
CHAPTER 16

Public/Private Partnerships



Contents

- Application
- Selection of a Developer and/or Development Partner
- Procurement Requirements of the Selected Developer
- Procurement by Parties Other Than the PHA or the Developer
- Resident Involvement
- Procurement by the PHA When Acting as Developer or with Ownership Interest
- Issues Arising in CSS Procurement Activity
- Contracting with Sub-grantees



Introduction

- Special provisions associated with selecting PHA development and mixed-financed partners and procurement rules that apply to these different partners
- OMB procurement requirements found at 2 CFR §200.317–200.326 apply whenever HUD or other federal funds are used in development or operations of public housing projects
- If public and private funds are co-mingled, 2 CFR §200.317–200.326 applies



Mixed Finance

- Refers to development (through new construction or acquisition, with or without rehabilitation) or modernization of public housing where public housing units are owned in whole or in part by an entity other than PHA



Development Partner

- For-profit or non-profit partners carrying out physical revitalization of a mixed-finance project site, bearing financial risk
- An entity with whom PHA enters into a partnership or other contractual arrangement to provide for mixed-finance development of public housing units
- Has primary responsibility with PHA for development of housing units and/or non-residential structures
- Development Partner other than PHA Instrumentality must be procured in accordance with 2 CFR §200.317–200.326



Selection of Developer/Development Partner

- HUD permits QBS method of procurement for selecting development partner
- QBS method is not permitted for procurement of HOPE VI, Mixed-finance Program Managers, and legal services
- Requirements and guidance governing selection of development partner (or master developer) can be found in 24 CFR 905.604(h)(1) of the Mixed-Finance Interim Rule
- All procurement activity must provide for full and open competition



Selection of Developer/Development Partner (cont.)

- Price is negotiated with highest-ranked offeror based on responses to RFQ
- Cost and price analysis must be completed prior to submission of proposals to determine estimate value for requested services



Procurement Requirements of the Developer

- Once developer has been selected, development partner is not subject to 2 CFR §200.317–200.326
 - Except where PHA or instrumentality “exercises significant functions within the owner entity with respect to managing the development of the proposed units”
- PHA or its instrumentality exercise significant functions:
 - Acts as sole or managing partner in the ownership entity
 - Acting as developer



Procurement Requirements of the Developer (cont.)

- Activities by PHA or its instrumentality not considered significant functions:
 - Monitoring regulatory compliance for units receiving subsidy
 - Coordinating communications with agencies regarding project financing and operations
 - Providing Community and Supportive Services (CSS)
 - Attending construction meetings and reviewing and approving draws
 - Maintaining the waiting list
 - Reviewing and approving operating and capital budgets



Procurement by Parties Other Than PHA or Developer

Entity	2 CFR §200.317–326 Applies
Private property managers properly procured by PHA	No
Program manager subcontracting duties directly	No
Program manager procuring provider for PHA	Yes
Resident groups acting as sub-grantees	Yes
Resident-owned businesses (governed by 24 CFR Part 963 Subpart B)	Yes



Resident Involvement

- Qualified Resident Management Corporations (RMCs) may be awarded a sole-source award for property management contracts only
- HUD encourages inclusion of residents on selection panels provided that PHA constitutes majority membership on panels and residents have been trained in the procurement process
 - Subject to the conflict of interest provisions
 - PHA representation should constitute the majority of the panel membership
 - PHAs must not delegate procurement responsibility to another agency/entity



Procurement by the PHA as Developer or with Ownership Interest

- Whenever PHA or instrumentality acts as development entity or performs a significant role in actions and decision making of such an entity, requirements of 2 CFR §200.317–200.326 apply to procurement.
- PHA's procurement with instrumentality is not subject to 2 CFR §200. However, instrumentality must procure other members of operational or development team subject to same procurement rules as the PHA



Issues Arising in CSS Procurement Activity

- PHA must comply with 2 CFR §200.317–200.326 when selecting an administrator for its CSS program
- Social service providers may be sub-grantees if included in grant application
 - Sub-grantees do not have to be competitively procured



Contracting with Sub-grantees

- PHA may decide to use sub-grantees to complete elements of project including development and CSS
- PHA is responsible for ensuring sub-grantees comply with requirements imposed by federal statutes and regulations and any requirements of grant agreements.

