENDATION:

Staff recommends adoption of Resolution No.1279, which authorizes Martell V. Armstrong, acting in his capacity as Executive Director, to implement the attached Revised Procurement Policy.

CONTACT PERSON:

Martell V. Armstrong
Executive Director
517.372.7996

SUMMARY:

Approval of this resolution provides direction on the implementation of Lansing Housing Commission's ("LHC's") revised Procurement Policy.

BACKGROUND:

LHC staff reviewed current 2 CFR 200.317-326 policy, sample policies with Maximus and Procurement Standards instructor Mike Gifford for guidance on how to revise its Procurement Policy to ensure it was updated to represent current best practices and compliant with HUD requirements. As a result of this collaboration the attached policy achieves this goal.

Staff training to review this updated policy is scheduled September 28, 2017. As such, staff will be immediately prepared to implement this policy.

FINANCIAL CONSIDERATION:

There are not financial considerations.



POLICY CONSIDERATIONS:

One of the major governance responsibilities of the Board is to set policy for LHC. Staff compliments the Board's governance responsibility by periodically reviewing and updating policies for review and approval by the Board. Approval of this policy is consistent with the Board's responsibility to exercise that governance responsibility.

Respectfully Submitted, M. J. Armstrong
Martell V. Armstrong,
Secretary to the Board Lansing Housing Commission



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Resolution No. 1279

Adopted by the Lansing Housing Commission

October 25, 2017

BE IT RESOLVED BY THE LANSING HOUSING COMMISSION:

The Lansing Housing Commission is authorized to implement the attached Revised Procurement Policy. Martell V. Armstrong, in his capacity as Executive Director, or his designee is authorized to administer this resolution.


Chair

Yeas 4

Nays 0

Abstentions 0

Attest 
Secretary

For Clerks Use Only

Resolution No: 1279
Date Adopted: 10/25/2017



**Lansing Housing Commission
Policy No. 2010-6
Procurement Policy**

Overview

This Procurement Policy complies with the Annual Contributions Contract ("ACC") between Lansing Housing Commission ("LHC") and the U. S. Department of Housing and Urban Development ("HUD"), Federal Regulations (**\$200.317 through \$200.326, Procurement Standards**), the procurement standards of the Procurement Handbook for Public Housing Agencies, HUD Handbook 7460.8, Rev2, and applicable State and Local laws.

General Provisions

The LHC shall:

- provide procurement system of quality and integrity;
- provide fair and equitable treatment of all persons or firms involved in purchasing by LHC;
- ensure supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices available to LHC;
- promote competition in contracting; and
- ensure purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State, and local laws.

Application

This Procurement Policy applies to all procurement actions of LHC, regardless of the source of funds, except as noted under "exclusions," below. However, nothing in this Policy shall prevent the LHC from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law.

When both HUD and non-Federal grant funds are used for a project, the work 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, HUD procurement regulations shall be applied to the total project. If funds and work can be separated and work can be completed under separate contracts, then regulations applicable to the source of funding may be followed.

Definition

The term "procurement," as used in this Policy, includes the procuring, purchasing, leasing, or renting of:

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1. Goods, supplies, equipment, and materials,
2. Construction and maintenance; consultant services.
3. Architectural and Engineering ("A/E") services,
4. Social Services and
5. Other Services.

Exclusions

This policy does not govern administrative fees earned under the Housing Choice Voucher ("HCV") program, the award of vouchers under the HCV program, the execution of Housing Assistance Payment contracts under that program, or non-program income, e.g. fee-for-service revenue under **(24 CFR Part 990)**. These excluded areas are subject to applicable State and local requirements.

Changes in Law and Regulations

In the event an applicable law and/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.

HUD and Board Approval of Procurement Actions

LHC Board of Commissioners' approval, by resolution, is required for all procurement actions above \$100, 000.00. The Executive Director or designee must receive Board approval of each contract or contract modification that increases the value of the contract amount by ten per cent (10%) or more. HUD approval is also required for contract modifications, if 10% or more; or for changes in the scope of work. Further, LHC's Board of Commissioners' approval is required for all contract previously approved by the Board when a contract modification extends the contract term of the contract for forty-five (45) or more calendar days.

Although extending the contract after it has expired is discouraged as a poor business practice, on the rare occasions this action is deemed in the best interest of LHC a written explanation of the reason the contract was not timely extended shall be submitted to the Contracting Officer. A contract terminated by LHC for cause or convenience may only be renewed or extended with the approval of the Board of Commissioners.

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Delegation of Contracting Authority

The LHC Board of Commissioners' has designated the Executive Director as LHC's Contracting Officer. The Executive Director is responsible for ensuring that LHC's procurement actions comply with this Policy. The Executive Director may delegate all or some procurement authority as is necessary and appropriate to conduct the business of the Commission. The Executive Director shall delegate Contract Authority in writing. The delegation document shall state the scope and limitations of authority. Changes in the scope or limitations shall be made in writing by amendment to the existing delegation or by issuance of a new delegation.

Each Delegation of Authority shall clearly state the position's limit of authority.

Further, and in accordance with this delegation of authority, the Executive Director shall ensure that the Procurement Policy is followed. The Executive Director shall also establish a system of sanctions for violations of the ethical-standards described in Page 6 & 7 of this policy, consistent with Federal, State, or local law.

The Executive Director or designee (s) shall ensure:

1. Contracts and modifications are in writing and clearly specify the desired supplies, services, or construction, and are supported by sufficient documentation.
2. Procurement requirements are subject to an annual planning process to assure efficient and economical purchasing.
3. For contracts exceeding \$100,000, one (1) or more public advertisement (s) shall be made over a minimum of 10 business days. Contractor/vendor preparation and submission of bids or proposals shall be allowed a minimum of 10 business days.

Solicitation procedures are conducted in full compliance with the Federal standards set forth at 24 CFR 85.36

4. An independent cost estimate shall be prepared before solicitation for all procurement actions that exceed \$3,000.
5. Contract awards are made to the lowest responsive responsible bidder. In the case of Requests for Proposals or quotes, contract awards are to be made only to the offeror whose proposal or quote offers the greatest value to LHC, considering the evaluation criteria stated in the solicitation.

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6. Notice of award is available to the public.
7. Unsuccessful firms are notified.
8. Work equipment, or service is inspected/reviewed and accepted/approved prior to payment.
9. LHC complies with all applicable HUD review requirements.

Public Access to Procurement Information

Most procurement information that is not proprietary is a matter of public record and shall be available to the public to the extent provided in the Michigan Freedom of Information Act.

Ethics in Public Contracting

The LHC hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct is consistent with applicable Federal, State or local laws and LHC's Ethics Policy.

Conflicts of Interest

No employee, officer, Board member or agent of the LHC shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:

- A. An employee, officer, Board member, or agent involved in making the award;
- B. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, step-father, step-mother, step-son, step-daughter, half- brother, half-sister, grandparents or grandchildren);
- C. His/her partner; or
- D. An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

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Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$20.00 in value from any contractor, potential contractor, or party to any sub-contract, and shall not knowingly use confidential information for actual or anticipated personal gain.

Prohibition Against Contingent Fees

Contractors wanting to do business with the LHC must not hire a person to solicit or secure a contract or a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies

Procurement Planning

Planning is essential to managing the procurement function. Hence, LHC will 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
- Maximize competition and competitive pricing among contracts and decrease LHC's procurement costs
- Reduce the Commission's administrative costs;
- Ensure supplies and services are obtained without any need for re-procurement, e.g. resolving bid protests;
- Minimize errors that occur when there is inadequate lead time.
- Give priority consideration to rehabilitation of vacant rental units.
- Prioritize capital projects that are already underway and require additional funds, or are included in the Five-Year Capital Fund Action Plan.

Consideration should be given to storage, security, and handling requirements when planning the most appropriate purchasing actions.

Procurement Methods

LHC will select one of the following methods of procurement for all procurement actions based on the nature and anticipated dollar value of the total requirement. As previously provided, procurement actions exceeding \$100,000 must have approval of the LHC Board of Commissioners.

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- | | |
|----------------------|---|
| 1. \$0-\$100 | Petty Cash |
| 2. \$101-\$3000 | Micro Purchase |
| 3. \$3,001- \$99,999 | Small Purchase |
| 4. \$100,000 and up | Sealed Bids/Proposals-Board Approval Required |

Petty Cash Purchases:

Purchases under \$100.00 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. LHC shall ensure security is maintained and only authorized individuals have access to the account petty cash accounts. These accounts should be reconciled and replenished periodically.

Micro Purchases:

Purchases over \$100.00 and less than \$3,000.00 are considered Micro Purchases.

Only one quote is required provided the quote is considered reasonable. 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), fax, in writing, or through e-procurement. Award shall be made to the qualified vendor that provides the best value to the LHC. If award is to be made for reason other than lowest price, documentation shall be provided in the contract file. \$2,000 for construction awards subject to the Davis-Bacon Act.

Micro-purchases may be awarded without soliciting competitive quotations IF the non-Federal entity considers the price to be reasonable.

The LHC shall not break down requirements aggregating more than the small purchase threshold or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to:

1. Permit use of the small purchase procedures or;
2. Avoid any requirements that apply to purchases that exceed the Micro Purchase threshold.

Small Purchase Procedures and Positional Spending Limits

For any amounts above the Micro Purchasing ceiling (\$3000.00), but not exceeding \$99,999.00 the LHC may use small purchase procedures.

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Under small purchase procedures, the LHC shall obtain a reasonable number of quotes (preferably three). Note: no cost/price analysis required. However, for purchases of less than \$3,000 (except for construction procurements which is set at \$2,000), also known as Micro Purchases, only one quote is required provided the quote is considered reasonable. To the greatest extent feasible, and to promote competition, small purchases should be distributed among qualified sources. Quotations for Small Purchases (QSP), or 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 responsive and responsible vendor that submits the lowest cost to the Agency. If award is to be made for reasons other than lowest price, documentation shall be provided in the contract file. The Agency shall not break down requirements aggregating more than the small purchase threshold (or the Micro Purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed the Micro Purchase threshold.

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 document. Under sealed bids, the LHC publicly solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation for Bid ("IFB"), 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 \$100,000.

A. Conditions for Using Sealed Bids: LHC shall use the sealed bid method if the following conditions are present:

- Procurement action exceeds the small purchase threshold of \$99,999
- A complete, adequate, and realistic statement of work, specification, or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the work;
- The contract can be awarded based on a firm fixed-price;

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- The selection of the successful bidder can be made principally on the basis of price.
- Construction Contracts above the small purchase threshold

B. Solicitation and Receipt of Bids: An IFB is issued, when it includes the specifications and all contractual terms and conditions applicable to the procurement, and a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation. The IFB must state the time and place for both receiving the bids and the public bid opening. All bids received will be date and time-stamped and stored **unopened** in a secure place until the public bid opening. A bidder may withdraw the bid at any time **prior** to the bid opening.

C. Bid Opening and Award: Bids shall be opened publicly. All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection. If equal low bids are received from responsible bidder's selection shall be made by drawing lots or other similar random method. The method for doing this shall be stated in the IFB. 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. The successful bidder and all unsuccessful bidders shall be notified in writing.

D. Mistakes in Bids: Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written or telegraphic notice received in the office designated in the IFB prior to the time set for bid opening. After bid opening, corrections in bids may be permitted only if the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended.

A low bidder alleging a non-judgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made.

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All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Contracting Officer. After bid opening, changes in the bid prices or other provisions of bids prejudicial to the interest of the LHC or fair competition shall **not** be permitted.

The Executive Director, or designee, may waive any irregularity if it is determined the waiver is in the best interest of LHC.

Competitive Proposals

Unlike sealed bidding, the competitive proposal method permits; consideration of technical factors other than price; discussion with bidders 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.

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. 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 business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;

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(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

Award is normally made on the basis of the proposal that represents the best overall value to the LHC, considering price and other factors, e.g. technical expertise, experience, quality of proposed staffing, etc. set forth in the solicitation and not solely the lowest price.

A. Conditions for Use: Where conditions are not appropriate for the use of sealed bidding, competitive proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the small purchase threshold. As detailed within Section 7.2. B of HUD Procurement Handbook 7460.8 REV 2, “Only under limited circumstances would construction services be procured by competitive proposals;” accordingly, construction services will most typically be procured utilizing the sealed bid (IFB) or small purchase procedures (QSP). Generally, the competitive proposal method should be used whenever any of the following conditions exist.

- The work is not definite enough to accurately estimate the total cost of the contract and the contract may require contingency cost.
- The nature of the requirement is such that LHC needs to evaluate more than just the price to ensure the prospective contractor understands LHC’s requirements and can successfully complete the contract.
- The requested work or a service lends itself to different approaches from prospective contractors in accomplishing the work.

B. Form of Solicitation: Other than A/E services, competitive proposals shall be solicited through the issuance of a RFP. The RFP shall clearly identify the importance and relative value of each of the evaluation factors as well as any sub-factors and price. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established **before** the solicitation is issued.

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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 the award. The LHC may assign price a specific weight in the evaluation criteria or the LHC may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.

The RFP shall state the date and time of the proposals are due. Proposals, which for any reason are not delivered timely, will not be considered and will be returned unopened. LHC staff designated to receive proposals will determine when the deadline for receipt of proposals has expired. No responsibility will be attached to an officially designated LHC officer, employee, or agent of LHC for not recognizing or receiving a proposal which is not properly marked, addressed, or delivered to the submission place, in the submission method, by the submission date and time.

- C. Evaluation:** The proposal shall be evaluated only on the criteria stated in the RFP. Where not apparent from the evaluation criteria, the LHC shall establish an Evaluation Plan for each RFP. Generally, all RFP's shall be evaluated by an appropriately appointed Evaluation Committee. The Evaluation Committee shall be required to disclose any potential conflicts of interest and to sign a Non-Disclosure statement. An Evaluation report, summarizing the results of the evaluation, shall be prepared prior to the award of a contract.
- D. Negotiations:** Negotiations may be conducted with any offerors who submit a proposal determined to have a reasonable chance of being selected for award. This determination is based on the relative score of the proposals as they are evaluated and rated in accordance with the technical and price factors specified in the RFP. These offerors shall be treated fairly and equally with respect to any opportunity for negotiation and revision of their proposals. 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. A common deadline shall be established for receipt of proposal revisions based on negotiations.

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Negotiations are exchanges (in either a competitive or sole source environment) between LHC and offerors that are undertaken with the intent of allowing the offeror to revise its proposal.

These negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, give and take, and may apply to price, schedule, technical requirements, type of contract or other terms of a proposed contract. When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions. Discussions are tailored to each offeror's proposal, and shall be conducted by the contracting officer with each offeror within the competitive range.

The primary objective of discussions is to maximize LHC's ability to obtain the best value, based on the requirements and the evaluation factors set forth in the solicitation. The contracting officer 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 performances, and terms and conditions) that could, in the opinion of the contracting officer be altered or explained to enhance materially the proposer's potential for award.

The scope and extent of discussions are a matter of the contracting officer's judgment. The contracting officer or designee may inform an offeror that its price is considered by the LHC 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 the agency's price analysis, market research, and other reviews have identified as reasonable. "Auctioning" (revealing one offeror's price in an attempt to get another offeror to lower their price) is prohibited.

- E. Award:** After evaluation of the revised proposals, if any, the contract shall be awarded to the responsible firm whose technical approach to the project, qualification, price and/or any other factors considered, are most advantageous to the LHC provided the price is within the maximum total project budgeted amount established for the specific service. Award is normally made on the basis of the proposal that represents the best overall value to LHC, considering price

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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.

- F. A/E Services:** If the design warrants the use of an Architect or Engineer, under any grant funded program, LHC may solicit A/E services using qualifications-based selection (QBS) procedures, utilizing a Request for Qualifications (RFQ) or, as allowable per Michigan State law, LHC may solicit A/E services using the Request for Proposals method. Sealed bidding shall not be used for A/E solicitations.

Under QBS procedures, competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method. QBS procedures **shall not** be used to purchase other types of services with the exception of Mixed Finance Developers.

Developers-Joint Venture Partners: The QBS method may also be used to select a development partner, where price is negotiated with the highest-ranked offeror based on response to an RFQ. LHC shall follow all requirements and additional guidance governing the selection of a developmental partner as listed in 24CFR941.602 (d) 1 of the Mixed Finance Interim Rule.

Litigation Services: In addition to the methods listed above, the HUD Litigation Handbook 1530.1 REV-5 sets thresholds for Regional Counsel and Headquarters Program Associate General Counsel approval of litigation service contracts.

With exception of litigation involving LHC acting as a Section 8 private developer, LHC must submit to HUD Regional Counsel for prior written concurrence any litigation service contracts expected to exceed \$100,000 with a private attorney involving LHC program, project, or activity receiving loan, grant, or other subsidy assistance from HUD. Such contracts shall make a provision for reasonable fees and reimbursement of necessary expenses. If additional funding or budget revision will be required to cover the cost of litigation services, LHC shall consult appropriate Field and Regional Office staff.

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Non-competitive Proposals

A. Conditions for Use: Procurement by non-competitive proposals (sole-source) may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, cooperative purchasing, or competitive proposals, **and if** one of the following applies:

1. The item is available only from a single source, based on a good faith review of available sources;
2. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the LHC, 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, and/or construction, such that the need cannot be met through any of the other procurement methods, and the emergency procurement shall be limited to those supplies, services, and/or construction necessary simply to meet the emergency;
3. No HUD pre-award is required for non-competitive proposals as stated in Section 8.4 © of the HUD Procurement Handbook. However, LHC must make available upon HUD request LHC's Procurement Policy and any other documents requested related to the procurement activity as stated in 24 CFR 85.36 (g) or after solicitation of a number sources, competition is determined.

A single response to a competitive procurement, either an RFP or RFQ does not constitute sole source procurement. LHC may award a contract based on a sole response and shall document the files to demonstrate that the procurement was appropriately advertised and the procurement was determined to be fair and reasonable.

B. Justification: Each procurement based on non-competitive proposals shall be supported by a written justification for the selection of this method. The justification shall be approved in writing by the responsible Contracting Officer. Poor planning or lack of planning is not justification for emergency or sole source procurements. The justification, to be included in the procurement file, should include the following information:

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1. Description of the requirements;
2. History of prior purchases and their nature (competitive vs. non-competitive);
3. The specific exception in 2 CFR §200.320(f)(1) -(4) which applies;
4. Statement of the unique circumstances that require award by non competitive proposals;
5. Description of the efforts made to find competitive sources (advertisement in trade journals or local publications), phone calls to local suppliers, issuance of a written solicitation, etc.);
6. State the efforts that will be taken in the future to promote competition for the requirement;
7. Signature by the Contracting Officer's supervisor (or someone above the level of the Contracting Officer); and
8. Price Reasonableness. The reasonableness of the price for all procurements based non-competitive proposals shall be determined by performing an analysis, as described in this Policy.

Emergencies

An exigent or emergency purchase may be made when an exigent or emergency situation exists. An exigent condition is a situation or condition requiring immediate aid or action. Examples include a pending natural disaster, an equipment failure such as fire safety or elevator malfunction. An emergency condition is an immediate threat to the health and safety of the residents or employees of the LHC. **Only the Executive Director or his/her designee shall be authorized to declare an exigent or emergency condition.**

Exigent and/or emergency procurement actions shall be limited to only those supplies, services, or major repairs to abate and or cure the exigent condition or emergency. When taking such action, the procurer must attempt to get the best product for the least cost while considering the time sensitive nature of the situation.

The exigent condition or emergency should be completed as soon as possible. Within twenty-four (24) hours after the exigent condition or emergency is abated, the

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Contracting Officer shall ensure the proper documentation for the supplies, services, or construction is submitted. Documentation of the exigent condition or emergency condition shall be maintained separately in the Procurement Division's files.

Cooperative Purchasing/Intergovernmental Agreements

LHC may enter State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a direct procurement shall be based on economy and efficiency. If used, the interagency agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions.

The LHC may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with 2 CFR §200.317 through §200.326.

Individual Cost Estimate ("ICE")

For all purchases above the Micro Purchase threshold, the LHC 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.

Cost and Price Analysis

The LHC shall require assurances that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

Petty Cash and Micro Purchases

No formal cost or price analysis is required; 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.

Small Purchases

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

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quotes are not obtained to establish reasonableness through price competition, the Contracting Officer shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the Contracting Officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

Sealed Bids

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, and when the bid received is substantially more than the ICE, and where LHC cannot reasonably determine price reasonableness, LHC must conduct a cost analysis, consistent with federal guidelines, to ensure the cost paid is reasonable. LHC may use alternative methods of determining price reasonableness as noted in the HUD Procurement Handbook, Rev 2.

Competitive Proposals

The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, LHC 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, LHC must conduct a cost analysis, consistent with Federal guidelines, to ensure the price paid is reasonable.

LHC may use the Guidance at 7460.8 REV 2 Chapter 4 Paragraph 32 (B) as an alternative means to determine price reasonableness (other than cost analysis).

Contract Modifications

A cost analysis, consistent with federal guidelines, shall be conducted for all contract modifications 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 \$100,000. The only exception to this rule is a contract modification based on pricing terms already established in the contract document.

Solicitation and Advertising

A. Petty Cash and Micro Purchases

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LHC should determine a reasonable cost and contact one source. Solicitation may be either written or oral.

B. Small Purchases

Facsimile, verbal requests or e-mail requests for quotes are acceptable solicitation methods; however, LHC may also use other means, including advertising, mailing lists, and verbal quotes. Reasonable costs must be determined before the solicitation begins.

C. Sealed Bids and Competitive Proposals

Solicitation must be done publicly. LHC must use one or more of the following solicitation methods, provided the method employed provides for meaningful competition.

1. Advertising in newspapers or other print mediums of local or general circulations including LHC's website www.lanshc.org.
2. Advertising in various trade journals or publications.
3. E-Procurement - LHC may conduct its public procurements through the Internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with 2 CFR §200.317 through §200.326, State and local requirements, and the Authority's procurement policy.

Time Frame

For procurements of more than \$100,000, the public notice should run not less than once each week for two consecutive weeks.

Form

Notices/advertisements should state, at a minimum, the place, date, and time that the bids or proposals are due, the solicitation number, a contact that can provide a copy of, and information about, the solicitation, and a brief description of the needed items.

Time Period for Submission of Bids

A minimum of 30 days shall generally be provided for preparation and submission of sealed bids and 15 days for competitive proposals. However, the Executive Director may allow for a shorter period under extraordinary circumstances.

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Cancellation of Solicitations

A. An IFB, Request for Proposal ("RFP"), or other solicitation may be cancelled before bids/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 best; or
4. Other similar reasons.

B. A solicitation may be cancelled and all bids or 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 LHC 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; or
6. For good cause of a similar nature when it is in the best interest of LHC.

C. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request.

D. 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.

E. 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 specification or LHC's cost estimate. If both are determined adequate and if only one

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bid is received, and the price is unreasonable, the Contracting Officer may cancel the solicitation and either

1. Re-solicit using a RFP; or
2. Complete the procurement by using the competitive proposal method. The Contracting Officer must determine, in writing, that such action is appropriate, must inform all bidders of LHC's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.

If problems are found with specifications, LHC should cancel the solicitation, revise the specifications and solicit using an IFB.

Credit (or Purchasing) Cards

Credit card usage should follow the rules for all other small purchases. For example, the Contracting Officer may use a credit card for Micro Purchases without obtaining additional quotes provided the price is considered reasonable. However, for amounts above the Micro Purchase level, the Contracting Officer would generally need to have obtained a reasonable number of quotes before purchasing via a credit card. When using credit cards, LHC should adopt reasonable safeguards to assure they are used only for intended purposes (for instance, limiting the types of purchases or the amount of purchases that are permitted with credit cards).

Federal awarding agency or pass-through entity review.

(a) The Non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

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(b) The Non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The Non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The Non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The Non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The Non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The



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non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Bonding Requirements

The standards under this section apply to construction contracts that exceed \$100,000. There are no bonding requirements for small purchase or for competitive proposals. LHC may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.

A. Bid Guarantee Bonds: For construction contracts exceeding \$100,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price. A Bid Guarantee may be acceptable in the form of cash equivalent.

B. Payment Bonds: All construction contracts exceeding \$100,000. This assurance may be any one of the following four:

1. A performance and payment bond in the sum of 100% of the contract price; or
2. Separate performance and payment bonds, each for 50% or more of the contract price; or
3. A 20% case escrow; or
4. A 25% irrevocable letter of credit

C. These bonds must be obtained from guarantee or surety companies acceptable to the U. S. Government and authorized to do business in the State where the work is to be performed. Individual sureties shall not be considered.

U. S. Treasury Circular Number 570 lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded and the States in which the company is licensed to do business. Use of companies on this circular is mandatory.

All contracts shall contain insurance provisions appropriate to the project or service and /or as may be required by Federal, State and local laws and ordinances.

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Contractor Qualification and Duties

LHC shall not award any contract until the prospective contractor, i.e. low responsive bidder, or successful offeror, has been determined to be responsible. A responsible bidder/offeror must:

- A. Have adequate financial resources to perform the contract, or the ability to obtain them;
- B. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the bidders/offeror's existing commercial and governmental business commitments;
- C. Have a satisfactory performance record;
- D. Have a satisfactory record of integrity and business ethics;
- E. Have the necessary organization, experience, accounting and operational controls, and technical skills or the ability to obtain them;
- F. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
- G. Be otherwise qualified and eligible to receive an award under applicable laws and Regulations, including not suspended, debarred or under a HUD-imposed Limited Denial of Participation ("LDP").

If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the official contract file, and the prospective contractor shall be advised of the reasons for the determination.

Suspension and Debarment

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 ((2 CFR §200.317 through §200.326) or by other Federal agencies, (e.g. Department of Labor) for violation of labor regulations, when necessary to protect housing authorities in their business dealings.

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Prior to issuance of a contract, Agency staff shall, as detailed within Section 10.2.H.1 and 10.2.H.2 of HUD Procurement Handbook 7460.8 REV 2, conduct the required searches within the HUD Limited Denial of Participation (LDP) system and the U.S. General Services Administration System for Award Management (SAM) and place within the applicable contract file a printed copy of the results of each such search.

Vendor Lists

All interested businesses shall be given the opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough sources to ensure competition.

Contract Pricing Arrangements

Any type of contract which is appropriate to the procurement and which will promote the best interests of LHC 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 LHC. A cost reimbursement contract shall not be used unless:

- It is likely to be less costly or it is impractical to satisfy LHC requirement otherwise.
- The proposed contractor's accounting system is inadequately allocate costs in accordance with applicable cost principles (see OMB Circular A87) and
- The contractor is paid only reasonable and allowable costs.

For all cost reimbursement contracts, LHC must include a written determination on why no other contract type is suitable. Further, the contract must include a ceiling price that the contractor exceeds at its own risk.

Time and Materials Contract may be used only if a written determination is made that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk. If a time and material contract is used, the Executive Director or designee shall notify the local HUD/RPC Office and the chairperson of the Board of Commissioners. A Time and Materials Contract is a cost reimbursement contract. The Contract must include a ceiling price which the contractor exceeds at its own risk, and includes reasonable, allowable, and allocable (labor and materials) costs

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necessary to complete the work. Time and Materials Contracts shall have fixed hourly rates. Fee or profit from materials is prohibited in a Time and Materials Contract.

Options

Options for additional quantities or performance periods may be included in contracts, provided:

- A. The option is contained in the solicitation;
- B. The option is a **unilateral** right of LHC;
- C. The contract states a limit on the additional quantities and the overall term of the contract;
- D. The options are evaluated as part of the initial competition;
- E. The contract states the period within which the options may be exercised;
- F. The options may be exercised only at the price specified in or reasonably determinable from the contract; and
- G. The options may be exercised only if determined to be more advantageous to LHC than conducting a new procurement

Contract Clause

All contracts should identify pricing arrangement as well as other pertinent terms and conditions, as determined by the LHC.

Additionally, the forms (HUD-5369; 5369-A; 5369-B; 5369; 5370; 5370-C (Sections I and II); 51915; and 51915-A), which contain all HUD-required clauses and certifications for contracts of more than \$100,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by LHC.

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Required Contract Clauses: The Agency shall ensure that each contract executed by the Agency contains the required contract clauses detailed within 2 CFR §200.326 and Appendix II.

Contract Administration

LHC shall maintain a system of contract administration designed to ensure contractors perform in accordance with their contracts.

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. For cost-reimbursement contracts, costs are allowable only to the extent that they are consistent with the cost principles in HUD Handbook 2210.18

Specifications

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying LHC needs. Specifications shall be reviewed prior to issuing any solicitation to ensure they are not unduly restrictive or represent unnecessary or duplicative items. Function or performance specifications are preferred. Detailed product specifications shall be avoided whenever possible. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

Limitation

The following types of specifications shall be avoided:

- A. geographic restrictions not mandated or encouraged by applicable Federal law (except for A/E contracts, which may include geographic location as a selection factor? if adequate competition is available).
- B. Brand name specifications (unless the specifications list the minimum essential characteristic and standards to which the item must conform to satisfy its intended use).

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Nothing in this procurement policy shall preempt any State licensing laws. Specifications shall be reviewed to ensure organizational conflicts of interest do not occur.

Appeals and Remedies

LHC shall resolve contractual issues informally and without litigation whenever possible. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.

Informal Appeals Procedure

LHC shall adopt an informal bid protest/appeal procedure for contracts of \$100,000 or less. Under these procedures, the bidder/contractor may request to meet with the appropriate Contract Officer. The decision of the Contracting Officer shall be the final determination.

Formal Appeals Procedure

A formal appeals procedure shall be established for solicitations/contracts of more than \$100,000. Under these procedures, the bidder/contractor must request to meet with the Contracting Officer. Decisions of the Contracting Officer shall be the final determination.

- A. Bid Protest:** Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this Policy. 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 contractor receives notice of the award, or the protest will not be considered. All bid protests shall be in writing, submitted to the Contracting Officer or designee, who shall issue a written decision on the matter. The Contracting Officer may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant.
- B. Contractor Claims:** All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer for a written decision. The Contractor may request a conference on the claim. The Contracting Officer's decision shall inform the contractor of its appeal rights to the next higher level of authority in LHC. Contractor claims shall be governed by the Changes clause in **HUD-5370 or 5370-C** form.

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Contract Terminations

The LHC shall terminate Contracts for default as prescribed in the termination clauses on Form HUD 5370 and 5370-C.

Termination Notice

The Contracting Officer shall terminate contracts either for convenience or default only by 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:

- The contract is being terminated by LHC for default under the cited contract clause authorizing the termination.
- Whether the contract is being terminated in whole or in part (for partial terminations, LHC shall identify the specific items being terminated).
- If terminated for default, the acts or omissions constituting the default, the Contracting Officer's determination that failure to perform is not excusable, LHC's rights to charge excess costs of re-procurement to the contractor's, and the contractor's appeal rights.
- The effective date of termination
- The contractor's right to proceed under the non-terminated portion of the contract
- Any special instructions, and
- Copies of the notice shall be sent to the contractor's surety, if any, and any assignee.
- Termination for default

A contract may be terminated for default because of a contractor's actual or anticipated failure to perform its contractual obligation. Under a termination for default, LHC 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, the Contracting Officer shall issue a written notice to the contractor (generally called a "Cure Notice") specifying the failure and providing a period of 10 days in which to cure the failure. After 10 days, the Contracting