



Effective: May 20, 2021

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1.0 INTRODUCTION

- 1.1 General.** Established for Bloomington RAD I, Bloomington RAD II, and other properties, whereas the Bloomington Housing Authority (BHA) or Summit Hill Community Development Corporation (SHCDC), is in ownership or management. BHA and SHCDC are hereinafter referred to as “the Agency” “BHA” and/or "SHCDC”). This Policy has been approved by Action of the BHA Board of Commissioners (Board) on May 20, 2021.

2.0 GENERAL PROVISIONS

- 2.1 General.** The Agency shall:

- 2.1.1** Provide for a procurement system of quality and integrity;
- 2.1.2** Provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Agency;
- 2.1.3** Ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable and valuable prices available to the Agency;
- 2.1.4** Promote competition in contracting; and
- 2.1.5** Assure that the Agency purchasing actions are in full compliance with applicable Federal State, and local standards, laws, codes and other requirements.

- 2.2 Application.** This Policy applies to all procurement and purchase actions of the Agency, regardless of the source of funds, except as noted under “exclusions” below. However, nothing in this Policy shall prevent the Agency from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law. Funding sources for the work to be accomplished should be identified prior to procurement and recorded in the procurement log to assure sufficient funding is available. If grant funds are secured for the procurement then requirements applicable to the source of funding must be followed.

- 2.3 Definition.** The term “procurement,” as used in this Policy, includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction, repairs and maintenance; consultant services, (3) Architectural and Engineering (A/E) services, (4) Social Services, and (5) other services.

- 2.4 Exclusions.** This policy does not govern central office cost center (COCC) funds, public housing properties, administrative fees earned under the Section 8 voucher program, the award of vouchers under the Section 8 program, the execution of landlord Housing Assistance Payments contracts under that program, or non-program income, e.g., fee-for-service revenue under 24 CFR §990. These excluded areas are subject to applicable Federal, State and local requirements.

- 2.5 Changes in Laws and Regulations.** 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.

3.0 ETHICS IN CONTRACTING

- 3.1 General.** The Agency hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct, etc., is consistent with applicable Federal, State, or local law.

- 3.2 Conflicts of Interest.** No employee, officer, Board member, or agent of the Agency 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:
- 3.2.1** An employee, officer, Board member, or agent involved in making the award;
 - 3.2.2** His/her immediate or extended family (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, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);
 - 3.2.3** His/her partner; or
 - 3.2.4** An organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.
- 3.3 Gratuities, Kickbacks, and Use of Confidential Information.** No officer, employee, Board member, or agent of the Agency shall ask for or accept gratuities, favors, or items of more than a nominal value (i.e. inexpensive hat with logo) from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.
- 3.4 Prohibition against Contingent Fees.** Contractors attempting to do business with the Agency 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.
- 3.5 Purchase Authority.** The Executive Director may delegate purchasing authority to employees by designating them as “Purchasing Agents” or “Contracting Officers.” Purchasing limits must be established for each Purchasing Agent and Contracting Officer using the applicable form.

4.0 PROCUREMENT PLANNING

- 4.1 General.** Planning is essential to managing the procurement function properly. Hence, the Agency will periodically review its record of prior purchases, as well as future needs, to:
- 4.1.1** Find patterns of procurement actions that could be performed more efficiently or economically;
 - 4.1.2** Maximize competition and competitive pricing among contracts and decrease the Agency’s procurement costs;
 - 4.1.3** Reduce Agency administrative costs;
 - 4.1.4** Ensure that supplies and services are obtained without any need for re-procurement (i.e., resolving bid protests); and
 - 4.1.5** Minimize errors that occur when there is inadequate lead time.
 - 4.1.6** Confirm funds are available prior to purchase or contract is awarded. Record procurements over \$2,000 in the Procurement Log.
 - 4.1.7** Consideration shall be given to storage, security, and handling requirements when planning the most appropriate purchasing actions.

5.0 PROCUREMENT METHODS

- 5.1 Micro Purchases.** Purchases, or rental of equipment or storage, not exceeding \$1,999.99 only require one quote in writing, provided the quote is considered reasonable. This ceiling amount applies a single purchase or multiple purchases of the same product made within the fiscal year. If the aggregate total of a product is likely to exceed this limit within any fiscal year you must use Standard Purchase Procedures defined in section 5.2.
- 5.2 Merchant Accounts.** Merchant accounts are charges accounts that approved staff can make purchases for maintenance supplies or materials such as Menards, Lowes or Kliendorfer, etc. or office supplies, such as Office Depot. Staff may not exceed the budgeted amount for such purchases and may only use merchant accounts for micro purchases. An ICE must be conducted in accordance with Section 1 General. For a single item that total over the micro purchase amount within the fiscal year (FY). (Example: If maintenance purchases \$2,000 or more of window blinds within the FY an ICE must be kept on file for comparable items from three vendors for seven years). (Note: Purchases exceeding the limit of a purchasing Agent must be approved by a Contracting Officer as per this policy).
- 5.3 Standard Purchase Procedures.** For any amounts above the micro purchase ceiling of \$1,999.99 or more, the Agency shall use Standard Purchase Procedures to obtain a reasonable number of quotes (preferably at least three or document reasoning why three quotes could not be obtained) for purchases or rental of equipment or storage, such as maintenance materials, office supplies, equipment, vehicles, etc.; to the greatest extent feasible, and to promote competition. Standard purchases should be distributed among qualified sources. Quotations for Standard Purchases (QSP), or quotes, may be obtained in writing or via email. Award shall be made to the responsive and responsible vendor that submits the lowest cost which provides the best value for a specified product or approved equal. If award is to be made for reasons other than lowest price/best value, documentation shall be provided in the contract file. The Agency shall not break down requirements aggregating more than the micro purchase threshold into several purchases that are less than the applicable threshold merely to: (1) permit use of the micro purchase procedures or (2) avoid any requirements that applies to purchases or rental of equipment or storage that exceed the Micro Purchase threshold.
- 5.4 Bid Procedure.** Bidding, also known as Invitation for Bids (IFB), shall be used for all contracts for construction, renovations, repairs, or services that exceed the micro purchase threshold under \$2,000, and that are not competitive proposals or non-competitive proposals, as these terms are defined in this Policy. Under bids, the Agency solicits bids and awards a firm fixed-price contract (lump sum or unit price) to the responsive and responsible bidder whose bid, conforms with all the material terms and conditions of the IFB. The Agency reserves the right to award the project to the contractor of their choosing. The contractor must be available to start and complete the project timely and the timeline must be included in the IFB documents.
- 5.4.1 Conditions for Using Bid Procedure.** The Agency shall use the bid method if the following conditions are present: a complete, adequate, and realistic statement of work, specifications, or purchase description is available; three 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; and the selection of the successful bidder can be made
- 5.4.2 Solicitation and Receipt of Bids.** An IFB is issued which 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 for receiving the bids. A bidder may withdraw the bid at any time prior to the bid opening.

- 5.4.3 Bid Opening and Award.** All bids received shall be recorded on an abstract (tabulation) of bids. If equal low bids are received from responsible bidders, selection shall be first awarded to the company with a confirmed disadvantaged business status or listed on the Section 3 Business Registry. If none of these designations apply selection shall be made by quality of past performance as determined through references. If equal feedback is received from references the final determination shall be made by drawing lots or other similar random method. 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.
- 5.4.4 Mistakes in Bids.** Correction or withdrawal of bids may be permitted, where appropriate, before the bid due date and time. After the time for receipt of bids, corrections in bids may be permitted only if the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a nonjudgmental 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. All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by a Contracting Officer. After bid the date and time bids are due, changes in bid prices or other provisions of bids prejudicial to the interest of the Agency or fair competition shall not be permitted.
- 5.5 Competitive Proposals.** Unlike bidding procedures, the competitive proposal method, also known as Request for Proposals (RFP), 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 the Agency, 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.
- 5.5.1 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 micro purchase threshold.
- 5.5.2 Form of Solicitation.** Legal services, audit services, developer-related services, consulting services, and other professional competitive proposals shall be solicited through the issuance of an RFP. The RFP process does not apply to Architectural or Engineering services, which are solicited utilizing a Request for Qualifications (RFQ) process, as per Section 5.4.6 A/E Services. 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. 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. The Agency may assign price a specific weight in the evaluation factors or the Agency may consider price in

conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP.

5.5.3 Evaluation. The proposals shall be evaluated only on the factors stated in the RFP. Where not apparent from the evaluation factors, the Agency shall establish an Evaluation Plan for each RFP. Generally, all RFPs shall be evaluated by an appropriately appointed Evaluation Committee. The Evaluation Committee shall be required to disclose any potential conflicts of An Evaluation Report, summarizing the results of the evaluation, shall be prepared prior to award of a contract.

5.5.4 Negotiations. Negotiations shall be conducted with all offerors who submit a proposal determined to have a reasonable chance of being selected for award, unless it is determined that negotiations are not needed with any of the offerors. 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. Negotiations are exchanges (in either competitive or sole source environment) between the Agency 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 a competitive range. The primary object of discussions is to maximize the Agency's ability to obtain 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 technical approach, past performance, 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 may inform an offeror that its price is considered by the Agency 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.

5.5.5 Award. After evaluation of the revised proposals, if any, 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 the Agency provided that the price is within the maximum total project budgeted amount established for the specific property or activity.

5.5.6 A/E Services. The Agency may contract for A/E services using Qualifications-based Selection (QBS) procedures, utilizing a Request for Qualifications (RFQ) or may select

a qualified firm or individual. 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, other than Developer services, though architectural/engineering firms are potential sources.

5.6 Noncompetitive Proposals.

5.6.1 Conditions for Use. Procurement by noncompetitive proposals (sole- or single-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:

5.6.1.1 The item is available only from a single source, based on a good faith review of available sources;

5.6.1.2 An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Agency, 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, 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, or construction necessary simply to meet the emergency;

5.6.2 Justification. Each procurement based on noncompetitive 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:

5.6.2.1 Description of the requirement;

5.6.2.2 History of prior purchases and their nature (competitive vs. noncompetitive);

5.6.2.3 Statement as to the unique circumstances that require award by noncompetitive proposals;

5.6.2.4 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.);

5.6.2.5 Statement as to efforts that will be taken in the future to promote competition for the requirement;

5.6.2.6 Signature by the Executive Director if award is over \$25,000 or for Purchasing Agents or Contracting Officers as delegated in writing by the Executive Director.

5.6.2.7 Price Reasonableness. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this Policy.

5.7 Cooperative Purchasing/Interagency Agreements. The Agency may enter into 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 Agency 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.

5.8 Service Contracts. Service contracts will be awarded for standard ongoing services for cleaning, maintenance, mechanical repairs, electrical repairs, lawn care, etc. Service contracts may either be awarded on as-needed basis for terms of one to five years, or a record of hourly costs will be maintained so companies may be contacted as needed. Service contracts may be awarded on hourly or fixed terms, with a not-to-exceed limit. The limit to be expended for the contracted services may not exceed the amount budgeted. Contractors must have a current certificate of insurance on file with BHA, in accordance with the BHA Insurance Requirements.

6.0 INDEPENDENT COST ESTIMATE (ICE)

6.1 General. For all purchases above the Micro Purchase threshold of \$1,999.99, the Agency shall prepare an Independent Cost Estimate (ICE) prior to solicitation. The level of detail shall be commensurate with the cost and complexity of the item to be purchased. For smaller projects or purchases the ICE can be obtained by comparison to past projects or purchases, internet price comparisons, or other legitimate means. Larger, more complex projects will require a higher level of estimating such as comparison with past projects, estimates provided by an Architect, Engineer, estimating software or other means that provide sufficient costs to determine the amount to be budgeted.

7.0 COST AND PRICE ANALYSIS (CPA)

7.1 General. The Agency shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

7.1.1 Micro Purchases. No formal cost or price analysis is required. Rather, the execution of a contract by the Purchasing Agent or Contracting Officer (through a Purchase Order or other means) shall serve as the determination that the price obtained is reasonable, which may be based on the Purchasing Agent or Contracting Officer's prior experience or other factors.

7.1.2 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 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.

- 7.1.3 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 the Agency cannot reasonably determine price reasonableness, the Agency must conduct a cost analysis to ensure that the price paid is reasonable.
- 7.1.4 Competitive Proposals.** The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient proposals are not received, the Agency 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, the Agency must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.
- 7.1.5 Contract Modifications.** A cost analysis, shall be conducted for all contract modifications for projects that were procured through Bids, Competitive Proposals, or Non-Competitive Proposals, or for projects originally procured through Micro Purchase procedures

8.0 SOLICITATION AND ADVERTISING

8.1 Method of Solicitation.

- 8.1.1 Micro Purchases.** The Agency may contact only one source if the price is considered reasonable.
- 8.1.2 Standard Purchases.** Quotes may be solicited in writing or via email, or by any other reasonable method. Oral quotes are not acceptable.
- 8.1.3 Bids or Competitive Proposals.** The Agency may use one or more following solicitation methods, provided that the method employed provides for meaningful competition.
- 8.1.3.1** Advertising in newspapers or other print mediums of local or general circulations.
 - 8.1.3.2** Advertising in various trade journals or publications (for construction).
 - 8.1.3.3** Contacting companies on the Agencies contact lists via email or phone. Advertising on BHAIndiana.net, or other website, in the BHA Banner, posting in information kiosks, or other reasonable locations.

8.2 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(s).

8.3 Time Period for Submission of Bids. A minimum of 10 days shall generally be provided for preparation and submission of bids or competitive proposals. However, the Executive Director may allow for a shorter period under extraordinary circumstances.

8.4 Cancellation of Solicitations.

- 8.4.1** An IFB, RFP, or other solicitation may be cancelled before bids/offers are due, or all bids or proposals that have already been received may be rejected if:

- 8.4.1.1 The supplies, services or construction is no longer required;
 - 8.4.1.2 The funds are no longer available;
 - 8.4.1.3 Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
 - 8.4.1.4 Ambiguous or otherwise inadequate specifications were part of the solicitation;
 - 8.4.1.5 All factors of significance to the Agency were not considered;
 - 8.4.1.6 Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - 8.4.1.7 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
 - 8.4.1.7 For good cause of a similar nature when it is in the best interest of the Agency.
- 8.4.2 The reasons for cancellation and/or rejection shall be documented in the procurement file.
- 8.4.3 A notice of cancellation shall be sent to responsible bidders/offerors solicited.
- 8.4.4 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 the Agency's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, the Contracting Officer may cancel the solicitation and either:
- 8.4.4.1 Re-solicit using an RFP; or
 - 8.4.4.2 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 the Agency's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.
- 8.5.1 If problems are found with the specifications that are too extensive to correct by addendum to the specifications, or if all acceptable bids exceed the amount of funding available, the Agency should cancel the solicitation, revise the specifications and re-solicit using an IFB. If specifications can be altered via addendum the bid date may need to be extended to allow contractors time to make changes to their bid or proposal.
- 8.6 **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, the Agency shall adopt reasonable safeguards to assure that 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).

9.0 PURCHASING.

9.1 Purchasing Authority. The Executive Director may delegate purchasing authority to employees by designating them as “Purchasing Agents” or “Contracting Officers.” Purchasing limits must be established for each Purchasing Agent and Contracting Officer using the applicable form.

9.1.2 Payments. Whenever possible, the BHA will issue payment directly to the vendor. If it is not possible to pay the vendor directly, the BHA will reimburse the employee with a check during the next regularly scheduled accounts payable (A/P) check run. The employee should use the applicable request form, obtain supervisor approval and submit all receipts.

9.1.3 Employees that have business credit cards must have the applicable user agreement on file and must obtain all necessary approvals and submit all receipts for credit card purchases.

9.1.4 All miscellaneous check requests must be made in writing and approved by the applicable Purchasing Agent or Contracting Officer. Purchase orders are not required for administrative purchases.

9.2 Purchase orders (POs): POs are required for all maintenance purchases that are not part of an established maintenance service contract. Receipt of maintenance/inventory items should be verified by another Purchasing Agent or Contracting Officer before submitting the purchase order for payment. Maintenance purchase orders cannot be requested and approved by the same Purchasing Agent or Contracting Officer.

9.2.1 The purchase order should include:

- Name of the Purchasing Agent/Contracting Officer Creating the PO
- Vendor name
- Item #
- Description
- Quantity
- Price
- Funding Source/Account number
- Signature (or e-signature) of the Purchasing Agent/Contracting Officer creating the PO
- Signature (or e-signature) of the Purchasing Agent/Contracting Officer approving the PO

9.3 Maintenance and Construction Contracts: Invoices related to established maintenance service contracts or construction contracts may be approved by a single Purchasing Agent or Contracting Officer. Purchase orders are not required for invoices associated with maintenance service contracts or construction contracts.

9.4 Accounts Payable (A/P) Processing: All invoices must be approved by the appropriate Purchasing Agent or Contracting Officer and submitted to the accounting department for payment. The accounting department will verify proper account coding and approvals and then enter the invoices into the system to be paid during the next regularly scheduled A/P run. Recurring utility invoices do not require special approval and will be immediately processed for payment upon receipt.

10.0 BONDING REQUIREMENTS.

10.1 General. The standards under this section apply to construction contracts that exceed \$150,000. There are no bonding requirements for small purchases or for competitive proposals. The Agency may require bonds in these latter circumstances when deemed appropriate; however, non-construction contracts should generally not require bid bonds.

10.1.1 Bid Bonds. For construction contracts exceeding \$150,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price.

10.1.2 Payment Bonds. For construction contracts exceeding \$150,000, the successful bidder shall furnish an assurance of completion. This assurance may be any one of the following four:

10.1.2.1 A performance and payment bond in a penal sum of 100% of the contract price; or

10.1.2.2 Separate performance and payment bonds, each for 50% or more of the contract price; or

10.1.2.3 A 20 % cash escrow.

These bonds must be obtained from guarantee or surety companies acceptable to the U. S. Government and authorized to do business in the State of Indiana. 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.

11.0 CONTRACTOR QUALIFICATIONS AND DUTIES

11.1 Contractor Responsibility

11.1.1 The Agency shall not award any contract until the prospective contractor has been determined to be responsible. A responsible bidder/offeror must:

11.1.2.1 Have adequate financial resources to perform the contract, or the ability to obtain them;

11.1.2.2 Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all of the bidder's/offeror's existing commitments;

11.1.2.3 Have a satisfactory performance record;

11.1.2.4 Have a satisfactory record of integrity and business ethics;

11.1.2.5 Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;

11.1.2.6 Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them;

11.1.2.7 Maintain insurance coverage in accordance with the agencies insurance requirements; and,

11.1.2.8 Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

11.1.3 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. Contractors determined non-responsible shall not be solicited for future contracts.

11.1.4 New contractors, that have not previously been contracted to work for the Agency before, must complete the Contractor Pre-Qualification Packet prior to award of a contract.

11.2 Vendor Lists. Approved interested businesses shall be given the opportunity to be included on vendor contact 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. The agency will solicit vendors listed on the HUD Section 3 Business Registry and companies listed on Indiana's Certified MBE, WBE Enterprise listing and Indiana Veteran IVOSB Business listings.

12.0 CONTRACT PRICING ARRANGEMENTS

12.1 Contract Types. Any type of contract which is appropriate to the procurement and which will promote the best interests of the Agency may be used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of both the contractor and the Agency. Further, the contract must include a ceiling price that the contractor exceeds at its own risk.

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

12.2.1 The option is a unilateral right of the Agency and may be exercised only if determined to be more advantageous to the Agency than conducting a new procurement;

12.2.3 The contract states a limit on the additional quantities and the overall term of the contract;

12.2.4 The contract states the period within which the options may be exercised;

12.2.5 The options may be exercised only at the price specified in or reasonably determinable from the contract; and

13.0 CONTRACT CLAUSES

13.1 Contract Pricing Arrangements. All contracts shall identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by the Agency.

14.0 CONTRACT ADMINISTRATION

14.1 General. The Agency shall maintain a system of contract administration designed to ensure that 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.

15.0 SPECIFICATIONS

15.1 General. All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying the Agency's needs. Specifications shall be reviewed prior to issuing any solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items. Function or performance specifications are preferred. Detailed product specifications shall be provided in the specifications 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.

16.0 APPEALS AND REMEDIES

16.1 General. It is Agency policy to resolve all contractual issues informally and without litigation. When appropriate, a mediator may be used to help resolve differences.

17.0 ASSISTANCE TO SMALL AND OTHER BUSINESSES

17.1 Efforts. All feasible efforts shall be made to ensure that small and minority-owned, women owned and veteran owned business enterprises, and those listed on the HUD Section 3 Business Registry are to be used when possible. Such efforts shall include, but shall not be limited to:

17.1.1 Including such firms, when qualified, on solicitation email lists;

17.1.2 Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;

17.1.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;

17.1.4 Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

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

17.1.6 Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR §135 (so-called Section 3 businesses); and

17.1.7 Encouraging prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

17.2 Goals. Shall be established periodically for participation by small businesses, minority-owned businesses, women-owned business and veteran-owned enterprises, labor surplus area businesses, and Section 3 business concerns in Agency prime contracts and subcontracting opportunities.

17.3 Definitions.

17.3.1 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.

17.3.2 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.

- 17.3.3** 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.
- 17.3.4** A veteran owned business is defined as a business that is at least 51% owned by an active or veteran of the U.S. Military who are U.S. citizens and who control and operate the business.
- 17.3.5** A "Section 3 business concern" is as defined under 24 CFR §135.
- 17.3.6** 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. It is the responsibility of the contractor to provide proof of this status.

18.0 BOARD APPROVAL OF PROCUREMENT ACTIONS

- 18.1 Authority.** The Board appoints and delegates procurement authority to the Executive Director (ED) in the amount not to exceed \$150,000 and is responsible for ensuring that any procurement policies and procedures adopted are appropriate for the Agency. All procurements that exceed \$150,000 must have approval from the Board prior to award and/or contract execution.

19.0 DELEGATION OF CONTRACTING AUTHORITY

- 19.1 Delegation.** While the ED is responsible for ensuring that the Agency's procurements comply with this Policy, the ED may delegate in writing all procurement authority as is necessary and appropriate to conduct the business of the Agency.
- 19.2 Procedures.** Further, and in accordance with this delegation of authority, the ED shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this Policy. The ED shall also establish a system of sanctions for violations of the ethical standards described in Section 3.0 herein, consistent with Federal, State, or local law.

20.0 DOCUMENTATION

- 20.1 Required Records.** The Agency must maintain records sufficient to detail the significant history of each procurement action. These records shall include, but shall not necessarily be limited to, the following:
 - 20.1.1 Rationale for the method of procurement (if not self-evident);
 - 20.1.2 Rationale of contract pricing arrangement (also if not self-evident);
 - 20.1.3 Reason for accepting or rejecting the bids or offers;
 - 20.1.4 Basis for the contract price (as prescribed in this policy);
 - 20.1.5 A copy of the contract documents awarded or issued and signed by the Contracting Officer;

20.1.5 Basis for contract modifications; and

20.1.6 Related contract administration actions.

20.2 Level of Documentation. The level of documentation should be commensurate with the value of the procurement.

20.3 Record Retention. Records are to be retained for a period of seven years, or as otherwise specified if a longer term is required, after final payment and all matters pertaining to the contract are closed.

21.0 DISPOSITION OF SURPLUS PROPERTY

21.1 General. Property no longer necessary for the Agency's purposes (non-real property) shall be transferred, sold, or disposed of in accordance with applicable the agency Disposition Policy.

22.0 FUNDING AVAILABILITY

22.1 General. Before initiating any contract, the Agency shall ensure that there are sufficient funds available to cover the anticipated cost of the contract or modification.