

## CHAPTER 8 – NONCOMPETITIVE PROCUREMENT



### 8.1 GENERAL

This chapter describes noncompetitive procurement, the conditions for their use, and the requirements for documentation.

### 8.2 DEFINITION

A noncompetitive procurement means a procurement that the PHA enters into after the PHA solicits offers from multiple sources but receives only one, or the competition is determined inadequate, or it is a micro purchase, or there is public exigency or emergency, or HUD approves the noncompetitive procurement. As described in Chapter 16, certain contracting with resident-owned businesses and resident management corporations is exempted from these restrictions on noncompetitive proposals.

### 8.3 RESTRICTIONS

- A. All noncompetitive awards must comply with 2 CFR 200.320(c). This method may be used only if one of the following circumstances applies:
  - The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
  - The item can only be fulfilled by a single source;
  - The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of competitive solicitation;
  - The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

- After solicitation of a number of sources, competition is determined inadequate.
- B. As described in Chapter 16, certain contracts with resident-owned businesses and resident management corporations are exempt from these restrictions on noncompetitive procurement. See 24 CFR Part 963.

## 8.4 PROCESS

- A. Award of contracts by noncompetitive procurement follows a process like that used for competitive proposals (see Chapter 7). The procurement must be evaluated. Technical and cost aspects may be negotiated. The offeror must be determined to be responsible at the time of award.
- B. Because there is no price competition, cost analysis (see Chapter 10) is required. Costs or price must be determined to be reasonable.
- C. PHAs are required to submit proposed noncompetitive contracts in excess of the simplified acquisition threshold to HUD for pre-award review and approval in accordance with 2 CFR 200.325, unless exempted under 2 CFR 200.325(c) (see Chapter 12 for more discussion.)

## 8.5 JUSTIFICATION & DOCUMENTATION

Noncompetitive procurement shall be conducted only if a written justification is made as to the necessity of using this method in accordance with the procedures described in PHA's procurement policy (see Appendix 1 for sample). Approval to award a noncompetitive contract does not eliminate or alter any other requirements of 2 CFR 200.317 through 200.327 governing the contract. The justification should include the following information:

- Description of the requirement;
- History of prior purchases and their nature (competitive vs. noncompetitive);
- The specific circumstance in 2 CFR 200.320(c)(1) through (5) which applies;
- Statement as to the unique circumstances that require award by noncompetitive procurement;
- Description of the efforts made to find competitive sources, e.g., advertisement in trade journals or local publications, phone calls to local suppliers, and issuance of a written solicitation;
- Statement as to efforts that will be taken in the future to promote competition for the requirement; and,
- Signature of the Contracting Officer and any higher approving official as required by the PHA's policy.
- The Contracting Officer shall include the written justification and approval in the contract file.