ALEXANDRIA REDEVELOPMENT & HOUSING AUTHORITY

TITLE: PROCUREMENT	**POLICY NUMBER: PUR100v1**	
DEPARTMENT: ALL DEPARTMENTS	PERSONNEL: ALL ARHA EMPLOYEES, BOARD OF COMMISSIONERS, CONTRACTORS, VENDORS, AND CONSULTANTS	
BOARD OF COMMISSIONERS EXECUTIVE DIRECTOR	EFFECTIVE DATE: January 29, 2008	*SUPERCEDES ANY PRIOR PROCUREMENT POLICIES*

PURPOSE

This procurement policy (Policy), adopted by the Alexandria Redevelopment and Housing Authority (ARHA) in connection with its purchase of goods, services, insurance or construction from individuals and companies, is intended to ensure that ARHA obtains high quality goods and services at reasonable cost, that all procurement procedures will be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, and that all qualified vendors have access to the business of ARHA. This policy further reflects ARHA's desire to ensure that no offeror will be arbitrarily or capriciously excluded and that full and open competition consistent with the standards of 24 CFR Part 85.36, the Authority's Annual Contributions Contract with the United States Department of Housing and Urban Development (HUD), and the Virginia Public Procurement Act (VPPA) (Title 2.2, Chapter 43 of the Code of Virginia (1950), as amended (the Virginia Code)), will be sought to the greatest possible extent. It is the intent of ARHA that the rules governing procurement awards will be made in advance of the competition and that specifications will reflect the procurement needs of ARHA rather than be drawn to favor a particular vendor and/or contractor.

Common Rule - The "common rule" under HUD's grantee procurement rules (24 CFR 85.36(b)) provides that Housing Authorities shall use their own procurement procedures that reflect applicable state and local laws and regulations, provided and to the extent that that they conform to applicable federal law. There may be occasions during ARHA's procurement activities when differences become apparent between HUD and state/local regulations. In such cases, a course of action will be selected after proper clarification with appropriate personnel and documented for the file, if deemed necessary.

All proposed changes to this policy document will be routed through the ARHA Department of Finance and Administration via the Procurement Division, which is responsible for recommending final changes through the Executive Director.

I. APPLICATION

A. This Policy applies to the procurement by ARHA of goods, services, supplies, equipment and all construction activity after the effective date hereof, including the leasing of such goods, supplies, equipment and services. This Policy shall apply to all expenditures of funds by ARHA for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts). However, no part of this document

shall prevent ARHA from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with applicable law. When non-Federal funds are used for a project, regulations applicable to the source of funding may be followed. All procurement actions are subject to the VPPA regardless of the source of funding.

The term "procurement," as used in this Policy, includes contracts and modifications (including change orders) for construction or services, as well as the purchase, lease, or rental of supplies and equipment, and any other procurement arrangement.

B. This Policy supersedes all policies, procedures, memorandums for the record and delegations of authority dealing with procurement issued prior to the effective date of this document.

C. Major terms used in this policy that may not be familiar to all are defined in the attached Glossary of Terms.

II. PUBLIC ACCESS TO PROCUREMENT INFORMATION

A. Subject to HUD requirements under 24 CFR 85.36 and subject to the provisions of Section 36-5 of the Virginia Housing Authorities Law (Title 36, Chapter 5 of the Virginia Code), contracts and transactions of ARHA shall be deemed public records open to public inspection to the extent provided under the Virginia Freedom of Information Act (FOIA) (Title 2.2, Chapter 37 of the Virginia Code), and subject to the limitations set forth in Section 2.2-4342 of the VPPA.

III. PROCUREMENT AUTHORITY AND ADMINISTRATION

A. The Executive Director is the Contracting Officer for ARHA and as such is responsible for the conduct and administration of all procurement transactions. This authority allows the Executive Director to enter into contracts/purchase orders and expend funds as necessary to conduct the business of ARHA. The Executive Director as discussed below may delegate in writing this authority to other individuals within ARHA. The Executive Director shall issue operational procedures to implement the policies contained in this document, which shall be based on HUD Handbook 7460.8 REV 2, 24 CFR Part 85.36, ARHA's Annual Contributions Contract with HUD, the Virginia Public Procurement Act, ARHA policies and procedures and other relevant regulations. The Executive Director shall also establish a system of internal sanctions for violations of the ethical standards described in Section X of this document, consistent with Virginia Public Procurement Act.

B. *All procurement activities must be conducted through the Procurement Division of ARHA - including contracts, agreements, purchase orders, leases, all modifications or changes to existing purchase and other documents, and any other procurement arrangements.* The Procurement Division's role includes ensuring that the procurement process is in compliance with applicable regulations, affirming that proper purchasing methods are used as applicable to ARHA policies and procedures of ARHA, evaluating that the action requested is in the best interest of ARHA,

ensuring that competition is achieved whenever possible, and committing ARHA to an agreement with the vendor.

C. All procurements must be preceded by (1) approval of the requirement as a valid need of ARHA, (2) certification that the requirement is covered in the appropriate budget, and (3) certification that funds are available. This approval authority also rests with the Executive Director and may be delegated as appropriate.

D. **Administrative/Requirements and funding authority is separate and distinct from procurement authority.** Operational positions, such as Department Directors, have a key role in developing and approving requirements and verifying that they have funds in their respective budgets to support these requirements. ARHA personnel may have limited contact with a vendor as part of recognizing alternatives to meeting the needs of ARHA. Discussion must not go beyond initial inquiries aimed at providing the Procurement Division with a starting point to ultimately satisfying the requirement. The Finance and Administration Department's role includes reviewing and certifying that the appropriate cost center and accounting string is used, and that funds are available to pay for the requirement in accordance with designated programs.

E. The Executive Director may delegate the authority contained in Sections III(A) and III(B) of this Policy in writing to other individuals while retaining overall responsibility. This written delegation shall be to named individuals rather than to positions. The Recommended Approval Authority Table(see Attachment 1) indicates suggested maximum authority levels by position type. The actual delegation should be at a level consistent with the individual's experience, training, and requirements to effectively fulfill his or her responsibilities. The Board of Commissioners must approve all requirements for external audits services and all procurement actions above $50,000. Administrative reviews will be established to address specialized requirements such as technology, insurance, and records.

F. Modifications and/or Change Orders are used to make adjustments to an existing procurement document. Examples include, but are not limited to, correction of errors, additional work due to unforeseen conditions, and adjustments to order quantities.

1. Prior to the change or modification taking place, the Procurement Division must be involved in any discussion or negotiation that may result in a modification or change order to a procurement document, contract and/or purchase order.
2. Only the Executive Director, or authorized designated staff appropriately delegated, may sign contracts and modifications/change orders.
3. Approval authority of modifications/change orders will follow the normal approval process applicable to other procurements and will be guided by the dollar value of the modification as well as the following:
    a. Any modification/change order greater than $10,000 or 10% of the dollar value of the original contract amount, whichever is higher, must be approved by the Executive Director.

Paragraphs F.3.a.1) and F.3.a.2) below only apply to modification requiring Executive Director approval, not modifications requiring the Board of Commissioners or HUD approval.

1) If a single modification/change order does not meet the greater than $10,000 or 10% threshold approval requirements, yet multiple modifications/change orders or previous change orders of the same contract aggregately meet or exceed the approval limit, approval from the Executive Director must be sought.
2) If a previous modification/change order reduced the original amount of the contract, the lower amount applies to define the approval criteria. The reverse does not apply if a contract value has been increased through a modification/change order. The original contract amount will continue to be used in determining the approval criteria.

b. For fixed-price contracts, any modification/change order greater than $50,000 or 25% of the dollar value of the original contract amount, whichever is higher, will be reviewed by the Board of Commissioners in accordance with the VPPA.
c. HUD must approve any modification/change order greater than $100,000 when HUD funds are used and any change order that changes the scope of the contract regardless of the dollar amount.

G. Unauthorized Procurement - The Procurement Division is the only division of ARHA authorized to conduct procurement activity. Unauthorized procurements are any acquisition of goods, services or construction made by ARHA personnel not specifically delegated in writing to commit ARHA to contractual agreement with vendors, suppliers, or contractors. The Procurement Divisions will establish a procedure for identifying, reporting and defining action to be taken when unauthorized procurements occur. The Procurement Division and Accounts Payable will play key roles in identifying and reporting such unauthorized transactions to senior management.

H. The duties of the Procurement Division shall be to ensure the following:

1. That each proposed procurement is reviewed with the goal of avoiding unnecessary or duplicative purchases; that consideration is given to the consolidation or separation of procurement transactions to obtain more economical prices and/or terms; that when appropriate, an analysis shall be performed of lease options versus purchase alternatives to identify the most economical approach;
2. That contracts and modifications/change orders are in writing, and clearly specify the intended supplies, services, or construction activity; that such contracts and modifications/change orders are supported by sufficient

documentation to comply with all applicable regulations and ARHA policies - such documentation may include, without limitation, the history of the procurement, the method of procurement, the selection of a contract type, the rationale for selecting the vendor, the basis for the total contract price, and the method of payment;

3. That an independent cost estimate is prepared in advance for each procurement to establish a reasonable cost (such cost information to remain confidential and not to be disclosed to any person or entity other than appropriate ARHA staff); that a detailed cost estimate is prepared for solicitations and/or contract modifications in excess of the dollar threshold for a small purchase, and that a cost or price analysis is performed on the responses received;
4. That when considering the price and technical and other factors as specified in the Request for Proposal (in the context of competitive negotiation), the contract award is made to the responsive and responsible bidder offering the lowest price (in the context of competitive sealed bidding) or the proposal that is otherwise most advantageous to ARHA;
5. That contracts are only awarded to responsible bidders who possess the ability to perform successfully under the terms and conditions of the proposed contract; that factors to be considered in making such a determination include, without limitation, contractor integrity, compliance with public policy, record of past performance and financial and technical resources; that any determination of non-responsibility is fully documented and copies of such documents are placed in the contract file; that bidders and offerors who are found to be non-responsible are informed of the reasons for such a finding;
6. That each contract indicates the schedule of payments to be made to the contractor, and that payments are made for contract work performed and accepted in accordance with the payment terms and conditions.

I. This Policy and any changes made hereto shall be submitted to the Board of Commissioners for approval. The Board appoints and delegates procurement authority to the Executive Director and is responsible for ensuring that any procurement policies adopted are appropriate for ARHA.

IV. PROCUREMENT METHODS

A. General - If it has been decided that ARHA will directly purchase a requirement, one of the following procurement methods shall be chosen based on the nature and anticipated dollar value of the total requirement. All ARHA acquisitions except those conducted through intergovernmental and cooperative purchasing arrangements with government agencies, where the value of the professional services acquired is expected to exceed $30,000 or the value of goods or services other than professional services is expected to exceed $50,000, shall be awarded after competitive sealed bidding or competitive negotiation except as otherwise provided herein. "Professional Services" means work performed by an independent contractor within the scope of

the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, optometry, pharmacy or professional engineering.

B. Small Purchase Procedures - Where the value of the professional services is not expected to exceed $30,000, or the value of goods or services other than professional services is not expected to exceed $50,000, ARHA may proceed in accordance with the Small Purchase Procedures and shall not be required to obtain such goods and services by competitive sealed bids or competitive negotiation. In such cases, price or rate quotations shall be obtained from a minimum of three qualified sources. Requirements for goods and services expected to exceed $30,000/$50,000 in the aggregate shall not be broken down into several purchases of less than $30,000/$50,000 merely to permit contract awards under the Small Purchase Procedures.

C. Petty Cash Purchases - Small purchases that are for amounts less than a specific dollar value authorized by the Director of Finance & Administration, and that can be satisfied by local sources, may be processed through the use of a petty cash account. The Contracting Officer shall ensure that the 1) account is established in an amount sufficient to cover small purchases made during a reasonable period (e.g., one week); 2) written procedures are established to address security and to specify the authorized individuals having access to the account; 3) periodical reconciliation and replenishments to the account are made by submission of a voucher to ARHA's Director of Finance & Administration; and 4) account is periodically audited by the Director of Finance & Administration or a designee to validate proper use and to verify that the account balance is equal to the sum of the cash on hand and the total amount of accumulated vouchers. The Internal Auditor may audit this fund upon demand or as scheduled.

D. Procurement Charge Cards - In order to reduce the volume of purchase orders, account payable transactions and the associated administrative costs, to ensure prompt payments and to streamline the procurement process, the use of procurement charge cards or other similar tools is authorized when proven to be in the best interest of ARHA.

E. Competitive Sealed Bidding - Contracts shall be awarded based on competitive sealed bidding if the following conditions are present: 1) a complete, adequate and realistic specification or purchase description is available; 2) two or more responsible bidders are willing and able to compete effectively for the work; 3) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. For professional services contracts, sealed bidding shall not be used.

F. Competitive Proposals - Competitive Proposals, including turnkey proposals for development, may be used if there is an adequate method of evaluating technical proposals and if ARHA determines that conditions are not appropriate for the use of sealed bids. A minimum of three sources shall be solicited. Competitive proposals shall be used for procurement of professional services exceeding $30,000.00, unless

one of the exceptions set forth in below under "Non-competitive Procurement" applies.

1. Under limited circumstances the ARHA may procure construction services by competitive negotiation for the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than the dollar limits established by applicable regulations, and upon a determination made in advance by the Executive Director and set forth in writing that competitive sealed bidding is either not practicable nor fiscally advantageous to the public. The written document shall state the basis for this determination.
2. "Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property. Reference HUD Procurement Handbook 7460.8 Rev 2 Chapter 7, Paragraph 7.2B

G. Architect/Engineer Services - Architectural/engineering services in excess of the small purchase limitation (or a lower threshold if required by State or local law) may only be obtained by the qualifications-based selection procedures. Under qualifications-based selection procedures, The ARHA request technical qualifications statements from prospective firms and then ranks the statements according to their qualifications as related to the project. The ARHA then opens negotiation with the top-ranked firm with intentions to reach agreement on a fair and reasonable price. If agreement cannot be reached, the ARHA terminates negotiations with this firm and proceeds to the next-highest rated firm until a price determined to be fair and reasonable to both parties is obtained. Qualifications-based selection procedures shall not be used to purchase other types of services, although architectural/engineering firms may be potential sources for those services.

H. Non-competitive Proposals - Procurements shall be conducted competitively to the greatest possible extent, under the circumstances. Procurement by non-competitive proposals may be used only when (i) the award of a contract is not feasible using small purchase procedures, sealed bidding, or competitive proposals, and (ii) one of the following applies:

1. The item is available only from a single, "sole" 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 ARHA, 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 other procurement method, and the emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency;
3. HUD authorizes the use of non-competitive proposals;

4. After solicitation of a number of sources, competition is determined inadequate;

Each procurement based on non-competitive proposals shall be supported by a written justification for using such procedures. The justification shall be approved in writing by the Contracting Officer and other authorities as necessitated by applicable laws and regulations;

The reasonableness of the price for all non-competitive proposals shall be determined by performing a cost analysis.

I. Cost and Pricing Analysis - A cost or price analysis shall be performed for all procurement actions, including contract modifications. The method of analysis shall be determined by internal procedures and the degree of analysis shall depend on the facts surrounding the procurement in question. Each cost or price analysis shall be performed in compliance with all applicable regulations. Cost analysis is the process of examining and evaluating the separate elements of cost and profit in an offeror's or supplier's cost or pricing data to form an opinion about the degree to which that offeror/supplier has presented an offer or contract in conformance with what the contract should typically cost. Cost analysis may include an analysis of both direct and indirect costs. Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and profits.

1. Submission of Cost or Pricing Information. If procurement is based on non-competitive proposals, or when only one offer is received, or for other procurements as deemed necessary by ARHA (e.g., when contracting for professional, consulting, or architectural/engineering services) the offeror shall be required to submit a cost breakdown showing projected costs and other information as required.
2. Cost Analysis. Cost analysis shall be performed if an offeror/contractor is required to submit a cost breakdown as part of its proposal. When a cost breakdown is submitted, a cost analysis of the individual cost elements shall be performed.
3. Price Analysis. A comparison of prices shall be used in all cases other than those exempted.

J. Cancellation of Solicitations.

1. Invitation for bids (IFBs), request for proposals (RFPs), or other solicitation may be cancelled before offers are due if: (a) ARHA no longer requires the supplies, services or construction; (b) ARHA can no longer reasonably expect to fund the procurement; (c) proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or (d) similar reasons, when it is in the best interest of ARHA.
2. A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if: (a) The supplies, services, or construction are no longer required; (b) ambiguous or otherwise inadequate specifications were part of the solicitation; (c) the solicitation did not provide for consideration of all factors of significance to ARHA; (d) prices exceed

available funds and it would not be appropriate to adjust quantities to match available funds; (e) there is reason to believe that bids or proposals may not have been independently composed when submitted during open competition, having been collusive or submitted in bad faith; or (f) for good cause of a similar nature when it is in the best interest of ARHA.

3. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided to any offeror upon request.
4. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that such offerors will be given an opportunity to compete on any re-solicitation or future procurement of similar items.
5. If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is received and the price is unreasonable, ARHA shall cancel the solicitation and either:
    a. Re-solicit using a request for proposals; or
    b. Complete the procurement by using the competitive proposals method (when more than one otherwise acceptable bid has been received), or by using the non-competitive proposals method (when only one bid is received at an unreasonable price); provided, however, that the Contracting Officer determines in writing that (i) such action is appropriate, (ii) all bidders have been informed of ARHA's intent to negotiate, and (iii) each responsible bidder has been given a reasonable opportunity to negotiate.

K. Cooperative Purchasing - ARHA may enter into inter-governmental agreements with state, local and other political sub-divisions to purchase or use common goods and services. The decision to use an intergovernmental agreement or conduct a direct procurement shall be based on economy and efficiency. An intergovernmental 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.

V. CONTRACTOR QUALIFICATIONS AND DUTIES

A. Contractor Responsibility - Procurements shall be conducted only with responsible contractors, meaning those who have the technical and financial competence to perform and who have a satisfactory record of integrity. Before awarding a contract, ARHA shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity (including a review of the List of Parties Excluded from Federal Procurement and Non-procurement Programs published by the U. S. General Services Administration), compliance with public policy, record of past performance (which review shall include contacting previous clients of the contractor, such as other Public Housing Authorities), and financial and technical resources. If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the contract file, and the prospective contractor shall be advised of the reasons for the determination.

B. Suspension and Debarment - Contracts shall not be awarded to debarred, suspended, or ineligible contractors. Contractors may be suspended, debarred, or determined ineligible by ARHA in accordance with HUD regulations (24 CFR Part 24) when necessary to protect ARHA in its business dealings.

VI. TYPES OF CONTRACTS, CLAUSES AND CONTRACT ADMINISTRATION

A. Contract Types - Any type of contract which is appropriate to a particular procurement and promotes the best interests of ARHA may be used for such procurement, provided that the "cost-plus-a-percentage-of-cost" and "percentage of construction cost" methods are prohibited. All procurement contracts shall include such clauses and provisions as are necessary to define the rights and responsibilities of the parties. A "cost reimbursement" contract shall not be used unless (i) it is likely to be less costly or it is impracticable to otherwise satisfy ARHA's needs, and (ii) the proposed contractor's accounting system is adequate to allocate costs in accordance with applicable cost principles. A "time and material" contract may be used only if (a) a written determination is made that no other contract type is suitable, and (b) the contract includes a ceiling price that the contractor exceeds at its own risk.

B. Options - A contract may include an option(s) for additional quantities or performance periods, provided that:
   1. The option is contained in the solicitation;
   2. The option is a unilateral right of ARHA;
   3. The contract states a limit on the additional quantities and the overall term of the contract;
   4. The option is evaluated as part of the initial competition;
   5. The contract states the period within which the option may be exercised;
   6. The option may be exercised only at the price specified in or reasonably determinable from the contract; and
   7. The option may be exercised only if determined to be more advantageous to ARHA than conducting a new procurement.

C. Contract clauses - In addition to containing a clause identifying the contract type, all contracts shall include any clauses required by:
   1. Federal statutes, executive orders, and their implementing regulations, as provided in 24 CFR 85.36.(i);
   2. State and local regulations; and/or
   3. ARHA policies.

   The operational procedures required by this Policy shall contain the text of all clauses and required certifications (such as required non-collusive affidavits) used by ARHA.

D. Contract Administration - ARHA shall maintain a contract administration system designed to ensure that contractors perform in accordance with their contracts. The

operational procedures required by Section II(A) above shall contain guidelines for the inspection of supplies, services and/or construction, as well as for monitoring contractor performance, status reporting on construction contracts, and similar matters.

E. Vendor Complaints by ARHA Personnel - ARHA personnel will submit to the Procurement Division, in writing, the details of any concerns, complaints or questions associated with any vendor and/or contract. The Procurement Division will contact the vendor in question to resolve the problem, and shall maintain a vendor file with proper documentation.

F. Advance Payments and Fees - No contractor will receive payments or fees in advance of work being completed and/or material being delivered.

VII. SPECIFICATIONS

A. General - All specifications shall be drafted as to promote overall economy for the purposes intended and to encourage competition in satisfying ARHA's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive and do not represent unnecessary or duplicative items. Functional or performance specifications are preferred. Detailed product specifications shall be avoided whenever possible. Consideration shall be given to consolidating or separating procurements in order 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.

B. Limitations - The following specification limitations shall be avoided: (i) geographic restrictions not mandated or encouraged by applicable Federal law (except for architectural/engineering contracts, which may include geographic location as a selection factor if adequate competition is available); (ii) unnecessary bonding or experience requirements; (iii) brand name specifications (unless a written determination is made that only the identified item will satisfy ARHA's needs, standardization for maintenance and inventory cost may be considered in this determination); (iv) brand name or equal specifications (unless list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this Policy shall preempt any State licensing laws. Specifications shall be scrutinized to ensure that organizational conflicts of interest do not occur (for example, having a consultant perform a study of ARHA' s computer needs and then allowing that consultant to compete for a subsequent contract for the computers).

VIII. APPEALS, PROTEST AND REMEDIES

A. General - It is ARHA's policy to resolve all contractual issues informally, without resort to litigation. Disputes shall not be referred to HUD until all administrative remedies have been exhausted at the ARHA level. When appropriate, ARHA may consider the use of informal discussions between the parties, held by individuals

who did not participate substantially in the matter in dispute, to help resolve the differences. HUD will only review protests in cases of (i) a violation of Federal laws or regulations, and (ii) a failure of ARHA to follow their protest procedures.

Formal Appeals Procedure

A formal appeals procedure shall be established for solicitations/contracts of more than $50,000. Under these procedures, the bidder/contractor must request to meet with the Contracting Officer. Decision appeals are to be determined by the Executive Director. The contractors may appeal to the Board of Commissioners if they are not satisfied with the Executive Directors decision.

B. Bid Protests - 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 calendar days after public notice of the contract award or the announcement of the decision to award, whichever occurs first. Any protest that is not made within the specified time limit will not be considered. All bid protests shall be in writing, submitted to the Contracting Officer or its designee, who shall issue a written decision on the matter. If warranted by the facts presented, the Contracting Officer may, at his or her discretion, suspend the procurement pending resolution of the protest.

C. Contract Claims - All claims by a contractor relating to the performance of a contract shall be submitted in writing to the Contracting Officer or its designee for a written decision. The contractor may request a conference on the claim. The Contracting Officer will issue a written decision on the matter, including (when applicable) information concerning the contractor's rights to appeal to the Board of Commissioners.

IX. ASSISTANCE TO SMALL, WOMEN-OWNED AND MINORITY BUSINESSES AND OTHERS

A. Required Effort - Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the Housing and Urban Development Act of 1968 (the "HUD Act"), ARHA shall make efforts to ensure whenever possible, that small and minority-owned businesses, women's business enterprises, labor surplus area businesses, and individuals or firms located in or owned in substantial part by persons residing in the area of a project are used. Such efforts shall include, but shall not be limited to:

1. Including such firms, on solicitation mailing lists, if qualified;
2. Encouraging their participation through direct solicitation of bids or proposals if applicable to their areas of expertise;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
5. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
6. Including in contracts a clause requiring contractors, to the greatest possible extent under the circumstances, 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 persons, businesses or other entities that are located in or owned in substantial part by persons residing in the area of the project, as described in 24 CFR Part 135 and Section 3 of the HUD Act; and
7. Requiring prime contractors, when subcontracting is anticipated, to take the affirmative steps listed in paragraphs 1-7 above.

ARHA may periodically establish goals for participation by small businesses, minority-owned businesses, women's business enterprises, labor surplus area businesses, and business concerns which are located in, or owned in substantial part by persons residing in the area of the project, in ARHA's prime contracts and subcontracting opportunities

B. Definitions.

1. A small business is defined as a business which is: (a) independently owned; (b) not dominant in its field of operation; and (c) not an affiliate or subsidiary of a business dominant in its field of operation. For the purposes of this Section IX(B)(1), ARHA shall use the size standards set forth in 13 CFR Part 121, unless its determines that the use of such standards is inappropriate.
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 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 and Asian Indian Americans, and Hasidic Jewish Americans.
3. A women's business enterprise is defined as a business that is at least 51% owned by a woman or women who are U. S. citizens and who also control or operate the business.
4. A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the U. S. Department of Labor in 20 CFR Part 654, Subpart A, and in lists of labor surplus areas published by the Employment and Training Administration of the U.S. Department of Labor.
5. A business concern located in the area of the project, is defined as an individual or firm located within the relevant Section 3-covered project area (as determined pursuant to 24 CFR 135.15), listed on HUD's registry of eligible business concerns, and meeting the definition of small business in

Section IX(B)(1) above. A business concern owned in substantial part by persons residing in the area of the project is defined as a business concern that 51% or more owned by persons residing within the Section 3 covered project area, listed on HUD's registry of eligible business concerns, owned by persons considered by the U.S. Small Business Administration to be socially or economically disadvantaged, and meeting the definition of small business above.

X. ETHICS IN PUBLIC CONTRACTING

A. General - ARHA shall adhere to the following code of conduct, consistent with applicable State and local law.

B. Conflict of Interest - No employee, officer or agent of ARHA shall participate directly or indirectly in the selection, award or administration of any contract if a conflict, real or apparent, would be involved. Such a conflict would arise when a financial or other interest in a firm that could be selected for an award is held by:

1. The employee, officer or agent;
2. His or 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, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
3. His or her partner; or
4. An organization which employs, is negotiating to employ, or has an arrangement concerning any of the above.

C. Gratuities, Kickbacks and Use of Confidential Information - ARHA officers, employees and agents shall not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

D. Prohibition against Contingent Fees - Contractors shall not retain a person to solicit or secure an ARHA contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

XI. HUD REVIEW AND PRIOR APPROVAL REQUIREMENTS (HUD Procurement Handbook 7460.8 Rev 2 (Chapter 12)

A. General Review and Approval - The following contracting actions require prior HUD approval:

1. All solicitations and contracts if it is determined by HUD that ARHA's procurement procedures or operations fail to comply with the procurement standards set forth in 24 CFR 85.36(b) [see 24 CFR 85.36(g)(2)(i)];

2. Non-competitive procurements expected to exceed $100,000, including any procurements in which only one bid or proposal is received in response to a solicitation [see 24 CFR 85.36(g)(2)(ii)];

3. Brand-name-only procurements expected to exceed $100,000 [see 24 CFR 85.36(g)(2)(iii)];

4. Awards over $100,000 to other than the apparent low bidder under a sealed bid procurement [see 24 CFR 86.36(g)(2)(iv)];

5. Proposed contract modifications changing the scope of a contract or increasing the contract amount by more than $100,000 [24 CFR 85.36(g)(2)(v)] (as per the "Changes" clause in forms HUD-5370, HUD-5370-EZ);

6. Use of QBS method of procurement for other than Architect and Engineering Services, joint venture partners or developers, or energy service contracts;

7. Procurements for legal or other non-personal services in connection with litigation, per HUD's Litigation Handbook, that exceed $100,000;

8. Procurements that exceed the amount included in (1) the HUD-approved Development Cost Budget or (2) where HUD has required prior approval on a Notice of Deficiency or corrective action order under the Capital Fund Program;

9. Contracts that exceed five years, including options. To approve terms in excess of five years, Field Offices must determine there is no practical alternative;

10. Solicitations, and any resulting contracts, related to energy performance contracting and utility add-ons, as per Chapter 17 of the HUD Procurement Handbook No. 7460.8 REV 2

Attachment 1
Recommended Approval Authority Table

Position(s)/Job Titles	Requirement/ Requisition Authority Level Note 1	Specialized Requirement Approval Note 2	Procurement Authority Purchase Orders Note 3	Procurement Authority Contracts Note 3
Executive Director	Unlimited	Yes	Unlimited	Unlimited
Directors	Less than $50,000	Yes	None	Must Review can not sign
Managers	Less than $5,000	No	None	None
Supervisors	Less than $1,500	No	None	None
Budget Division Review	Greater than $5,000	N/A	None	None
Procurement Division	None	None	As Delegated by ED	As Delegated by ED

The following definitions and conditions apply to the Recommended Approval Authority Table:

Note 1 Requirement Approval means the individual verifies that the requirement is a valid need for ARHA and that funds are available in their respective programs and/or line item budget.

Note 2 Administrative reviews will be established to address Specialized Requirement Approval. The following are examples of specialized requirements that must be approved at the Director level regardless of cost and subject to functional manager reviews:

a. Technology reviewed by IT Manager
b. Insurance reviewed by Director of Finance
c. Vehicles reviewed by the Director of Finance
d. Administrative Construction reviewed by Facilities Managers and Finance Director

Note 3 Procurement Authority refers to the authority to sign a procurement document (Purchase Orders and Contracts). Authority to sign procurement documents rests with the Executive Director and the Procurement Division.

Note 4 The Board of Commissioners must approve contracts for external audits (IPA) services and all procurement actions above $50,000.

Glossary of Terms

Account String	Account string refers to the accounting data associated with a specific requirement to ensure that the costs associated with that requirement are charged to correct budget. An account string includes the following codes: Fund, Ledger, Cost Center, Account Type, Account Number, and Sub-Account.
Award	Award is the Contracting Officer signs the contract, after timely IFB or RFP has been properly evaluated, to the responsive and responsible bidder that submits the lowest bid total or that is most advantageous to ARHA and meets all specified requirements.
AS400	ARHA software
Bidder	A person or organization who submits a competitively priced offer in response to an Invitation For Bids.
Cancellation	In all solicitations for goods and services, ARHA reserve the right to cancel a solicitation at any time prior to award and for any reason it deems sufficient. In all contract award documents, ARHA includes standard HUD language allowing cancellation of the contract after award for reasons of convenience and in case of default by the contractor.
Clauses	Sections of a contract that set forth specific, legally enforceable terms and conditions. Each clause normally deals with a specific aspect of the contract, explained entirely within the clause(s) or providing a reference to another section of the contract that details the requirements of the clause.
Competition	Competition is the cornerstone of governmental procurement. All requirements for goods and services above the single quote dollar limit, or that cannot be justified as a non-competitive procurement (e.g. sole source or emergency) shall be obtained through competitive procurement methodology.
Construction	Building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.
Consulting Services	Advice or assistance of a purely advisory nature, provided for a predetermined fee by an outside individual, firm organization under contract with ARHA.
Contract	A Contract is an agreement (offer and acceptance) between two or more competent parties to do or not to do something not prohibited by law (legal act), with mutual benefits (mutual consideration). A contract is any type of agreement or order for the procurement of goods or services.
Contracting Officer	The Executive Director or Its designee, who is authorized to sign

	contracts on behalf of ARHA, with specific dollar limits.
Cost Analysis	Cost analysis can be accomplished two ways. One deals with all the cost associated with providing support to the customer. For example, a cost comparison of a repair part could include delivery cost, repair/maintenance cost, failure rates, etc. Another cost analysis refers to breading out of costs associated with producing a product or providing a service such as labor cost, transportation, tools, etc.
Fixed Price Contracts	A contract that provides for a firm unit or total price to be established at the time the order is placed or contract is awarded. The contractor bears the full risk for profit or loss on a fixed price contract.
Goods	Material, equipment, supplies, repair parts, printing and automated data processing hardware and software.
Independent Cost Estimate (ICE)	An estimate obtained by the ARHA prior to obtaining offers or bids. The degree of analysis will depend on the size and complexity of the purchase. The ICE may be prepared by in-house or by an outside firm.
Invitation for Bids (IFB)	A document, containing or incorporating by reference the specifications or scope of work and all contractual terms and conditions, that are used to solicit written bids for a specific requirement for goods or nonprofessional services. Under this method award is determined on price.
Change Orders/ Modification	Tools used to make adjustments to an existing procurement document, including but not limited to adjustments to the statement of work or the scope of a contract, the activation of specific clauses or contract provisions, the correction of errors or the addition or deletion of order quantities irregardless of dollar impact.
Offeror	A person or organization that makes an offer in response to a Request For Proposals
Original Contract Amount	The total consideration specified in the original contract document; normally a dollar value that ARHA has agreed to pay in return for the consideration (e.g., goods or services) that it will receive from the contractor.
Pass Through Payments	A payment necessitated by ARHA, acting as the conduit, to facilitate the movement of funds from the funding activity to the receiving activity or activities, rather than payments in support of ARHA operations.
Price Analysis	A comparison between the price to be paid for an item (regardless of cost) and other bids or proposals. Procurement planning price analysis may include consideration of market research and previous contract awards for the same requirement.
Procurement	Refers to the ARHA Board of Commissioners, which delegates

Authority	authority to the Executive Director and gives him/her the authority to further delegate in writing the authority to sign procurement documents.
Procurement	Refers to contracts and modifications (including change orders) for goods, services or construction, as well as the purchase, lease, or rental of supplies and equipment, and any other procurement arrangement.
Procurement Activity	All procedures for obtaining goods or services, including all activities from the planning, preparation and processing of a requisition through the receipt, acceptance of delivery, and processing of a final invoice for payment.
Procurement Policy	The strategic position or guiding principle that dictates how ARHA procurement procedures will be developed. Procurement policies are the responsibility of the Board of Commissioners.
Procurement Procedures	Details of how procurement activities will be conducted on a day-to-day basis, as developed and maintained by the Procurement Division.
Professional Services	Work performed by an independent contractor within the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, optometry, pharmacy or professional engineering.
Request For Proposal (RFP)	A document containing or incorporating by reference the requirements, the level of specifications or scope of work (usually in general terms), and contractual terms and conditions (that may or may not be subject to negotiation) for a procurement. The RFP procedure requires negotiation with the offerors (to include price), as distinguished from Invitation For Bid, which does not allow for negotiation. Under this method, award is determined on price and other factors.
Requirement Authority	The individual authorized to approve or verify that a procurement request is a valid need and is in the best interest of ARHA, and that there is budget authority to cover the need.
Requirements	A general term used to define a need of or for ARHA. Requirements may be materials, services, construction, etc.
Responsible	As referenced in the common question, "Is the bidder or offeror responsible?", this term means that the bidder or offeror (i) has the capability in all respects to fully perform the contract requirements, (ii) has moral and business integrity and reliability that will assure ARHA of its good faith performance, and (iii) has been pre-qualified, if required.
Responsive	A bid or proposal is considered "responsive" if it conforms to <u>all</u> the submission requirements listed in the IFB or RFP. A non-responsive bid or proposal is handled differently depending on the nature of the problem and whether it is a bid or a proposal.

Services	Activities performed by an independent contractor wherein the service(s) rendered does not consist primarily of the provision or rental of goods.
Sole Source	A single individual or entity capable of providing goods or services which are practicably available only from that one source, thus precluding competition.
Specifications	Clear and accurate description of the technical requirements of goods, services or contracts.
Unauthorized Procurement	Only personnel authorized in writing can commit ARHA to a contractual relationship with a vendor. A contractual relationship is a relationship that requires ARHA to pay a vendor in return for a product or service, regardless of the dollar value. Personnel who knowingly commit ARHA to a purchase of goods or services but who have not received written delegated procurement authority from the Executive Director are guilty of having committed an unauthorized procurement.