

As a commissioner you will be involved in, or will review the procurement process of the PHA. The process provides a framework for any bidding process that the PHA needs to carry out. The board should take special care in overseeing that the PHA follows correct methods, justifications, and documentation.

Critical steps include:

- Developing a scope or statement of work (SOW) and determining the type of contract needed
- Identifying short-term versus long-term needs per a physical needs assessment (PNA)
- Identifying time restraints (urgency, type/size of job, market conditions)
- Developing a price independent cost estimate (ICE) for each procurement action before advertising
- Identifying the source and availability of funds (operating versus capital funds or other)
- Developing schedules and due dates

PHAs should use procurement to accomplish the following:

- Provide full, open bid competition
- Determine reasonable pricing through price and cost analysis
- Award contracts to responsive and responsible bidders and offerers
- Document contracts and adhere to contract compliance

2 CFR Part 200

On December 26, 2013, the *Federal Register* published 2 Code of Federal Regulations (CFR) Part 200, which addresses uniform administrative requirements, cost principles, and audit requirements for Federal awards. This regulation also includes financial criteria such as procurement, as seen below. All bidders and offerers must agree to the following procurement requirements in order to participate in the bidding process:

200.112, Conflict of Interest

- The awarding agency must establish conflict of interest policies.
- The non-Federal entity must disclose any potential conflict of interest.

200.113, Mandatory Disclosures

- Non-Federal entities (and applicants) must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

200.318(c)(1)

- The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.

Methods of Procurement

Procurement regulations categorize the various types of procurement actions to indicate whether to formally or informally advertise the activity. This decision is based on the Federal simplified acquisition threshold limit of \$150,000 or a more stringent State/local threshold implemented by the PHA. Non-Federal entities must use one of the following five methods:

Micro-purchases: Under certain conditions, procurement may be implemented for acquisition of supplies or services without soliciting competitive quotations if the aggregate amount does not exceed \$3,000.

Small Purchase Procedures: Small purchase procedures are relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the current threshold of \$150,000. If the public housing agency uses these procedures, it must obtain price or rate quotations from an adequate number of qualified sources.

Sealed Bids (formal advertising): This is the preferred procedure for construction contracts. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the lowest responsible bidder.

Competitive Proposals: Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded.

Noncompetitive Proposals: The solicitation of a proposal from only one source may be used only when one or more of the following apply:

- The item is available only from a single source.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- The Federal awarding agency (or pass-through entity) expressly authorizes this method in response to a written request from the non-Federal entity.
- After solicitation of a number of sources, competition is determined inadequate.

Key Questions for the Board to Ask

1. Who is the official contracting officer at the PHA?
2. Was the contracting officer officially approved by board resolution?
3. Is there an up-to-date procurement policy at the PHA?
4. Does it conform to 2 CFR Part 200 procurement requirements?
5. Do regular operations at the PHA comply with the procurement procedures in place?
6. Is the PHA following the regulatory requirements outlined in the procurement policy and procedures for operational and capital improvements?
7. Are fair and open procurements undertaken at the PHA?
 - Are formal procurements publicly advertised?
 - Are procurements awarded to the lowest bidder?
 - Are noncompetitive procurements properly justified?