

CHAPTER 12 – HUD REVIEW REQUIREMENTS

HUD review of a PHA's procurement activity is limited to those actions funded with Federal program grant funds.



12.1 GENERAL

HUD review of a PHA's procurement activity is limited to those actions funded with Federal program grant funds.

12.2 CONTRACTING ACTIONS REQUIRING HUD APPROVAL

Except as exempted under paragraph 12.5, the following contracting actions should have HUD approval if requested by HUD:

- A. Noncompetitive procurements expected to exceed the Federal simplified acquisition threshold (2 CFR 200.325(b) (2));
- B. Brand name-only procurements expected to exceed the Federal simplified acquisition threshold (2 CFR 200.325 (b)(3));
- C. Awards over the Federal simplified acquisition threshold to other than the apparent low bidder under a sealed bid (2 CFR 200.325(b)(4));
- D. Proposed contract modifications that change the scope of the contract (as per the "Changes" clause in Forms HUD-5370, HUD-5370-C, or HUD-5370-EZ) or increasing the contract amount by more than the Federal simplified acquisition threshold (2 CFR 200.325(b)(5));

- E. Use of the qualification-based selection (QBS) method of procurement for other than A/E services, joint venture partners or developers, or energy service contracts;
- F. For PHAs operating under the 1969 public housing ACC 53010 and 53011, any agreement or contract for professional, management, fee accountants, legal, or other professional services with any person or firm if the total period or term of the contract, including renewal option provisions, exceeds two years;
- G. Procurements for legal or other non-personal services in connection with litigation, per HUD's Litigation Handbook, that exceed \$100,000;
- H. 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;
- I. Contracts that exceed five years, including options. To approve terms of more than five years, HUD must determine there is no practical alternative;
- J. PHAs operating under the 1969 public housing ACC who enter into a transaction with any joint venture, affiliate, or other identity-of-interest entity. Section 515 of the 1969 public housing ACC specifies that such transactions must comply with the conflict of interest provisions that apply to the PHA. PHAs and their instrumentalities operating under the 1995 or 2023 public housing ACCs must comply with the conflict of interest provisions under the ACC;
- K. Solicitations, and any resulting contracts, related to energy performance contracting and utility add-ons, as per Chapter 18 of this Handbook; and
- L. Solicitation and contracts by any PHA whose procurement procedures or operations fail to comply with the procurement standards in 2 CFR 200.317-327.

12.3 PHA SUBMISSION REQUIREMENTS FOR ACTIONS REQUIRING HUD APPROVAL

The PHA shall submit all paperwork necessary for HUD to review the contracting actions identified in 12.2 if requested by HUD. The HUD field office shall review this information, and shall indicate what additional information may be necessary, as appropriate, to ensure compliance with 2 CFR 200.317-327 and the applicable sections of this Chapter. For non-competitive proposals, specifically, the PHA should comply with the instructions in Chapter 8. Any changes to HUD forms or waivers to this Handbook must be sent to HUD Headquarters' Office of Public Housing for review and approval.

12.4 DEVELOPMENT

The PHA shall submit to the HUD field office for prior approval A/E contracts, fee appraiser contracts, development manager contracts, construction solicitations, construction contracts, and contract modifications.

12.5 EXEMPTION FROM PRE-AWARD REVIEW

- A. A PHA shall be exempt from the pre-award review required in paragraph 12-2.A-F if:
 - 1) The PHA requests, and HUD subsequently certifies, that its procurement system be reviewed by HUD to determine if its systems meet the standards under 2 CFR 200.317-327 and the essential requirements of this Handbook and HUD Handbook 7485.1 (2 CFR 200.325(c)(1)); or
 - 2) The PHA self-certifies that its procurement system meets the standards under 2 CFR 200.317-327 and the essential requirements of this Handbook and HUD Handbook 7485.1 (2 CFR 200.325(c)(2)). However, this certification does not limit HUD's right to review the PHA's procurement policy.

- B. Exemptions are granted for a one-year period and may be automatically renewed each year unless the PHA is found not to be in compliance with 2 CFR 200.317-327 or the PHA requests that the exemption be rescinded.