

Procurement Policy



Prepared For The

**West Haven Housing Authority
of the City of
West Haven, Connecticut**

April 2012

MANAGEMENT RESOURCE GROUP, INC.

2392 Mount Vernon Road, Suite 103 / Atlanta, Georgia 30338
Tel: 770.396.9856 / Fax: 770.396.1407 / Email: mrginc@mindspring.com

TABLE OF CONTENTS

I.	GENERAL PROVISIONS	1
II.	PROCUREMENT AUTHORITY AND ADMINISTRATION	3
III.	PROCUREMENT METHODS	5
IV.	CONTRACTOR QUALIFICATIONS AND DUTIES	16
V.	TYPES OF CONTRACTS, CLAUSES, AND CONTRACT ADMINISTRATION	17
VI.	APPEALS AND REMEDIES	19
VII.	CONTRACT TERMINATION	22
VIII.	ASSISTANCE TO SMALL AND OTHER BUSINESSES.....	25
IX.	ETHICS IN PUBLIC CONTRACTING	27
X.	GLOSSARY OF PHA PROCUREMENT TERMS.....	28
XI.	SAMPLE COVER LETTERS.....	35
XII.	SECTION 3 REQUIREMENTS	38

PROCUREMENT POLICY

Established for the West Haven Housing Authority of the City of West Haven, Connecticut by Board action on _____. This Statement of Procurement Policy complies with HUD's Annual Contributions Contract (ACC), HUD Handbook 7460.8, Rev 2, "Procurement Handbook for Public Housing Agencies," the procurement standards of 24 CFR 85.36.

I. GENERAL PROVISIONS

1. Purpose

The purpose of this Statement of Procurement Policy is to:

1. Provide for the fair and equitable treatment of all persons or firms involved in purchasing by the WHHA;
2. Assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the WHHA;
3. Promote competition in contracting;
4. Provide safeguards for maintaining a procurement system of quality and integrity;
5. Assure that WHHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, and State and local laws.

2. Application

This Procurement Policy applies to all contracts for the procurement of supplies, services, and construction entered into by WHHA after the effective date of the Policy. It shall apply to every expenditure of funds by the WHHA for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in this statement shall prevent the WHHA from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law.

When both HUD and non-Federal funds are used for a project, the work to be accomplished with the funds should be separately identified prior to procurement so that appropriate requirements can be applied, if necessary. If it is not possible to separate the funds, HUD procurement regulations shall be applied to the total project. If funds and work can be separated and work can be completed by a separate contract, then regulations applicable to the source of funding may be followed.

3. Competitive Specifications, Statement/Scope of Work

The WHHA shall seek full and open competition in all of its procurement transactions. All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the WHHA's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or 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 breaking out procurements 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.

4. Limitations Of Competition

The following specification limitations shall be avoided: geographic restrictions not mandated or encouraged by applicable Federal law (except for architect-engineer contracts, which may include geographic location as a selection factor if adequate competition is available); unnecessary bonding or experience requirements; brand name specifications (unless a written determination is made that only the identified item will satisfy the WHHA's needs); brand name or equal specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this procurement 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 the WHHA's computer needs and then allowing that consultant to compete for the subsequent contract for the computers).

5. Public Access To Procurement Information

Procurement information shall be a matter of public record to the extent provided in the Connecticut Freedom of Information Act and shall be available to the public as provided in that statute.

II. PROCUREMENT AUTHORITY AND ADMINISTRATION

- A. All procurement transactions shall be administered by the Contracting Officer, who shall be the Executive Director or his/her designee as authorized in writing.
- B. The Executive Director will issue operational procedures to implement this Policy. These procedures will be consistent with HUD Handbook 7460.8 Rev 2.
- C. The Executive Director will also establish a system of sanctions for violations of the ethical standards described in Section VIII of this Policy.
- D. The Executive Director or his/her designee shall ensure that:
 - 1. Procurement requirements are subject to an annual planning process to assure efficient and economical purchasing.
 - 2. The WHHA will maintain a contract administrative system which will insure that contractor performs in accordance with the terms, conditions and specifications of their contract or purchase order.
 - 3. Contracts and modifications are in writing, clearly specifying the desired supplies, services, or construction and are supported by sufficient documentation regarding the history of the procurement, including as a minimum:
 - a. The method of procurement chosen,
 - b. The selection of the contract type,
 - c. The rationale for selecting or rejecting offers, and
 - d. The basis for the contract price.
 - 4. For procurements other than small purchases, public notice is given of each upcoming procurement not less than once at least 10 business days (or other time period if required by Connecticut state law) before a solicitation is issued; responses to such notice are honored to the maximum extent practical; a minimum of 10 days (or other time period if required by State or local law) is provided for preparation and submission of bids or proposals; and notice of contract awards is made available to the public.

5. Public solicitation shall be provided by formal advertisement in at least one newspaper of general circulation. In addition, bids and/or proposals shall be scheduled from all reputable dealers/contractors known to be in the business of selling the product or providing the services desired by the WHHA and notices posted in public places for competition.
 6. For construction (Competitive Sealed Bidding) the opening date shall provide bidders a reasonable amount of time to prepare their bids but in no event will this time be less than ten (10) days after advertisement in a newspaper of general circulation.
 7. For Requests for Proposals (RFP's), a minimum of thirty (30) days will be allowed for a response, after the date of solicitation.
 8. Solicitation procedures are conducted in full compliance with Federal standards stated in 24 CFR 85.36, or State and local laws that are more stringent, provided they are consistent with 24CFR 85.36.
 9. An independent cost estimate is prepared before solicitation issuance and is appropriately safeguarded for each procurement above the micro purchase limitation, and a cost or price analysis is conducted of the responses received for all procurements.
 10. Contract award is made to the responsive and responsible bidder offering the lowest price (for sealed bid contracts) or contract award is made to the offeror whose proposal offers the greatest value to the WHHA, considering price, technical, and other factors as specified in the solicitation (for contracts awarded based on competitive proposals), and unsuccessful firms are notified within ten days after contract award (or other time period required by State or local law).
 11. There are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders), work is inspected before payment, and payment is made promptly for contract work performed and accepted.
 12. The WHHA complies with applicable HUD review requirements, as provided in the operational procedures supplementing this Policy.
- E. This Policy and any later changes shall be submitted to the Board of Commissioners for approval.

III. PROCUREMENT METHODS

A. Selection Of Method

For direct WHHA purchases, one of the following procurement methods shall be chosen, based on the nature and anticipated dollar value of the total requirement.

B. Small Purchase Procedures

1. General

Contracts that do not exceed \$100,000 may be made in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section, except as may be reasonably necessary to comply with Section VIII (assistance to small and other businesses) of this Policy.

2. Petty Cash Purchases

Small purchases of less than \$500, which can be satisfied by local sources, may be processed through the use of a petty cash account. The Contracting Officer shall ensure that:

- a. The account is established in an amount sufficient to cover small purchases made during a reasonable period, (e.g. one week)
- b. Security is maintained and only authorized individuals have access to the account,
- c. The account is periodically reconciled and replenished by submission of a voucher to the WHHA Accountant or designee and,
- d. The account is periodically audited by the Accountant or her designee to validate proper use and to verify that the account total equals cash on hand plus the total of accumulated vouchers.

3. Micro Purchase of \$2,500 or less

For small purchase below \$2,500, only one quotation is required if the quote received is considered reasonable by WHHA.

4. Small Contracts of \$5,000 or less for Professional Services

For small contracts below \$5,000, only one quotation need be solicited if the quote received is considered reasonable. Such purchases must be distributed equitably among qualified sources. If practical, a quotation shall be solicited from other than the previous source before placing a repeat order.

5. Small Purchases over \$2,500

For small purchases in excess of \$2,500 but not exceeding \$100,000, no less than three (3) offerors shall be solicited to submit price quotations, which may be obtained orally, by telephone, or in writing as allowed by State or local laws.

Award shall be made to the offeror providing the lowest acceptable quotation, unless justified in writing based on price and other specified factors, such as RFQ's for architect/engineer contracts, etc. If non-priced factors are used they shall be disclosed to all those solicited.

The names, addresses, and/or telephone numbers of the offerors and persons contracted, and the date and amount of each quotation shall be recorded and maintained as a public record.

C. Sealed Bids

1. Conditions for Use.

Contracts shall be awarded based on competitive sealed bidding if the following conditions are present:

- a. A complete, adequate, and realistic specification or purchase description is available,
- b. Two or more responsible bidders are willing and able to compete effectively for the work,
- c. The procurement lends itself to a firm fixed price contract and,
- d. The selection of the successful bidder can be made principally on the basis of price.

For procurement under the Capital Funds Program (CFP) sealed bidding shall be used for all construction and equipment contracts exceeding the small purchase limitation. For professional services contracts, sealed bidding should **not** be used. Sealed bids are generally the method used in construction contracts and procurement of commodities [24 CFR 968.240(c)].

2. Solicitation and Receipt of Bids.

An invitation for bids shall be issued including specifications and all contractual terms and conditions applicable to the procurement, including a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the invitation for bids.

The invitation for bids shall state the time and place for both the receipt of bids and the public bid opening. All bids received shall be time-stamped but not opened and shall be stored in a secure place until bid opening. A bidder may withdraw his/her bid at any time prior to bid opening.

3. Bid Opening and Award

Bids shall be opened publicly and in the presence of at least one witness. An abstract of bids shall be recorded and the bids shall be available for public inspection.

Award shall be made as provided in the invitation for bids by written notice to the successful bidder. If equal low bids are received from responsible bidders, award shall be made by drawing lots or similar random method, unless otherwise provided in State or local law and stated in the invitation for bids.

If only one responsive bid is received from a responsible bidder, award shall not be made unless a cost or price analysis verifies the reasonableness of the price. The bid opening and award shall be in accordance with 24 CFR 85.36(d) (2) and 24 CFR 905.175(c).

4. Mistakes in Bids

- a. Correction or withdrawal of inadvertently erroneous bids may be permitted, where appropriate, before bid opening by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only if the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a nonjudgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document but the intended bid is unclear or the bidder submits convincing evidence that a mistake was made.

- b. All decisions to allow correction or withdrawal of bid mistakes shall be supported by a written determination signed by the Contracting Officer. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the WHHA or fair competition shall be permitted.

D. Bonds & Insurance Requirements

The standards under this section generally apply to construction contracts that exceed \$100,000. There are no bonding requirements for small purchases or for competitive proposals. WHHA may require bonds and/or insurance for other services when deemed appropriate to protect the interest of WHHA; non-construction contracts should generally not require bid bonds.

1. Bonds

Bid Guarantee/Bonds. For construction contracts exceeding \$100,000, offerors shall be required to submit a bid guarantee from each bidder equivalent to 5% of the bid price. A Bid Guarantee may be acceptable in the form of a cash equivalent. In addition to the other requirement of this Statement, the following requirements apply:

a. Payment Bond.

For construction contracts exceeding \$100,000, the successful bidder shall furnish an assurance of completion. This assurance may be met and provided below:

- I. A performance and payment bond in a penal sum of 100% of the contract price for contracts exceeding \$100,000; or
- II. Separate performance and payment bonds, each for 50% or more of the contract price for contracts exceeding \$100,000; or
- III. a 20% cash escrow; or
- IV. a 25% irrevocable letter of credit.

b. Performance Bonds are required for all construction or service contracts exceeding \$100,000.

- I. These bonds must be obtained from guarantee companies acceptable to the U.S. Government and authorized to do business in the State of Connecticut. Individual sureties shall not be considered.
- II. U.S. Treasury Department circular No 570 list companies approved to act as surety on bonds securing Government (e.g., Housing Agencies) contracts, the maximum underwriting limits on each contract bond, and the State of Connecticut.

2. Insurance

All contracts shall contain insurance provisions appropriate to the project or service and/or as may be required by Federal, State and local laws and ordinances.

E. Competitive Proposals

1. Conditions for Use

Competitive proposals (including turnkey proposals for development) may be used if there is an adequate method of evaluating technical proposals and where the WHHA determines that conditions are not appropriate for the use of sealed bids. An adequate number of qualified sources shall be solicited (normally, at least 3). [24 CFR 85.36 or 24 CFR 905]

2. Solicitation

The request for proposals (RFP) shall clearly identify the relative importance of price and other evaluation factors and subfactors, including the weight given to each technical factor and subfactor. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, and the contents of their proposals. The proposals shall be evaluated only on the criteria stated in the request for proposals.

3. Negotiations.

Unless there is no need for negotiations with any of the offerors, negotiations shall be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award, based on evaluation against the technical and price factors as specified in the RFP. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarification with regard to and advise offerors of the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of and conformance to the solicitation requirements. No offeror shall be provided information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. Offerors shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award. A common deadline shall be established for receipt of proposal revisions based on negotiations. [24 CFR 85.36 (b)(9)]

4. Award

After evaluation of proposal revisions, if any, the contract shall be awarded to the responsible firm whose qualifications, price and other factors considered, are the most advantageous to the WHHA.

5. Architect/Engineer Services

The WHHA must contract for A/E services using QBS (Qualification Based Selection) procedures, utilizing a RFQ. Sealed bidding shall not be used for A/E solicitations. Under QBS procedures, competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Price is not used as a selection factor under this method. QBS procedures **shall not** be used to purchase other types of services, though architectural/engineering firms and developer related services where approved by HUD are potential sources.

F. Noncompetitive Proposals**1. Conditions for Use**

Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposals, and one of the following applies:

- a. The item is available only from a single source, based on a good faith review of available sources;
- b. An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the WHHA, 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 methods, and the emergency procurement methods, and the emergency shall be limited to those supplies, services, or construction necessary to meet the emergency.
- c. HUD authorized the use of noncompetitive proposals; or
- d. After solicitation of a number of sources, competition is determined inadequate.

2. Justification

Each procurement based on noncompetitive proposals shall be supported by a written justification for using such procedures. The justification shall be approved in writing by the Contracting Officer.

3. Price Reasonableness

The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis, as described in paragraph F (3) below.

G. Cost And Price Analysis

WHHA shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions. The reasonableness determination shall be placed into the official procurement file.

1. **Expedited Purchases.** The purchase by the delegated designee shall serve as determination that the price obtained is reasonable, which shall be based on the delegated designee's prior experience or other factors.
2. **Micro Purchases.** No formal cost or price analysis is required. Rather, a review by the Procurement Officer or designee shall serve as determination that the price obtained is reasonable, which may be based on the Procurement Officer's prior experience or other factors. The Executive Director shall establish guidelines and procedures on Cost and Price Analysis determinations.
3. **Small Purchases.** A comparison with other offers shall be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes are not obtained to establish reasonableness through price competition, the Procurement Officer or designee shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the Procurement Officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis. The Official Procurement File shall be documented with the appropriate rationale. A cost or price analysis shall be performed for all procurement actions of \$25,000 or greater.
4. **Sealed Bids.** The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, and when the bid received is more than 10% greater than the ICE, the WHHA entity which submitted the ICE must conduct a cost analysis, consistent with federal guidelines, to ensure that the price paid is reasonable. Comparison may indicate need for verification of Bid.

WHHA may use alternative methods of determining price reasonableness as noted in the HUD Procurement Handbook, Rev 2.

5. **Competitive Proposals.** The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, WHHA must compare the price with the ICE. For competitive proposals where prices cannot be easily compared among offerors, where there is not adequate competition, or where the price is substantially greater than the ICE, WHHA must conduct a cost or price analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable. WHHA may use the Guidance at 7460.8 REV 2 Chapter 4 Paragraph 32(B) as an alternate means to determine price reasonableness (other than cost analysis).
6. **Contract Modifications.** A cost or price analysis, consistent with federal guidelines, shall be conducted for all contract modifications for projects that were procured through Sealed Bids, Competitive Proposals, or Non-Competitive Proposals, or for projects originally procured through Small Purchase procedures and the amount of the contract modification will result in a total contract price in excess of \$100,000. The only exception to this rule is a contract modification based on pricing terms already established in the contract document.

H. Cancellation Of Solicitations

1. An invitation for bids, request for proposals, or other solicitation may be cancelled before offers are due if:
 - a. The WHHA no longer requires the supplies, services or construction;
 - b. The WHHA 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 similar reasons.
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 the WHHA; prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - d. There is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith;
 - e. For good cause of a similar nature when it is in the best interest of the WHHA.
- 3. The reason for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request to any offeror solicited.
 - 4. A notice of cancellation shall be sent to all offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any resolicitation 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, the WHHA 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, following paragraphs III.D3 and IIID4 above (when more than one otherwise acceptable bid has been received), or by using the noncompetitive proposals method and following paragraph III.E2 above (when only one bid is received at an unreasonable price); provided, that the Contracting Officer determines in writing that such action is appropriate, all bidders are informed of the WHHA's intent to negotiate, and each responsible bidder is given a reasonable opportunity to negotiate.

I. Cooperative Purchasing

The WHHA may enter into State and local intergovernmental agreements 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. If used, the 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. WHHA's are encouraged to use Federal or State excess and surplus property instead of purchasing new equipment and property whenever such use is feasible and reduces project costs.

IV. CONTRACTOR QUALIFICATIONS AND DUTIES

A. Contractor Responsibility

Procurements shall be conducted only with responsible contractors, i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity. Contractors must be licensed as required by Connecticut state law (e.g., State Board of Contractors). Before awarding a contract, the WHHA 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 Nonprocurement Programs published by the U.S. General Services Administration), compliance with public policy, record of past performance (including contacting previous clients of the contractor, such as other WHHA's), and financial and technical resources. If a prospective contractor is found to be nonresponsible, a written determination of nonresponsibility 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 HUD in accordance with HUD regulations (24 CFR Part 24 when necessary to protect the WHHA in its business dealings.

C. Qualified Bidder's Lists

Interested businesses shall be given an opportunity to be included on qualified bidder's lists. Any prequalified lists of persons, firms, or products which are used in the procurement of supplies and services shall be kept current and shall include enough qualified sources to ensure competition. Firms shall not be precluded from qualifying during the solicitation period. Solicitation mailing lists of potential contractors shall include, but not be limited to, such prequalified suppliers.

V. TYPES OF CONTRACTS, CLAUSES, AND CONTRACT ADMINISTRATION

A. Contract Types

Any type of contract which is appropriate to the procurement and which will promote the best interests of the WHHA may be used, provided that the cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods are prohibited. All procurements shall include the clauses and provisions necessary to define the rights and responsibilities of the parties. A cost reimbursement contract shall not be used unless it is likely to be less costly or it is impracticable to satisfy the WHHA's needs otherwise, and the proposed contractor's accounting system is adequate to allocate costs in accordance with applicable cost principles (for commercial firms, Subpart 31.2 of the Federal Acquisition Regulation (FAR), found in 48 CFR Chapter 1); and the contractor is paid only allowable costs. A time and materials contract may be used only if a written determination is made that no other contract is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk. In most cases, West Haven Housing Authority will rely on Firm-Fixed-Price contracts because the pricing arrangements pose the least risk to the Housing Authority.

B. Options

Options for additional quantities or performance periods may be included in contracts, provided that: (i) the option is contained in the solicitation; (ii) the option is a unilateral right of the WHHA; (iii) the contract states a limit on the additional quantities and the overall term of the contract; (iv) the options are evaluated as part of the initial competition; (v) the contract states the period within which the options may be exercised; (vi) the options may be exercised only at the price specified in or reasonably determinable from the contract; and (vii) the options may be exercised only if determined to be more advantageous to the WHHA than conducting a new procurement.

C. Contract Clauses

All contracts should identify the contract pricing arrangement as well as other pertinent terms and conditions, as determined by WHHA. Additionally, applicable HUD forms 5369, 5369A, 5369B, 5369C, 5370, 5370C, 5370-EZ, 51915, and 51915A, which contain all HUD-required clauses and certifications for contracts of more than \$100,000, as well as any forms/clauses as required by HUD for small purchases, shall be used in all corresponding solicitations and contracts issued by WHHA.

"Buy American" Requirements –Section 1605 of "the Recovery Act"

1. None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
2. Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that:
 - a. Applying subsection (a) would be inconsistent with the public interest:
 - b. Iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality: or
 - c. Inclusion of iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.
3. If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.
4. This section shall be applied in a manner consistent with United States obligations under international agreements.

D. Contract Administration

A contract administration system designed to insure that contractors perform in accordance with their contracts shall be maintained.

The operational procedures required by Section IIA above shall contain guidelines for inspection of supplies, services, or construction, as well as monitoring contractor performance, status reporting on construction contracts, and similar matters. For cost reimbursement contracts with commercial firms, costs are allowable only to the extent that they are consistent with the cost principles in FAR Subpart 31.2.

VI. APPEALS AND REMEDIES

A. General

The integrity of the WHHA's procurement system depends, in part, on the public's perception of the fairness with which the WHHA awards and administers its contracts. Disagreements between the WHHA and a contractor may arise before or after contract award, and it is important that the WHHA provide a means for contractors to receive an unbiased hearing of their concerns. WHHA alone will be responsible, in accordance with good administrative practice and sound business judgment, for settlement of all contractual and administrative issues arising out of procurement. These include, but are not limited to source evaluation, protests, disputes and claims. The WHHA should seek to resolve all contractual issues in as informal a manner as possible, to avoid the need for litigation. Various forms of alternative dispute resolution have been developed, such as arbitration, mediation, mini trials, and informal settlement conferences, and should be considered before resorting to the judicial process. It is often appropriate to provide for a review of unresolved contract disagreements by a third party, who can independently assess the merits of the case without a personal interest in the outcome. An expeditious resolution of contract disputes is in the mutual interest of both the WHHA and the contractor, as litigation consumes resources that are better devoted elsewhere. Disputes shall not be referred to HUD until all administrative remedies have been exhausted at the WHHA level.

B. Bid Protests [24 CFR 85.36(b) (12)]

1. Complaint Information

Any actual or prospective contractor may protest the solicitation of award of a WHHA procurement only for a serious violation of the standards of the WHHA's procurement policy and operational procedures. Any protest against a solicitation must be received before the due date for receipt of bids or proposals, and any protest against the award of a contract must be received within ten calendar days after contract award, or the protest will not be considered. Complainants should seek resolution of their concerns initially with the Contracting Officer. Such complaints must be in writing. If the matter is not resolved on this basis, then the contractor may file a formal written protest. The protest should include, as a minimum, the following information:

- a. name, address and phone number of the protestor;
- b. identification of the procurement, including solicitation or contract number;

- c. a statement of the reasons for the protest;
- d. supporting exhibits, evidence, or documents to substantiate any arguments; and
- e. the form of relief requested.

2. **Submission**

The protest **must** be submitted to the WHHA or a designee (such as a WHHA employee independent of the matter who can render an impartial opinion), within the time frames specified in the WHHA's procurement policy. They shall issue a decision on the protest as expeditiously as possible after receiving all relevant information requested. The WHHA may decide to suspend the procurement if the facts presented in the protest warrant such action; this step should only be taken if the evidence is clear and convincing as to the existence of an impropriety and there is no other means of resolving the matter. The decision to suspend the procurement is a matter within the WHHA's discretion, as may be provided in the WHHA's procurement policy.

3. **Granting a Protest**

If protest is granted (sustained in favor of the protestor), then the solicitation of proposed award should be cancelled or revised to comply with the protest decision. If the contract has already been awarded, then the contract may be terminated for convenience and the contract re-awarded to the next eligible offeror or the procurement may be solicited again. However, if the WHHA determines in writing that, based on compelling circumstances (such as a condition of emergency or serious disruption of the WHHA's operations, or if the contract has already been completed) either of these actions would not be in the best interest of the WHHA, the WHHA may let the award stand and pay the successful protestor bid and proposal costs, along with the cost of filing and pursuing the protest.

4. Denying a Protest

If the protest is not granted, the Contracting Officer shall provide a written decision with justification for the denial of the protest. In the written decision, the WHHA should explain any appeal rights within the WHHA itself. For example, a written request for reconsideration may be filed with the WHHA. Such requests should contain a statement of the factual and legal grounds on which reversal or modification of the decision is deemed warranted, specifying any errors of law made or information not previously considered.

5. HUD Review

Review by HUD of WHHA bid protests will be limited to:

- a. Violations of Federal laws or regulations (violation of State or local laws will be under the jurisdiction of State or local authorities); and
- b. Violations of the WHHA’s protest procedures for failure to review a complaint or protest. Protests received by HUD other than those specified above will be referred to the WHHA.

C. Contract Claims [24 CFR 85.36(b)(12)]

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Procurement Officer or designee for a written decision. The contractor may request a conference on the claim. The Procurement Officer's decision shall inform the contractor of its appeal rights to the WHHA Board of Commissioners. Contractor claims shall be governed by the changes clause in the HUD 5370 or 5370-C.

VII. CONTRACT TERMINATION

A. General

The WHHA shall terminate Contracts for default or convenience, as prescribed in the termination clauses on Forms HUD 5370 and 5370-C.

B. Termination Notice

The Procurement Officer shall terminate contracts either for convenience or default only by a written notice to the contractor. The notice shall be sent by certified mail with a return receipt requested. The notice shall state, at a minimum, the following:

1. The contract is being terminated for the convenience of WHHA or for default under the cited contract clause authorizing the termination;
2. Whether the contract is being terminated in whole or in part (for partial terminations, WHHA shall identify the specific items being terminated);
3. If terminated for default, the acts or omissions constituting the default, the Procurement Officer's determination that failure to perform is not excusable, WHHA's rights to charge excess costs of re-procurement to the contractor, and the contractor's appeal rights;
4. The effective date of termination;
5. The contractor's right to proceed under the non-terminated portion of the contract;
6. Any special instructions, and
7. Copies of the notice shall be sent to the contractor's surety, if any, and any assignee.

C. Termination for Convenience

Contracts may be terminated for convenience when WHHA no longer needs or desires the supplies or services under contract or can no longer fund the procurement.

1. Settlement

Settlement of contracts terminated for convenience may be settled through negotiations or by a unilateral determination by the Procurement Officer. The contractor shall submit a settlement proposal promptly to the Procurement Officer for any amounts claimed as a result of the termination. Whenever possible, the Procurement Officer should negotiate a fair and prompt settlement with the contractor and should settle by determination only when mutual agreement cannot be reached.

2. Compensation

A settlement should compensate the contractor fairly for work performed, for other cost incurred under the contract, and for preparations made for the terminated portions of the contract, including a reasonable allowance for profit. However, no profit shall be allowed for settlement expenses. In addition, the Procurement Officer shall not allow profit if it appears that the contractor would have incurred a loss had the entire contract been completed. Fair compensation is a matter of judgment and cannot be measured exactly. The Procurement Officer shall use prudent business judgment in the settlement process, as opposed to strict accounting principles. The parties may agree to a total amount to be paid to the contractor without agreeing on individual cost items or profit.

D. Termination for Default

A contract may be terminated for default because of a contractor's actual or anticipated failure to perform its contractual obligations. Under a termination for default, WHHA is not liable for the contractor's costs on undelivered work and may be entitled to the repayment of progress payments. If the contractor fails to make progress so as to endanger performance of the contract, the Procurement Officer shall issue a written notice to the contractor (generally called a "Cure Notice") specifying the failure and providing a period of 10 days in which to cure the failure. After the 10 days, the Procurement Officer may issue a notice of termination for default, unless the failure to perform has been cured.

1. Notice

If the contractor has failed to perform within the required time and a termination for default appears appropriate, the Procurement Officer shall notify the contractor in writing of the possibility of termination. This notice shall call the contractor's attention to the contractual liabilities if the contract is terminated for default, and request the contractor to "show cause" why the contract should not be terminated. If the response to this "show cause" notice is inadequate or insufficient, the contract shall be terminated for default.

2. Alternatives to Termination

Alternatives to termination for default include the following (at WHHA's discretion):

- a. Allow alternative dispute resolution (arbitration or mediation) as agreed to by both parties:
- b. Allow the contractor or the surety to continue performance of the contract under a revised delivery schedule (in exchange for a reduced contract price or other consideration);
- c. Permit the contractor to continue the performance of the contract by means of a subcontract or other business arrangement with an acceptable third party, provide the rights of WHHA are adequately protected; or
- d. If the contractor is not liable to WHHA for damages, execute a co-cost termination settlement agreement.

3. Repurchase

When the supplies, services, or construction activities are still required after the termination, the Procurement Officer shall seek to contract for the same or similar items as soon as possible. The Procurement Officer may use any appropriate contracting method for the procurement, providing competition is solicited to the maximum extent practicable to secure the lowest price obtainable under the circumstances in order to mitigate damages.

VIII. ASSISTANCE TO SMALL AND OTHER BUSINESSES

A. Required Efforts

1. Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, the WHHA shall make efforts to ensure 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 WHHA development are used when possible. Such efforts shall include, but shall not be limited to:
 - a. Including such firms, when qualified, on solicitation mailing lists;
 - b. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
 - e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
 - f. Including in contracts a clause requiring contractors, to the greatest extent feasible, 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 business concerns which are located in, or owned in substantial part by persons resident in the area of the project, as described in 24 CFR 135;
 - g. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed in A1a through A1f above.
2. Goals may be established by the WHHA periodically 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 the WHHA's prime contracts and subcontracting opportunities.

B. Definitions

1. A small business is defined as a business which is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in this field of operation. The size standards in 13 CFR 121 shall be used, unless the WHHA determines that their use 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 its 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 654, Subpart A, and in lists of labor surplus areas published by the Employment and Training Administration.
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 above. A business concern owned in substantial part by persons residing in the area of the project is defined as a business concern which is 51% or more owned by persons residing within the Section 3 covered project, owned by persons considered by the U.S. Small Business Administration to be socially or economically disadvantaged, listed on HUD's registry or eligible business concerns, and meeting the definition of small business above.

IX. ETHICS IN PUBLIC CONTRACTING

A. General

The WHHA shall adhere to the following code of conduct, consistent with applicable State or local law.

B. Conflict Of Interest

1. No employee, officer or agent of the WHHA shall participate directly or indirectly in the selection or in the award of administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:
2. An employee, officer or agent involved in making the award;
3. His/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); his/her partner; or,
4. An organization which employees, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

C. Gratuities, Kickbacks, And Use Of Confidential Information

WHHA officers, employees or 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 a WHHA contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

X. GLOSSARY OF PHA PROCUREMENT TERMS

Acceptance - The act of an authorized representative of the West Haven Housing Authority acknowledging that the supplies or services are in conformity with the contract requirements.

Amendment - Written revision made to a solicitation.

Annual Contributions Contract (ACC) -A contract between HUD and the West Haven Housing Authority setting forth requirements for the operation and development of Public Housing.

Architect/Engineer (A/E) - A licensed person (or company) usually responsible for developing the plans and specifications of a building or development and, in some cases, supervising the construction effort.

Bid - In the sealed bidding method of procurement, the offer submitted by a bidder.

Bidder's List - General list of persons or firms who may be interested in submitting bids in response to an Invitation for Bid and in contracting opportunities with the West Haven Housing Authority. List of prospective contractors. (Also called **Source List** or **Mailing List**).

Bonding (Bid Bonds) - A bid bond or guarantee ensures that, if awarded the contract, the bidder will accept and perform the work under the contract; ensures the bidder will not attempt to withdraw or otherwise not fulfill the contract; and ensures the bidder will execute the contractual documents that are required within the time specified in the solicitation, or forfeit all or part of the guarantee.

Bonding (Performance Bonds) - A performance bond ensures the contract is successfully completed. The performance bond also ensures that if a contractor is unable to complete the contract, the surety company, which issues the bond, will step in to complete the work. In the case of a letter of credit or cash escrow, Housing Authority may use these funds to complete the contract work.

Bonding (Payment Bonds) - A payment bond ensures the contractor pays the subcontractors and suppliers. West Haven Housing Authority will allow the performance bond and the payment bond to be combined.

Cardinal Changes - Modifications to an existing contract that are beyond the general scope of that contract and are so extensive that a new procurement should be used.

Changed Conditions - Construction site/repair conditions that differ significantly from conditions indicated in the contract or conditions ordinarily encountered in the performance of the type of work in the contract.

Change Order - Unilateral action taken by the Contracting Officer in order to modify the drawings, designs, specifications, method of shipping or packing, place of inspection, delivery or acceptance of an existing contract.

Competitive Proposals - The competitive method of procurement used when small purchases and sealed bidding are not appropriate; under this method, the Housing Authority issues an RFP soliciting price and technical proposals from potential sources; evaluates the proposals and establishes a competitive range; negotiates with those in the competitive range; receives and evaluates best and final offers from those in the competitive range; and makes award to the contractor offering the most advantageous proposal, considering price and the technical factors stated in the RFP.

Competitive Range - In competitive proposal procurement (RFP), those proposals, that, after evaluation by the Public Housing Authority, have a reasonable chance of receiving the award, both from a technical and cost standpoint.

Conflict of Interest- A real or apparent participation in the selection, award, or administration of a contract that results in personal gain.

Constructive Change Order - Informal requests for additional work or services caused by some act or omission to act on the part of the West Haven Housing Authority that causes a contractor extra work, delays or money.

Contract - A promise or set of promises for breach of which the law gives a remedy or performance of which the law recognizes as a duty; a legal instrument providing for the purchase, lease or barter of property or services for the direct benefit of the West Haven Housing Authority.

Contracting Officer - An official authorized by the Executive Director to enter into or administer procurement contracts and make related determinations and findings.

Contract Administration - The monitoring of the contractor's performance in order to ensure compliance with performance requirements and contract terms.

Contract Modification - Any written alteration in the specifications, delivery point, date of delivery, contract period, price, quantity, or other provision of an existing contract.

Contracting Officer - The Executive Director or an official of West Haven Housing Authority, officially delegated in writing, to enter into and / or administer contracts and make related determinations and findings.

Cost Analysis -An evaluation of the separate elements (e.g., labor, materials, etc.) that make up a contractor's total proposal to determine if they are reasonable, allowable and directly related to the requirement. Cost analysis is required whenever there is no price competition,

Cost-Reimbursement Contract - Contract in which the buyer and seller agree on an estimate of contract costs. The buyer agrees to reimburse the seller for reasonable, allowable and allocable costs necessary to complete the work.

Cure Notice - A document the Contracting Officer sends to a contractor to notify the contractor that the contract may be terminated by reason of default if the condition endangering performance of the contract is not corrected in a specified number of days.

Excusable Time Delay - Failure to perform that is beyond the control and without fault or negligence of the contractor.

Expedited Purchases - A method of purchasing made with a Procurement Card. This type of Procurement shall not exceed \$300.

Emergency - An emergency condition is an Immediate threat to health and safety of the residents or employees of the West Haven Housing Authority.

Exigent Condition - An exigent condition is a situation or condition requiring immediate aid or action. Only the Executive Director or designee has the authority to declare an exigent condition.

Firm Fixed-Price Contract - Contract that provides for price that is not subject to any adjustment by reason of cost experience of the contractor in the performance of the contract; the preferred type of contract.

Imprest Fund - A cash fund of a fixed amount managed by a duly appointed cashier who disburse funds as needed from time to time for cash payment of relatively small purchases.

Independent Cost Estimate (ICE) (In-House) - An estimate obtained or developed by the West Haven Housing Authority prior to obtaining offers. A written calculation of all items included in the scope of the work, tabulated under appropriate cost headings (direct costs, labor, overhead and profit).

Indefinite-Quantity Contract - Contract used for procurement in which the exact number of deliverable items is not known at the time of contracting. The contract provides for a minimum and a maximum amount of goods/services that may be ordered under the contract.

Inspection - The examination and testing of supplies and services to determine whether they conform to contract requirements.

Intergovernmental Agreement-An agreement between the West Haven Housing Authority and a Federal, State, or local government agency (including other Public Housing Agencies) for the provision of procuring supplies or services. For the purpose of this Policy, the terms Cooperative Agreement, Intergovernmental Agreement, Interagency Agreement, Consortium Agreement, or Memorandum of Agreement are interchangeable.

Internal Controls - Safeguards that ensure that contracting will be carried out in conformity with applicable Federal regulations and West Haven Housing Authority policy.

Invitation for Bids (IFB) - Under the sealed bidding method of procurement, the written solicitation document that explains what the West Haven Housing Authority is buying and requests bids from potential contractors.

Mailing List - General list of persons or firms who may be interested in submitting bids in response to an Invitation for Bid and in contracting opportunities with the West Haven Housing Authority.- List of prospective contractors. (Also called **Bidder's List** or **Source List**).

Micro-Purchasing - A method of purchasing above the debit purchasing level of \$300 and below \$2,500. This type of purchasing requires one (1) quote.

Minority Owned Business - 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 its 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, Asian Indian Americans, and Hasidic Jewish Americans.

Negotiation - Discussions with offerors in the competitive range regarding technical and/or price proposals to award a contract using the competitive proposals or noncompetitive proposals method of procurement or when issuing modifications to existing contracts.

Noncompetitive Proposals - The method of procurement in which proposals are solicited from only one source because award of a contract is not feasible under the small purchase procedure, sealed bids or competitive procedure as a result of; 1) the item or service is available only from a single source; 2) public exigency or emergency will not allow enough time for a competitive procurement; 3) inadequate response to a competitive solicitation; or 4) HUD approves the use of noncompetitive proposals. The method is also known as "sole source".

Offer - A response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract.

Offeror - The general term for the entity that submits a response to a solicitation.

Price Analysis - The evaluation of a proposed price (bottom line) for reasonableness, without evaluating the separate elements of cost.

Procurement - The term "procurement" includes the procuring, purchasing, leasing, or renting of: 1) goods, supplies, equipment, and materials; 2) construction and maintenance; 3) consultant services; 4) Architectural and Engineering (A/E) services; 5) Social Services; and 6) other services. The term Procurement also includes selling, including concessions and disposal of surplus material and equipment.

Proposal - The offer submitted by a potential contractor in the competitive or noncompetitive proposals type of procurement.

Qualifications Based Selection (QBS) - A form of procurement of Architect/Engineering (A/E) or development services by competitive proposals in which proposals in which price is not requested in the Request for Qualifications (RFQ) or used as an evaluation factor.

Quotation - The price or cost submitted by a vendor in the small purchase procedures method of procurement.

Request for Proposal (RFP) - Solicitation method used under both the competitive and noncompetitive methods of procurement. Proposal evaluation and contractor selection are based on the evaluation criteria and factors, including price, for award as stated in the RFP. Contract award is based on the best approach to the requirements of the statement of work resulting in the greatest benefit to the West Haven Housing Authority, price and other factors considered.

Request for Qualifications (RFQ) - Solicitation method used under the competitive and non-competitive methods of procurement. Evaluation and contractor selection are based on the evaluation criteria for award as stated in the RFQ. Price is not obtained until the highest ranking firm(s) is selected based on qualifications and negotiations for a fair and reasonable price have started.

Resident Owned Business - A resident owned business is any business concern that is owned and controlled by public housing residents.

Responsible Bidder - A bidder who is: 1) able to comply with the required or proposed delivery or performance schedule; 2) has a satisfactory performance record; 3) has a satisfactory record of integrity and business ethics; 4) has the necessary organization and operational skills, or the ability to obtain them; 5) has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and 6) is otherwise qualified and eligible to receive an award under applicable laws and regulations (including the fact the bidder is not suspended, debarred or under a HUD or West Haven Housing Authority imposed Limited Denial or Participation).

Responsive Bid - A bid that conforms to the requirements in the Invitation for Bids (IFB).

Sanctions - Measures that may be evoked by the West Haven Housing Authority or HUD to exclude or disqualify contractors, West Haven Housing Authority staff or agents acting on behalf of the West Haven Housing Authority from participation in HUD programs (such as limited denial of participation or debarment), or measures the West Haven Housing Authority may take regarding employees, officers, agents, or others who violate the ethical standards of the Procurement Policy (such as dismissal, reassignment, removal from position, etc.).

Sealed Bidding - A method of procurement inviting sealed bids. This method requires: 1) specifications that are clear, accurate, and complete; 2) a public bid opening; and 3) evaluation of bids and award of the contract based on the lowest price submitted by a responsive and responsible contractor. Sealed bidding is the preferred method for construction.

Section 3 Business - A "Section 3 business concern" as defined at 24 CFR Part 135.

Show Cause Letter - A document sent by the Contracting Officer or designee notifying a defaulting contractor that the contract may be terminated for default unless the contractor can provide adequate justification for not terminating within a specified time period (usually 10 days).

Small Business - A small business is defined as a business that is: 1) independently owned; 2) not dominant in its field of operation; and 3) not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR121 should be used to determine business size.

Small Purchase Procedure - A simplified method for acquiring supplies, materials, and services (including construction) that do not exceed the West Haven Housing Authority's threshold of \$100,000.

Sole Source - The method of procurement in which proposals are solicited from only one source because award of a contract is not feasible under the small purchase procedure, sealed bids or competitive procedure as a result of; 1) the item or service is available only from a single source; 2) public exigency or emergency will not allow enough time for a competitive procurement; 3) inadequate response to a competitive solicitation; or 4) HUD approves the use of noncompetitive proposals. The method is also known as "Noncompetitive Proposals".

Solicitation - The general term for the West Haven Housing Authority's request for offers from potential offerors.

Source List - - General list of persons or firms who may be interested in submitting bids in response to an Invitation for Bid and in contracting opportunities with the West Haven Housing Authority.- List of prospective contractors. (Also called **Bidder's List** or **Mailing List**).

Specifications or Scope - Description of the technical requirements of a solicitation or resulting contract.

Statement of Work (SOW) - Written description of work to be performed that establishes the standards sought for the supplies or services furnished under the contract; typically used for service contracts.

Termination for Cause - Termination of a contract by the West Haven Housing Authority on a unilateral basis when the contractor fails to perform, fails to make progress so as to endanger performance, or commits a default as specified in the contract.

Termination for Convenience - Termination of a contract by the West Haven Housing Authority on a unilateral basis when the product or service is no longer needed or when it is in the best interest of the West Haven Housing Authority.

Vendor List- List of persons interested in or qualified to do business with the West Haven Housing Authority.

Women Business Enterprise - 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 control and operate the business.

XI. SAMPLE COVER LETTERS

**SAMPLE IFB COVER LETTER
WEST HAVEN HOUSING AUTHORITY**

DATE: _____

PROJECT TITLE/NUMBER: _____

DELIVERY DATE/TIME: _____

TO: PROSPECTIVE BIDDERS

SUBJECT: INVITATION FOR BIDS NUMBER _____

Separate sealed bids for: (brief description of work) _____

will be received at the following address: _____ until _____ local time, _____ (date), and then opened and publicly read aloud. By submission of a bid, the bidder agrees, if its bid is accepted, to enter into a contract with the Public Housing Authority in the form included in the contract documents to complete all work as specified or indicated in the contract documents for the contract price and within the contract time indicated in the attached IFB. The bidder further accepts all of the terms and conditions of the IFB including without limitation those dealing with deposit of bid guarantee.

The bid shall remain open for the period specified in the IFB, must be independently arrived at, and be prepared in accordance with the instructions to bidders (Form HUD-5369). In addition, the HUD-required certifications must be completed and submitted as part of the bid (see Form HUD-5369-A)

A pre-bid conference shall be held at _____ (address)

on _____ (date and time). Site visits may be arranged by contacting

_____ (name) at _____ (telephone number).

All bidders are encouraged to attend the pre-bid conference and visit the site.

The bid price(s) shall be included as provided in the attached IFB. Unless otherwise specified in the IFB all prices shall be on a firm-fixed-price basis and are not subject to adjustment based on costs incurred.

Bidders should be advised that, prior to award of any contract, the Housing Authority reserves the right to conduct a pre-award survey for the purpose of determining the bidder's responsibility and capacity to perform the contract. This survey may include review of subcontracting agreements, financial capacity and quality of work performed on other contracts.

All bids must be signed and dated; if a joint venture is submitting the bid, each joint venturer must sign the bid. Late bids will be handled in accordance with Form HUD-5369.

Questions regarding the attached IFB should be directed to: _____ (name) _____ (telephone number).

Contracting Officer

Attachment (IFB)

**SAMPLE RFP COVER LETTER
WEST HAVEN HOUSING AUTHORITY**

DATE: _____

PROJECT TITLE/NUMBER: _____

DELIVERY DATE/TIME: _____

TO: PROSPECTIVE BIDDERS

SUBJECT: REQUEST FOR PROPOSALS

Separate proposals for: (brief description of work) _____

will be received at the following address: _____ until _____ local time,
_____ (date). Proposals will be held in confidence and will not be released in any manner until after contract
award.

By submission of a proposal, the offeror agrees, if its proposal is accepted, to enter into a contract with Public
Housing Authority in the form included in the contract documents to complete all work as specified or indicated in
the contract documents for the contract price and within the contract time indicated in the attached RFP. The
offeror further accepts all of the terms and conditions of the RFP.

A pre-proposal conference shall be held at _____
(address) on _____ (date and time). Site visits may be arranged by contacting
_____ (name) at _____ (telephone number). All offerors are encouraged to
attend the pre-proposal conference and visit the site.

Proposals should be prepared in accordance with the attached instructions, and will be evaluated by the Housing
Authority as stated in the evaluation factors for award in the RFP.

Questions regarding the attached RFP should be directed to: _____ (name)
_____ (telephone number).

Contracting Officer

Attachment (RFP)

XII. SECTION 3 REQUIREMENTS

All work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended 12U.S.C. 1701u (Section3).

Requirements are specified in the Federal Register, Vol. 59, No. 125, Thursday, June 30, 1994, Section 135.1 through and including Section 135.5, pages 33880 through and including page 33882.

Copy of the full document is on file at the Housing Authority's Administrative Office and is available.

In part, for contractors information, some Section 3 Requirements or clarifications are as follows: Additional clarification or information is available at the office of Equal Opportunity Specialist, Equal Opportunity Division, HUD, Hartford, CT Area Office.

What is Section 3?

It is a means by which HUD fosters local economic development, neighborhood economic improvement and individual self-sufficiency.

Section 3 is the legal basis for providing jobs for residents and awarding contracts to businesses in areas receiving certain types of HUD financial assistance.

Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is given for housing or community development, to the greatest extent feasible, economic opportunities will be given to residents and business in that area.

Who are Section 3 Residents?

Residents of public housing and low income persons who live in the area in which a HUD-assisted project is located.

What is a Section 3 Business? A business that:

- is owned by Section 3 residents; or
- employs Section 3 residents in full-time positions; or
- Subcontracts with businesses which provide economic opportunities to low income persons.

Who Receives Priority Under Section 3?

For training and employment:

- Persons in public and assisted housing;
- Persons in the neighborhood;
- Participants in HUD Youthbuild programs;
- Homeless persons.

For Contracting:

- Businesses which fit the definition of a Section 3 business.

How Can Business Find Section 3 Residents to Work For Them?

By recruiting in the neighborhood and public housing developments to tell about available training and job opportunities. Distributing flyers, posting signs, placing ads, and contacting resident organizations and local community development and employment agencies to find potential workers.

Other Section 3 Requirements:

- A. The work to be performed under the contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, with implement section 3. As evidenced by their execution of this contract, the parties to the contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontractor or in the Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (1) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organization and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agreed to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

The goal of each section 3 project is to contract with or employ at least 30% of the work or work force from the section 3 area where the work is being completed.

In addition, after completion of the work, the contractor and Local Housing Authority, shall together, complete HUD Form HUD-60002 (8/31/2007) to the fullest extent possible. The completed HUD-60002 shall be submitted by the Local Housing Authority to the HUD office referenced in this section, 10 days after project completion.