Baranof Island Housing Authority

PROCUREMENT POLICY

Revised 2026

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This Procurement Policy complies with the requirements of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), its implementing regulations at 24 CFR Part 1000, and the procurement standards of 2 CFR 200.317-326, as of the date of its approval.

I. GENERAL PROVISIONS

A. PURPOSE

Baranof Island Housing Authority (BIHA) shall: provide for a procurement system of quality and integrity; provide for the fair and equitable treatment of all persons or firms involved in purchasing by BIHA; ensure that supplies and services (including construction) are procured efficiently, effectively, and at the most favorable prices; promote competition in contracting; and assure that BIHA purchasing actions are in full compliance with applicable Federal standards, HUD regulations, State, Tribal, and local laws.

B. APPLICATION

This Procurement Policy applies to all procurement actions of Baranof Island Housing Authority (BIHA), regardless of the source of funds. However, nothing in this policy shall prevent BIHA from complying with the terms and conditions of any grant, contract, gift, or bequest that is otherwise consistent with the 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, and HUD's Indian preference regulations must be applied to the work financed by HUD. If it is not possible to separate funds, and BIHA determines that it is unable to meet HUD's Indian preference requirements in conjunction with the requirements of the other funding source(s), it should apply for a waiver for Unique Tribal Conditions. If funds and work can be separated and work can be completed by a new contract, then regulations applicable to the source of funding may be followed.

C. DEFINITION

The term "procurement," as used in this policy 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.

D. PUBLIC ACCESS TO PROCUREMENT INFORMATION

Most procurement information that is not proprietary is a matter of public record and shall be available to the public to the extent provided in the Alaska Public Records Act.

E. PROCUREMENT AUTHORITY AND ADMINISTRATION

Other than approval of this Procurement Policy, approval by the Board of Commissioners is not required for any procurement action, as permitted under State and local law. Rather, it is the responsibility of the Executive Director, as the Contracting Officer, to make sure that all procurement actions are conducted in accordance with the policies contained herein.

While the Executive Director is responsible for ensuring that BIHA's procurements comply with this policy, the Executive Director may designate another individual, through written authorization, to act as the Contracting Officer, and may delegate procurement authority as is necessary and appropriate to conduct the business of BIHA.

Further, and in accordance with this delegation of authority, the Executive Director shall, where necessary, establish operational procedures (such as a procurement manual or standard operating procedures) to implement this policy. The Executive Director shall also establish a system of sanctions for violations of ethical standards described in this policy, consistent with Federal, State, Tribal or local law.

F. DOCUMENTATION

BIHA must maintain records sufficient to detail the significant history of each procurement action. These records shall include, but shall not necessarily be limited to, the following:

- Rationale for the method of procurement (if not self-evident);
- Rationale of contract pricing arrangement (also if not self-evident);
- Reason for accepting or rejecting the bids or offers;
- Basis for the contract price (as prescribed in this policy;
- A copy of the contract documents awarded or issued and signed by the contracting officer;
- Basis for contract modifications; and
- Related contract administration actions.

The level of documentation should be commensurate with the value of the procurement.

G. RETENTION OF PROCUREMENT RECORD

Records are to be retained for a period of 3 years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient.

II. ETHICS IN PUBLIC CONTRACTING

BIHA hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code is consistent with applicable Federal, State, Tribal, or local law. Additionally, BIHA shall comply with the prohibitions and procedures established by 24 CFR 1000.30-36.

A. CONFLICTS OF INTEREST

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

- An employee, officer, or agent involved in making the award;
- A member of his or her immediate family (spouse, mother, father, brother, sister, or child of an immediate family member, whether related as a full blood relative, or as a “half” or “step” relative, e.g., a half-brother or stepchild);
- His or her partner; or
- An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

B. GRATUITIES, KICKBACKS, AND USE OF CONFIDENTIAL INFORMATION

No officer, employee, board member, or agent shall ask for or accept gratuities, favors, or items of more than $25 in value any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain. Disciplinary actions will be applied for violations of these standards by officers, employees or agents of BIHA.

C. PROHIBITION AGAINST CONTINGENT FEES

Contractors wanting to do business with BIHA must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies.

III. PURCHASING METHODS

When satisfying its needs by procurement, BIHA shall choose the most appropriate purchasing method, based on the nature and anticipated dollar value of the total requirement.

A. PETTY CASH

Small purchases that can be satisfied through local sources may be handled through the use of a petty cash account. Security shall be maintained through a system of internal controls. A custodian for the petty cash account shall be established, and funds shall be replenished periodically.

B. NAHASDA DE MINIMIS EXEMPTION

When using IHBG funds to procure goods and services valued at less than $5,000, BIHA may utilize the NAHASDA de minimis exemption for competitive procurement rules. No competitive quotes are required. Reasonable purchasing practices must be used, and documentation must be kept on file. Indian preference rules do not apply.

C. MICRO-PURCHASE PROCEDURE

Goods or services valuing less than $50,000 may be obtained without obtaining competitive quotes, provided the price is reasonable based on research, past purchases, experience, or other information.

To promote competition, when possible, micro-purchases should be equitably distributed among qualified sources.

Under no circumstances will a purchase be broken down into more than one action in order to meet the micro-purchase threshold.

When procurement is NAHASDA-funded, Indian preference shall apply, per Section 7(b) of the Indian Self-Determination and Education Assistance Act.

D. SIMPLIFIED ACQUISITION PROCEDURES

Any procurement not exceeding $350,000 may be conducted in accordance with the procedures authorized in this section. BIHA shall not break down requirements aggregating more than the simplified acquisition threshold into several purchases that are less than the applicable threshold merely to (1) permit the use of the simplified acquisition procedures or (2) avoid any requirements that apply to purchases that exceed the threshold.

1. Obtaining Quotes

BIHA shall obtain a reasonable number of quotes (preferably three) from enough qualified vendors to ensure a fair price. Quotes may be obtained orally (either in person or by phone), by fax, in writing, through e-procurement, or by any other reasonable method.

When soliciting quotations, BIHA shall inform the sources solicited of the specific item being procured, the time by which quotations must be submitted, and the information required to be submitted with each quotation.

The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained in the contract file.

2. Competition

If fewer than three quotes are received, solicitation efforts must be documented in the contract file, and the Contracting Officer should document price reasonableness through other means, such as prior purchase, comparison to an independent cost estimate, or any other reasonable basis.

The sole quotation received may be accepted only if circumstances meet the requirements as listed in **G. NONCOMPETITIVE PROPOSALS** on page 13 of this policy.

3. Award

Award shall be made to the qualified vendor that provides the best value to BIHA. If award is to be made for reasons other than the lowest price, a formal solicitation request for proposals or request for quotations shall be issued, including evaluation factors and a rating system to evaluation each proposal or quotation.

4. Indian Preference

When procurement is NAHASDA-funded, Indian preference shall apply, per Section 7(b) of the Indian Self-Determination and Education Assistance Act.

BIHA shall document its efforts in providing Indian preference. If no quotations are solicited or received from Indian-owned economic enterprises or Indian organizations, BIHA shall document in the procurement file the reasons for the lack of Indian participation.

Unless otherwise specified, BIHA shall use preference factors as outlined in Appendix A to determine award.

E. SEALED BIDDING

Sealed bidding shall be used for all contracts that exceed the simplified acquisition threshold and that are not competitive proposals or non-competitive proposals as these terms are defined in this document. Under sealed bids, BIHA shall publicly solicit bids and award a firm fixed price contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation for Bid (IFB), is the lowest price. Sealed bidding is the preferred method for procuring construction, supply, and non-complex services contracts that are expected to exceed $350,000.

1. Conditions for Use

BIHA shall use the sealed bid method if the following conditions are present: a complete, adequate, and realistic statement of work, specification, or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; the contract can be awarded based on a firm fixed price; and the selection of the successful bidder can be made principally on the lowest price.

2. Solicitation and Receipt of Bids

An IFB shall be issued which includes the specifications and all contractual terms and conditions applicable to the procurement, and a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the solicitation. A minimum of 30 days shall generally be provided for preparation and submission of sealed bids, however, the Contracting Officer may allow for a shorter period under extraordinary circumstances.

Solicitation shall be done by means of advertising in newspapers (or other print mediums of local or general circulation), various trade journals or publications, or using e-procurement systems, so long as the method(s) employed provides for meaningful competition. The public notice should run not less than once each week for two consecutive weeks.

The IFB shall state the time and place for both the receipt of bids and the public bid opening. Any amendments to the IFB shall be in writing, and if it is necessary to issue an amendment within seven days of the bid opening, the bid opening shall be postponed until a reasonable time after the issuance of the amendment. All bids received shall be date and time-stamped and stored unopened in a secure place until the public bid opening. A bidder may withdraw the bid at any time prior to the bid opening.

3. Bid Opening and Award

Bids shall be opened publicly. All bids received shall be recorded on an abstract (tabulation) of bids and then made available for public inspection. If equal low bids are received from responsible bidders, selection shall be made by drawing lots or other similar random method. The method for doing this shall be stated in the IFB. If only one responsive bid is received from a responsible bidder, award shall not be made unless the price can be determined to be reasonable based on a cost or price analysis.

4. Indian Preference

Where Indian preference applies, and unless otherwise specified in bid documents, BIHA shall use preference factors as outlined in Appendix A to determine award. If equal low bids are received from qualified Indian-owned economic enterprise or organizations, award shall be made by drawing lots or similar random method, unless otherwise provided in State, Tribal, or local law. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within this range, award shall be made to the lowest responsible, responsive bidder.

5. Mistakes in Bids

Correction or withdrawal of bids may be permitted, where appropriate, before bid opening by written or telegraphic notice received in the office designated in the IFB 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. All decisions to allow correction or withdrawal of a bid shall be supported by a written determination signed by the Contracting Officer. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of BIHA or fair competition shall not be permitted.

F. COMPETITIVE PROPOSALS

Unlike sealed bidding, the competitive proposal method permits consideration of technical factors other than price, discussion with offerors concerning offers submitted, negotiation of contract price or estimated cost and other contract terms and conditions, revision of proposals before the final contractor selection, and the withdrawal of an offer at any time up until the point of award. Award is normally made on the basis of the proposal that represents the best overall value to BIHA, considering price and other factors (e.g. technical expertise, past experience, quality of proposed staffing) set forth in the solicitation and not solely the lowest price.

1. Conditions for Use

Where conditions are not appropriate for the use of sealed bidding, competitive proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the simplified acquisition threshold.

2. Solicitation

Other than A/E services, competitive proposals shall be solicited through the issuance of a Request for Proposals (RFP). The RFP shall clearly identify the importance and relative value of each of the evaluation factors (including Indian preference) as well as any subfactors and price. 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 until after award. BIHA may assign price a specific weight in the evaluation criteria or may consider price in conjunction with technical factors; in either case, the method for evaluating price shall be established in the RFP. BIHA shall reserve 15% of the total number of available rating points for the provision of Indian preference in the award of contracts and subcontracts, and up to an additional 10% for offers containing a qualified statement regarding training and employment of Tribal members and other Indians.

3. Evaluation

The proposals shall be evaluated only on the criteria stated in the RFP by a team of at least three people. Where not apparent from the evaluation criteria, BIHA shall establish an Evaluation Plan for each RFP. Generally, all RFP's shall be evaluated by an appropriately appointed Evaluation Committee. The Evaluation Committee shall be required to disclose any potential conflicts of interest and to sign a non-disclosure statement. An Evaluation Report, summarizing the results of the evaluation, shall be prepared prior to award of a contract.

4. Negotiations

Negotiations shall be conducted with all offerors who submit a proposal determined to have a reasonable chance of being selected for award, unless it is determined that negotiations are not needed with any of the offerors. This determination is based on the relative score of the proposals as they are evaluated and rated in accordance with the technical and price factors specified in the RFP. These offerors shall be treated fairly and equally with respect to any opportunity for negotiation and revision of their proposals. No offeror shall be given any 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. A common deadline shall be established for receipt of proposal revisions based on negotiations.

Negotiations are exchanges (in either competitive or sole-source environment) between BIHA and offerors that are undertaken with the intent of allowing the offeror to revise its proposal. The negotiations may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, and give-and-take, and may apply to price, schedule, technical requirements, types of contracts, or other terms of a proposed contract. When negotiations are conducted in a competitive acquisition, they take place after the establishment of the competitive range and are called discussions.

Discussions are tailored to each offeror's proposal and shall be conducted by the Contracting Officer with each offeror within the competitive range. The primary objective of discussion is to maximize BIHA's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The Contracting Officer shall indicate to, or discuss with, each offeror still being considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the Contracting Officer, be altered or explained to enhance materially the proposer's potential for award. The scope and extent of discussions are a matter of the Contracting Officer's judgement.

The Contracting Officer may inform an offeror that BIHA considers its price too high or too low and reveal the results of the analysis supporting the conclusion. It is also permissible to indicate to all offerors the cost or price that a price analysis, market research, and other reviews have identified as reasonable. Auctioning (revealing one offeror's price in an attempt to get another offeror to lower their price) is prohibited.

5. Award

After evaluation of revised proposals, if any, the contract shall be awarded to the responsible firm whose technical approach to the project, qualifications, price and/or any other factors considered are most advantageous to the BIHA, provided that the price is within the maximum total project budgeted amount established for the specific property or activity. BIHA may accept a sole proposal received, subject to HUD approval, in unusual circumstances, such as when BIHA determines that the delays caused by resoliciting would cause higher costs, or where BIHA determines that the proposal has a fair and reasonable price.

6. Architect/Engineer Services (A/E)

A/E services in excess of the simplified acquisition threshold may be obtained by either the competitive proposal method or Qualifications-Based Selection (QBS) procedures, utilizing a Request For Qualifications (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 A/E firms are potential sources.

G. NONCOMPETITIVE PROPOSALS

1. Conditions for Use

Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible using simplified acquisition procedures, sealed bids, cooperative purchasing, or competitive proposals, and if one of the following applies:

- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
- The item is available only from a single source, based on a good faith review of available sources;
- An emergency exists that seriously threatens the public health, welfare, or safety; endangers property; or would otherwise cause serious injury to BIHA, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar events. 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 shall be limited to those supplies, services, or construction necessary to meet the emergency;
- HUD or a pass-through entity expressly authorizes the use of noncompetitive proposals in response to a written request from BIHA;
- 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 the selection of this method. The justification shall be approved in writing by the Contracting Officer. Poor planning or lack of planning is not justification for emergency or sole-source procurement. The

justification, to be included in the procurement file, should include the following information:

- Description of the requirement;
- History of prior purchases and their nature (competitive vs. noncompetitive);
- The specific exception in 2 CFR 200.320(c)(1)-(5) that applies;
- Statement as to the unique circumstances that require award by noncompetitive proposals;
- Description of the efforts made to find competitive sources (e.g. advertisement in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation);
- Statement as to the efforts that will be taken in the future to promote competition for the requirement; and
- Signature by the Executive Director.

3. Price Reasonableness

The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing an analysis, as described in this policy.

H. COST AND PRICE ANALYSIS

An Independent Cost Estimate (ICE) should be prepared prior to all purchases deemed sufficiently complex by the contracting officer. The level of detail shall be commensurate with the cost and complexity of the item to be purchased. BIHA shall require assurance that, before entering into a contract, the price is reasonable, in accordance with the following instructions.

Petty Cash and Micro Purchases. No formal cost or price analysis is required. Rather, the execution of a contract by the contracting officer (through a purchase order or other means) shall serve as the contracting officer's determination that the price obtained is reasonable, which may be based on the contracting officer's prior experience or other factors.

Simplified Acquisition. A comparison with other offers shall generally be sufficient determination of the reasonableness of price and no further analysis is required. If a reasonable number of quotes is not obtained to establish reasonableness through price competition, the contracting officer shall document price reasonableness through other means, such as prior purchases of this nature, catalog prices, the contracting officer's personal knowledge at the time of purchase, comparison to the ICE, or any other reasonable basis.

Sealed Bids. The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, when the bid received is substantially more than the ICE, and where BIHA cannot reasonably determine price reasonableness, it must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.

Competitive Proposals. The presence of adequate competition should generally be sufficient to establish price reasonableness. Where sufficient bids are not received, BIHA 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, BIHA must conduct a cost analysis, consistent with Federal guidelines, to ensure that the price paid is reasonable.

Contract Modifications. A cost analysis, consistent with Federal guidelines, shall be conducted for all contract modifications for projects that were procured through sealed bids, competitive proposals, or noncompetitive proposals, or for projects originally procured through Simplified Acquisition procedures and the amount of the contract modification will result in a total contract price in excess of $350,000.

I. COOPERATIVE PURCHASING/INTERGOVERNMENT AGREEMENTS

BIHA may enter into State and/or local cooperative or intergovernmental agreements to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducing a direct procurement shall be based on economy and efficiency. If used, the interagency 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. BIHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs. The goods and services obtained under a cooperative purchasing agreement must have been procured in accordance with 2 CFR 200.317-326.

IV. SOLICITATION AND ADVERTISING

A. METHOD OF SOLICITATION

Petty Cash and Micro-Purchases. BIHA may contact only one source if the price is considered reasonable.

Simplified Acquisitions. Quotes may be solicited orally, through fax, or by any other reasonable method.

Sealed Bids and Competitive Proposals. Solicitation must be done publicly. BIHA

must use one or more of the following solicitation methods, provided that the method employed provides for meaningful competition.

- Advertising in newspapers or other print mediums of local or general circulations;
- Advertising in various trade journals or publications (for construction)
- E-Procurement. BIHA may conduct its public procurements through the internet using e-procurement systems. However, all e-procurements must otherwise be in compliance with 2 CFR 200.317-326, State and local requirements, and the Authority's procurement policy.

B. TIMEFRAME

For purchases of more than $350,000, the public notice should run not less than once each week for two consecutive weeks.

C. FORM

Notices/advertisements should State, at a minimum, the place, date, and time that the bids or proposals are due, the solicitation number, a contact who can provide a copy of and information about the solicitation, and a brief description of the needed items(s).

D. TIME PERIOD FOR SUBMISSION OF BIDS

A minimum of 30 days shall generally be provided for preparation and submission of sealed bids and 15 days for competitive proposals. However, the contracting officer may allow for a shorter period under extraordinary circumstances.

E. CANCELLATION OF SOLICITATIONS

An IFB, RFP, or other solicitation may be cancelled before bids/offers are due if:

- The supplies, services, or construction are no longer required;
- The funds are no longer available;
- Proposed amendments to the solicitation are of such magnitude that a new solicitation would be best; or
- Other similar reasons.

A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:

- The supplies or services (including construction) are no longer required;

- Ambiguous or otherwise inadequate specifications were part of the solicitation;
- All factors of significance to the AHA were not considered;
- Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- There is reason to believe that bids or proposals may not have been independently determined in open competition, may have been collusive, or may have been submitted in bad faith; or
- For good cause of a similar nature when it is in the best interest of BIHA.

The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request.

A notice of cancellation shall be sent to all bidders/offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.

If all otherwise acceptable bids received in response to an IFB are at unreasonable prices an analysis should be conducted to see if there is a problem in either the specifications or BIHA's cost estimate. If both are determined adequate and if only one bid is received and the price is unreasonable, the contracting officer may cancel the solicitation and either:

- Re-solicit using an RFP; or
- Complete the procurement by using the competitive proposal method. The contracting officer must determine, in writing, that such action is appropriate, must inform all bidders of the AHA's intent to negotiate, and must give each bidder a reasonable opportunity to negotiate.

If problems are found with the specifications, BIHA should cancel the solicitation, revise the specifications, and resolicit using an IFB.

V. CONTRACTOR QUALIFICATIONS AND DUTIES

A. CONTRACTOR RESPONSIBILITY

BIHA shall not award any contract until the prospective contractor, i.e. low responsive bidder or successful offeror, has been determined to be responsible. A responsible bidder/offer must:

- Have adequate financial resources to perform the contract, or the ability to obtain them;

- Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the bidder's/offeror's existing commercial and governmental business commitments;
- Have a satisfactory performance record;
- Have a satisfactory record of integrity and business ethics;
- Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
- Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and,
- Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended or debarred.

If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the official 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 to be ineligible by HUD in accordance with HUD regulations (24 CFR 200.213) or by other Federal agencies (e.g., Department of Labor for violation of labor regulations) when necessary to protect housing authorities in their business dealings.
Vendor Lists

C. VENDOR LISTS

All interested businesses shall be given an opportunity to be included on vendor mailing lists. Any lists of persons, firms, or products which are used in the purchase of supplies and services (including construction) shall be kept current and include enough sources to ensure competition.

Lists of pre-qualified Indians, Indian enterprises, or Indian organizations may be maintained by the BIHA. 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 qualified suppliers.

D. BONDS

In addition to the other requirements of this policy, for all construction or facility improvement contracts or subcontracts, and for all rehabilitation contracts exceeding the simplified acquisition threshold ($350,000), BIHA will apply the following bonding requirements:

- All bidders shall be required to post a bid bond equal to five percent (5%) of the total bid amount under terms that the solicitation may require; and
- The successful bidder shall be required to submit performance and payment bonds for 100% of the total contract price. The total contract price shall include the value of all contributions for work, materials, or equipment to be provided to the contractor for use in performing the contract.

In lieu of the performance and payment bonding requirements above, BIHA may, in its discretion, allow the contractor to utilize a form of security authorized by 24 C.F.R. sec. 1000.26(a)(11)(I)-(iii), in a form and amount satisfactory to BIHA.

VI. CONTRACT PRICING ARRANGEMENTS

A. CONTRACT TYPES

Any type of contract which is appropriate to the procurement and which will promote the best interests of BIHA may be used, provided that the cost-plus-a-percentage-of-cost and percentage-of-construction-cost methods are not used. All solicitations and contracts shall include the clauses and provisions necessary to define the rights and responsibilities of the contractor and BIHA.

For all cost reimbursement contracts, BIHA must include a written determination as to why no other contract type is suitable. Further, the contract must include a ceiling price that the contractor exceeds at its own risk.

B. OPTIONS

Options for additional quantities or performance periods may be included in contracts, provided that:

- The option is contained in the solicitation;
- The option is a unilateral right of BIHA;
- The contract states a limit on the additional quantities and the overall term of the contract;
- The options are evaluated as part of the initial competition;
- The contract states the period within which the options may be exercised;
- The options may be exercised only at the price specified in or reasonably determined from the contract; and
- The options may be exercised only if determined to be more advantageous to BIHA 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 BIHA.

Additionally, HUD forms containing any clauses required by federal statutes or executive orders and their implementing regulations, shall be used in all corresponding solicitations and contracts issued by BIHA.

If all required clauses are not included on HUD forms, BIHA shall attach any additional clauses to the HUD forms used in contract documents (e.g., contract clauses and solicitation notices for Tribal and Indian preference).

D. CONTRACT ADMINISTRATION

BIHA shall maintain a system of contract administration designed to ensure that contractors perform in accordance with their contracts. This system shall provide for the inspection of supplies, services or construction, as well as monitoring contractor performance, status reporting on major projects including construction contracts, and similar matters. For cost-reimbursement contracts, costs are allowable only to the extent they are consistent with the cost principles in FAR Subpart 31.2.

VII. SPECIFICATIONS

A. GENERAL

All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying BIHA's needs. Specifications shall be reviewed prior to issuing any solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicate items. Function 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.

B. LIMITATIONS

The following specification limitations shall be avoided:

- Geographic restrictions not mandated or encouraged by applicable federal law (except for A/E contracts, which may include geographic location as a selection factor if adequate competition is available); and

- Brand name 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 or local licensing laws. Specifications shall be reviewed to ensure that organizational conflicts of interest do not occur.

VIII. APPEALS AND REMEDIES

A. GENERAL

It is BIHA's policy to resolve all contractual issues informally and without litigation. Disputes will not be referred to HUD unless all administrative remedies have been exhausted. When appropriate, a mediator may be used to help resolve differences.

B. INFORMAL APPEALS PROCEDURE

BIHA shall adopt an informal bid protest/appeal procedure for contracts of $350,000 or less. Under these procedures, the bidder/contractor may request to meet with the Contracting Officer.

C. FORMAL APPEALS PROCEDURE

1. 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 receipt of bids or proposals, and any protest against the award of a contract must be received within the timeframe specified in the solicitation or the protest will not be considered. All bid protests shall be in writing, submitted to the Contracting Officer or his/her designee, who shall issue a written decision on the matter. The Contracting Officer may, at his/her discretion, suspend the procurement pending resolution of the protest if warranted by the facts presented.

2. Contractor Claims

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer or his/her designee for a written decision. The contractor may request a conference on the claim. The Contracting Officer's decision shall inform the contractor of its appeal rights to the next higher level of authority within BIHA.

3. Protests Involving Indian Preference

Complaints arising out of any of the methods of providing for Indian preference shall be handled in accordance with the procedures in 24 CFR 1000.54.

IX. ASSISTANCE TO SMALL AND OTHER BUSINESSES & INDIAN PREFERENCE

A. ASSISTANCE TO SMALL AND OTHER BUSINESSES

1. Required Efforts

BIHA shall make all feasible efforts to ensure that small businesses, women's business enterprises, and other individuals or firms located in or owned in substantial part by persons residing in the area of a BIHA project are used when possible. Such efforts shall include, but shall not be limited to:

Including such firms, when qualified, on solicitation mailing lists;

Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;

Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;

Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;

Including in contracts, to the greatest extent feasible, a clause requiring contractors 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 provide opportunities to low-income residents, as described in 24 CFR part 75 (so-called section 3 businesses); and

Requiring prime contractors, when subcontracting is anticipated, to take the steps listed above.

2. Definitions

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 its field of operation. The size standards in 13 CFR 121 shall be used to determine business size, unless the BIHA determines that their use is inappropriate.

A minority-owned business is defined as a business which is at least 51 percent owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51 percent 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.

A women's business enterprise is defined as a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who control and operate the business.

A "Section 3 Business Concern" is as defined under 24 CFR part 75.

A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50 percent of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in 20 CFR part 654, subpart A, and in the list of labor surplus areas published by DOL's Employment and Training Administration.

B. INDIAN PREFERENCE

1. General

Projects developed and operated with assistance under 24CFR Part 1000 are subject to Section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) provides that to the greatest extent feasible, preference shall be given to Indian organizations and Indian-owned economic enterprises in the award of all contracts and subcontracts. Preference will be provided in accordance with 24 CFR 1000.52.

Where Indian preference is determined not to be feasible, BIHA shall document the procurement file with the basis for its findings. Indian preference applies not only on-site, or within BIHA's jurisdiction, but also to contracts with firms that operate outside these areas. In no case shall BIHA authorize or provide a preference for Indians, Indian-owned economic enterprises, or Indian organizations based on a particular tribal affiliation or membership.

2. Eligibility

Eligibility for Indian preference shall be established in accordance with the procedures consistent with 24 CFR 1000.48. If BIHA or its prime contractor determines an applicant ineligible for Indian preference, BIHA or prime contractor shall notify the applicant in writing before contract award or filing the position or providing the desired training.

3. Contract clauses and solicitation notices

Solicitations shall include the following information:

1) A statement of the applicability of Indian preference to the solicitation and a time before the due date for offers by which offerors must submit evidence of eligibility for Indian preference;

2) Any applicable locally imposed preference requirements properly enacted by the tribal governing body and adopted by BIHA (or advise offeror to contact the tribal governing body to determine any applicable preference requirements);

3) Information as to whether BIHA maintains lists of Indian-owned economic enterprises and Indian organizations by trade specialty which are available to contractors and subcontractors for use in meeting Indian preference responsibilities;

4) A requirement that offerors, and their subcontractors, provide a statement describing how they will provide Indian preference in subcontracting, training, and employment, including the number or percentage of Indians to be employed and trained;

5) BIHA's description of the information to be submitted on Indian preference;

6) The factors that BIHA will use in judging the adequacy of the Indian preference information submitted;

7) A statement that failure to submit the required Indian preference statements on subcontracting, training, and employment shall be grounds for rejection of the offer;

8) A requirement that each contractor and subcontractor submit a certification and supporting evidence to BIHA whenever it is not feasible to provide Indian preference in subcontracting;

9) For requests for proposals that are not restricted to Indian-owned economic enterprises or Indian organizations, the percentage or

number of points set aside for Indian preference and the method for allocating these points;

10) For requests for proposals that are not restricted to Indian-owned economic enterprises or Indian organizations, a requirement that contractors using a request for proposals to solicit subcontractors reserve 15% of the available rating points for Indian preference in subcontracting and the criteria to be used in evaluating subcontractor proposals; and

11) A requirement that offerors submit a list of core crew employees with their offers and that contractors and subcontractors are required to provide preference to the greatest extent feasible by hiring qualified Indians in all positions other than core crew positions.

Solicitations, contracts, and subcontracts shall include the following:

1) The clause prescribed in 24 CFR 1000.52 (f) implementing section 7(b) of the Indian Self-Determination and Education Assistance Act in connection with the development or operation of BIHA projects/activities;

2) The grounds for termination of a contract or the imposition of penalties for improper subcontracting or false certification as to subcontracting with Indian enterprises or organizations; and

3) Any required or additional clauses for provisions to the contract documents if not included on HUD forms.

4. Monitoring and Remedies

BIHA shall monitor the implementation of Indian preference in its contracts, subcontracts, training, and employment, and take appropriate remedial action (including cancellation of contracts and assessments of penalties) to ensure compliance.

Change Log

Change	Resolution	Date
Adoption of Policy	BIHA Resolution #1999-07	
Revised by BOC	BIHA Resolution #2000-16	December, 2000
Revised by BOC	BIHA Resolution #2006-11	November, 2006
Revised by BOC	BIHA Resolution #2020-01	January, 2020
Revised by BOC	BIHA Resolution #2026-09	September 2026