



PROCUREMENT POLICY
Of the Chicago Housing Authority

This Procurement Policy (Policy) is hereby established for the Chicago Housing Authority (CHA) by official action of its Board of Commissioners (Board). It complies with the United States Department of Housing and Urban Development’s (HUD) Annual Contributions Contracts (ACCs), HUD’s Procurement Regulations set forth at CFR 200.317-326, as modified in accordance with the CHA / HUD “Move To Work (MTW)” Demonstration Agreement and the Illinois Housing Authorities Act 310 ILCS 10/1 et seq. This policy is expressly designed to meet the self-certification requirements established at 200.324 (c) (2).

I. **PROCUREMENT STANDARDS**

A. **Statement of Purpose**

The purpose of this Policy is to:

1. Provide for the fair and equitable treatment of all persons or firms involved in procurement by the CHA;
2. Assure that supplies, services and construction are procured efficiently, effectively and at the best prices available to the CHA;
3. Promote competition in contracting;
4. Provide safeguards for maintaining a procurement system of quality and integrity; and

Assure that the CHA’s procurement actions are in full compliance with applicable Federal laws and standards, HUD regulations and state and local laws

B. **Authority**

The Board designates the Chief Executive Officer (CEO), or other individuals as authorized in writing by the CEO, as the CHA Contracting Officer. The Contracting Officer shall administer all procurement transactions.

C. **The CHA Procurement Manual**

The CHA shall establish a set of procurement procedures in the “CHA Procurement Manual” (the Manual) implementing this Policy. These procedures shall reflect applicable State and local law and conform to

applicable Federal standards as described in 2 CFR 200.317-326 as modified pursuant to the MTW agreement. The Manual and any attachments thereto constitute the method of implementation of this Policy.

D. Annual Procurement Plan

With the expressed intent of maximizing economic value to the CHA as a whole, the CHA's annual procurement goals and objectives shall be developed, implemented and monitored through the adoption of an Authority-wide Annual Procurement Plan. Annual procurement planning and monitoring activities shall be conducted on two levels: 1) the level of the individual CHA administrative / operational department; and 2) the level of the full Authority. The Contracting Officer shall be responsible for coordinating and reporting the CHA's annual procurement planning and monitoring activities and preparing the Annual Procurement Plan for adoption by the CEO for recommendation to the Board.

II. GENERAL PROVISIONS

- A. The CHA must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- B. The CHA must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- C. The CHA's procedures must avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- D. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the CHA may enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

- E. The CHA may use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- F. The CHA may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- G. The CHA must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- H. The CHA must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- I. The CHA may use time and material type contracts only **after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.** Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:
 - i. The actual cost of materials; and
 - ii. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

- J. The CHA alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, **protests, disputes, and claims.** These standards do not relieve the CHA of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity

unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

III. COMPETITION

A. Full and Open

All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Section 2 CFR 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Requiring unnecessary experience and excessive bonding;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive awards to consultants that are on retainer contracts;
5. Organizational conflicts of interest; 200.318 (c)(2) If the CHA has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the CHA must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the CHA entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
6. Specifying only a *brand name* product instead of allowing an *equal* product to be offered and describing the performance of other relevant requirements of the procurement; and
7. Any arbitrary action in the procurement process.

All formal procurements shall be advertised a minimum of 14 calendar days, not including Sundays or CHA holidays. The advertising period for any solicitation shall be extended when determined to be in the best interest of the CHA.

B. Prohibition of Statutory or Administrative Geographical Preferences

The CHA will not apply any non-Federally mandated geographical preference structures within its procurement methodologies. Nothing in this provision preempts State licensing laws.

C. Written Selection Procedures

The Manual shall specify selection procedures for procurement transactions to ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured without restricting competition.
2. Identify all offeror requirements and all other factors to be used in evaluating bids, proposals or qualifications.
3. Provide that all lists of persons, firms or products used in soliciting goods and services are current and maximize opportunities for competition.

IV. DOCUMENTATION

A. Documentation of all solicitations and responses shall become public record upon action by the Board in accordance with applicable laws. All procurement files shall be maintained in conformance with the Illinois Records Retention Act.

B. Contract Cost and Price

1. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the CHA must make independent estimates before receiving bids or proposals.
2. The CHA must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. In cases where there is not price competition and in all cases where costs analysis is performed, the CHA will negotiate profit as a separate element of

the price for each contract. In the determination of what constitutes a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

4. Costs of prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal costs principles. The CHA may reference its own cost principles that comply with the applicable Federal cost principles.
5. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

IV. PROCUREMENT METHODS

A. Small Purchase Procedures

Small purchase procedures shall be used for the acquisition of services, supplies or other property which have a projected cost not to exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$150,000). Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

The CHA Contracting Officer shall generate quarterly reports of all small purchases. These reports shall monitor such purchases in order to identify opportunities for aggregating quantities of like-items and perform strategic sourcing of those items for the CHA as a whole.

1. For small purchases of \$3000 or less (micro purchase), only one quotation need be solicited if the price received is considered reasonable via cost/price estimate and the purchase is rotated among qualified sources.
2. Purchases greater than \$3000 but less than or equal to simplified acquisition threshold shall be made via informal written solicitations to an adequate number of qualified sources but in no event less than three qualified sources. If non-price factors are used to determine award, such factors shall be disclosed to all those solicited. Written responses shall be received but may not be sealed, as specified in the

Manual. Awards shall be based on: the lowest responsive and responsible bid offered in the case of small informal bid solicitation; or the highest ranked proposal offering the greatest value to the CHA.

B. Formal Procurement

Formal procurement methods shall apply to all CHA purchases where the cost for any given product or service is projected to exceed the simplified acquisition threshold (\$150,000). Such formal methods shall include Sealed Bids, Competitive Sealed Proposals, Competitive Sealed Qualifications and Non-competitive solicitations.

1. Sealed Bids. Bids are publicly solicited and a firm-fixed price contract (lump sum or unit price) is awarded to the responsive and responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bid, is the lowest in price. The sealed bid method is the preferred method for procuring construction services. For professional service contracts, sealed bidding should not be used.
 - a. In order for sealed bidding to be feasible, the following conditions should be present:
 - (1) A complete, adequate and realistic specification or purchase description is available;
 - (2) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - b. If sealed bids are used, the following requirements apply:
 - (1) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - (2) The invitation for bids, which will include any specifications and pertinent attachments, shall

define the items or services in order for the bidder to properly respond;

- (3) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (4) A firm fixed-price contract award may, at the discretion of the CHA Board, be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation costs and live-cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (5) Any or all bids may be rejected when, if by doing so, the best interest of the CHA is served.

2. Competitive Sealed Proposals. The technique of competitive sealed proposals is normally conducted with more than one source submitting an offer and either a fixed-price or cost-reimbursement type contract is recommended for award by the Board. This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals (RFPs) will be advertised publicly and proposals shall be solicited from an adequate number of qualified sources, providing them sufficient time prior to the date and time set for submission of proposals.
- b. All RFPs shall identify all evaluation factors and their relative importance.
- c. All responses to RFPs must be received by the date and time of proposal submittal previously published.
- d. The CHA's method for conducting technical evaluations of the proposals received, negotiating fair and reasonable compensation, and

recommending award(s), shall be specified in the Manual.

- e. Single or multiple awards, as specified in the solicitation documents, shall be recommended to the Board, for the highest ranked firm(s) whose proposal(s) is/are in the best interest of the CHA with price and all other factors considered.
3. Competitive Sealed Qualifications. Qualification-based (QB) procurement is most appropriate for selection of professional services such as, but not limited to, architectural services, engineering services, , and developers.
- a. Subsequent to the issuance of a Request for Qualifications (RFQ) solicitation, contract award may be recommended for either a single firm or multiple firms to satisfy the best interest of the CHA. Where multiple firms are recommended for award, the RFQ shall specify the basis by which work orders shall be issued to each selected firm under contract.
4. Indefinite Delivery Indefinite Quantity programs may be used as appropriate.
5. Procurement by Non-Competitive Proposal

Procurement by noncompetitive proposal may be used only when award of a contract is infeasible under small informal purchase procedures, sealed bids, competitive proposals or competitive qualifications, and one of the following circumstance applies:

- a. The item is available only from a single source or in circumstances when a number of sources are solicited and competition is determined to be inadequate. In every such case regarding non-competitive procurement in excess of \$3,000, a written justification memorandum must accompany the request prior to delivery of goods or services. Such memorandum shall be reviewed and recommended by the Contracting Officer to the Contracting Officer who may approve such transactions within the limits of the small acquisition threshold. The Contracting Officer shall present those non-competitive procurement

requests exceeding the small acquisition threshold to the Board for approval.

- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. For purposes of this policy an emergency is defined as an immediate threat to the life, health, or safety of the residents, CHA employees, or any agent of the CHA. Public exigency is defined as, but not limited to, a non-emergency circumstance that: (1) requires immediate action or attention by the CHA to forestall interruptions in critical residential, business or operation services; or (2) Court-ordered building closures where CHA compliance does not allow for procurement by competitive methods
- c. When there is an emergency or public exigency, the CEO is authorized to approve the use of noncompetitive procurement procedures only when the anticipated costs associated with such procurement does not exceed \$1,000,000. As promptly as possible following such action, the CEO must certify to the Board that the applicable conditions for a noncompetitive procurement apply. Provided that the certification is sufficient with respect to this policy, the Board may ratify the non-competitive procurement action taken.
- d. When there is an emergency or public exigency where the anticipated costs to remediate such emergency or public exigency exceeds \$1,000,000, the CEO must seek immediate Board approval prior to proceeding.
- e. When HUD has expressly authorized non-competitive proposals in response to a written request from the CHA.

V. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS

- A. It is the policy of the CHA that Minority and Women Business Enterprises (MBE/WBE) as defined in regulations developed by the Secretary of the Department of Housing and Urban Development (HUD) and promulgated in 2 CFR 220.331 HUD Handbook 7460.8 and 7458.1 rev-3 Section 6(a) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Bidders, proposers or contractors and their subcontractors or suppliers shall take all necessary and reasonable steps to ensure that MBE/WBEs shall have the

maximum opportunity to compete for and perform contracts financed in whole or in part by federal funds.

B. Affirmative steps to assure that MBE/WBE firms are used when possible shall include:

1. Placing qualified MBE/WBE firms on solicitation lists;
2. Assuring that MBE/WBEs are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBE/WBEs;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by MBE/WBEs;
5. Using the services and assistance, as appropriate, of such organizations as, the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

C. This policy shall be implemented through the CHA's MBE/WBE Utilization Plan and called the MBE/WBE participation Proposal which is incorporated by reference in its entirety and made a part of each and every solicitation for bid, RFP, RFQ and contract or similar procurement document issued or entered into by the CHA.

VI. SECTION 3

The purpose of Section 3 of the HUD Act of 1968 as amended by Section 915 of the Housing and Community Development Act of 1992 is to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low-and very low-income persons."

The policy of the CHA with respect to Section 3 is expressed in its policy with respect thereto which by this reference is incorporated herein. The goals statement and the preference tiers are described in the CHA "Section 3 Guideline Booklet"

(Guidebook). The procedures to implement this policy are also included in the Guidebook. The procedures may be amended periodically by the CEO or designee to insure that the policy requirements are being met or to bring about efficiencies in the implementation of the program based on the practice and experience of running the program.

VII. DAVIS-BACON ACT

Davis-Bacon Act, as amended (40 U.S.C.3141–3148). **When required by Federal program legislation**, all prime **construction contracts in excess of \$2,000 awarded by non-Federal entities** must include a provision for **compliance with the Davis-Bacon Act (40 U.S.C.3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”)**. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The CHA must report all suspected or reported violations to the Federal awarding agency.

VIII. ALTERNATIVE PROCUREMENT

- A. In addition to the foregoing, the CHA may use the alternative procurement process as provided in 24 CFR 963 to fulfill CHA procurement requirements, if feasible, to utilize a Resident Owned Business (ROB).
- B. For a ROB to qualify, the full-time permanent workforce of the ROB must include people thirty (30) percent of whom are Section 3 residents or who were Section 3 residents within three (3) years of the date of first employment with the ROB.
- C. The total amount of any contracts including any amendments awarded under the Alternative Procurement Section, to a ROB cannot exceed \$1,000,000. No ROB may receive contracts for CHA business in excess of \$1,000,000 under the Alternative Procurement Process.

IX. COOPERATIVE PROCUREMENT / INTERGOVERNMENTAL AGREEMENTS

Whenever economically justifiable in the best interest of the CHA, the CHA may enter into cooperative agreements with governmental agencies for cooperative procurement or use of common or shared goods and services. The Department of Procurement and Contracts and the primary user department of the CHA will negotiate such agreements and make recommendations to the Contracting Officer. The Board must approve all such cooperative procurement intergovernmental agreements.

X. PROCUREMENT OF RECOVERED MATERIALS

2 CFR 200.322 If the CHA that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

XI. CONTRACT AWARDS AND CONTRACT MODIFICATION APPROVAL

- A. Contract award shall be made only to responsible bidders/proposers (i.e., those who have the technical and financial competence to perform and who have a satisfactory record of integrity). Before awarding a contract, the CHA shall review the proposed contractor's ability to perform the contract successfully, considering factors such as the contractor's integrity, compliance with public policy, record of past performance and financial/technical capabilities.
- B. Standard contract provisions shall be developed in cooperation with the Legal Department for all procurement contracts which shall include among other provisions, those applicable provisions required by 2 CFR 200.326.
- C. Bonding requirements for work services shall conform to 2 CFR 200.325 and state law. These requirements shall be specified in the Manual.

- D. Unless the Board must approve contracts, amendments and modifications to contracts that individually or collectively exceed the \$150,000 simplified acquisition threshold, the CEO or his designee may approve contracts, amendments and modifications to contracts below the \$150,000 threshold.
- E. Capital construction contracts may be approved by the Board with an established contingency for modifications/change orders arising from unknown conditions. The CEO or his designee may approve capital contract modifications/change orders resulting from unknown conditions that are within the contingency identified in the capital contract. This contingency may vary from contract to contract. Standards for determining the appropriate contingency shall be described in the Manual.
- F. Capital contract modifications/change orders arising from or necessitated by other reasons, such as design changes, must be presented to the Board when the cost for such modifications/change orders either individually or in the aggregate exceeds the small acquisition threshold. The CEO or his designee may approve such modifications/change orders valued below the small acquisition threshold.

XII. CONTRACT ADMINISTRATION

- A. Contract administration shall entail the activities conducted to ensure that the contract is performed in accordance with its terms and conditions by both the contractor and the CHA. Contract monitoring shall entail those activities carried out to evaluate contractor performance and monitor compliance to selected contract terms and conditions.
- B. Suspension and Debarment. No small purchases, purchase orders or contracts shall be awarded to debarred, suspended, or ineligible contractors as declared by HUD or the CHA.
- C. Appeals and Remedies. It is the CHA's policy to resolve contractual issues informally at the CHA level without litigation. Disputes shall not be referred to HUD until all administrative remedies have been exhausted at the CHA level.
- D. Any actual or prospective contractor may protest the solicitation or award of a contract for a substantial violation of this Policy. Any protest against a solicitation must be received before the due date for the receipt of bids or proposals, and any protests against the award of the contract must be received within 10 calendar days after a contract award, or the protest will not be considered.

- E. All bid protests shall be in writing and submitted to the CHA's Contracting Officer or authorized designee who shall issue a written decision as to final disposition of the protest in accordance with the protest procedures set forth in the Manual. The CHA's Contracting Officer or authorized designee may, with discretion, suspend the protested procurement pending the resolution of the protest.

XIII. PROPERTY MANAGEMENT BUDGETS, DELEGATION OF CONTRACT AUTHORITY

Board approval of a CHA property's operating budget by detailed line-item to be administered by a property manager shall constitute approval of those procurement actions necessary to implement the operating budget in amounts not to exceed individual line-item amounts. The Board delegate's authority to execute contracts and modifications for these procurements to the CEO or his designee provided such contract and modification totals together do not exceed the individual line-item totals in the approved budget.

The Board makes this delegation provided that all such actions taken by the CEO are reported to the Board in the month that they occur.

When, during the operating budget year an additional appropriation may be needed to the approved operating budgets, the Board's approval for such appropriation shall be required.

Further, all contracts authorized under this Section are required to be reviewed by the CHA for conformance to this Policy, the Manual and applicable law, and that this review be incorporated into the annual audit report for CHA.

XIII. CODE OF CONDUCT

- A. Ethics Policy. By resolution, the CHA adopted an Ethics Policy which defines financial or other interests by CHA employees or relatives that may result in conflict of interest in the procurement process. The Ethics Policy also prohibits the solicitation or acceptance of gratuities, favors, or anything of monetary value from contractors, potential contractors, or other parties, and sets rules where the financial interest is not substantial or the gift is an unsolicited item of minimum value (\$50.00 or less).

Further, the Ethics Policy provides for financial disclosure, appointment of an Ethics Officer, and penalties for violation.

The Code of Standards established in the Ethics Policy shall apply to all CHA procurement activity governed by this Policy and the associated implementing procedures in the Manual.

The following shall be inserted in all contracts: "No member, officer, or employee of the CHA during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."

- B. The following additional prohibitions shall apply to CHA contracts/procurement:
1. Restrictions on Employment of Present and Former Employers.
 - a. A present or former CHA official or employee shall not knowingly act as a principal or agent for anyone other than the CHA in connection with any procurement in which the official or employee participated personally and substantially through decision, approval, recommendation, rendering of advice, investigation, or otherwise while being a CHA official or employee where the CHA is a party or has had a direct and substantial interest.
 - b. A business in which a CHA official or employee has a financial interest shall not act as a principal or agent for anyone other than the CHA in connection with any contract/procurement.
 - c. Contemporaneous employment of a CHA official or employee by persons contracting or actively seeking a contract with the CHA is prohibited.
 2. Conflicts of Interest; The CHA must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when **the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.** The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must

provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the CHA.

3. **Prohibition to Providing Services to the CHA.** As provided in Section 515 of the ACCs, a present or former CHA official or employee shall not provide services or attempt to sell supplies, services, or construction to the CHA for one year following the date such employment ceased except as provided in this Policy. The term “provide services or sell” means signing a bid or proposal, negotiating, discussing or changing specifications, price, costs allowances, or other items of a contract; settling contract disputes, or any other liaison activity with a view toward the ultimate consummation of a sale, although the actual contract is negotiated by another person.
4. **Gratuities.** It is a breach of ethical standards:
 - (1) for any person to offer, give, or agree to give any CHA official or employee a gratuity or an offer of employment; or
 - (2) for any CHA official or employee or former CHA official or employee to solicit, demand, accept or agree to accept a gratuity or an offer of employment.
5. **Kickbacks and Anti-Collusive Practices.** It is a violation of this Policy for any payment, gratuity, or offer of employment to be made by or on behalf of a contractor to a CHA official or employee of a subcontractor, under a contract to the prime contractor or a higher tiered subcontractor or any persons associated therewith, as an inducement for the award of a contract, subcontract or order.
6. **Use of Confidential Information.** No CHA official or employee shall disclose information related to a bid, proposal or qualification submission before the due date for such documents or before contract award to any person if such information has not been disclosed to the general public. It is a breach of ethical conduct for any official or employee or former official or employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
7. **Prohibitions to Contingent Fees.** No CHA official or employee shall be retained or retain a person to solicit or secure a CHA contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established selling agencies for the purpose of securing business. This includes the prohibition

against influence peddling that might occur when a former CHA official or employee is hired on a contingent basis by a business entity or individual seeking a CHA contract/procurement.

C. Federal Criminal Law

Pursuant to 18 U.S.C. 666 (a) (2) and other Federal Criminal Laws applicable to public contracts, no CHA official or employee shall corruptly solicit or demand for the benefit of himself/herself or any other person, or accept or agree to accept, anything of value from any person or CHA contractor intending to be influenced or rewarded in connection with any CHA contract business transaction or series of transactions involving the CHA.

D. Illinois Criminal Code

All CHA officials and employees shall comply with the Illinois Criminal Code, 720 ILCS 5/33 E-1 et seq. as follows:

1. Section 33-E-5(a). No CHA official or employee shall open any sealed bids any time or place other than is indicated in the public advertisement, solicitation document or outside the presence of witnesses.
2. Section 33E-5(b). No CHA official or employee shall knowingly disclose any information relative to a solicitation proposal to any interested party (bidder or proposer).
3. Section 33E-6(a). No CHA official or employee shall disclose any information directly or indirectly outside of the publicly available official solicitation document.
4. Section 33E-6(e). No CHA official or employee shall knowingly award a contract based on criteria that were not publicly disseminated through a solicitation or any other procurement method.
5. Section 33E-7(a)(2). No CHA official or employee shall either solicit, accept or attempt to accept any bribe or kickback and/or directly or indirectly receive a bribe or kickback that is included in the contract price to be paid by the CHA.
6. Section 33E-7(b). All CHA officials or employees shall report to the CEO, the Inspector General and law enforcement officials any offer of a kickback or bribe made to such CHA official or employee.

7. Section 33E-9. No CHA official or employee shall amend/modify or change or attempt to amend/modify or change a CHA contract unless authorized by law. An amendment/modification or changing a CHA contract is not authorized by law if a CHA official or employee advocates or amends/modifies or changes a CHA contract because such official or employee receives or is offered a kickback, bribe or a promise of current or future employment.

E. Conflict of Interests Involving Contracts

It is a violation of this Policy for:

1. Any CHA official or employee to participate directly or indirectly in a contract/procurement when the official or employee knows or should have known that the official or employee or any of his or her relatives have a financial interest pertaining to the contract/procurement; or
2. A business or organization in which the official or employee, or any relative, has an economic or financial interest pertaining to the contract/procurement; or
3. Any other person, business, organization with whom the official or employee or any of his or her relatives are negotiating or has an arrangement concerning prospective employment is involved in the contract/procurement; or
4. Any CHA official or employee who exercises or has exercised any functions or responsibilities with respect to any CHA contract/procurement activities, or who is in a position to participate in the decision-making process or gain inside information with regards to any CHA contract/procurement activities, obtain a financial or economic interest or benefit from the contract/procurement, or have an interest in any contract or subcontract, or agreement with respect thereto or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure with the CHA or for one year after such individual leave the CHA.

F. Sanctions and Remedies

1. Sanctions. Any person found by a court to be guilty of knowingly violating any of the provisions of this Policy, or of furnishing false, misleading or incomplete information to the Ethics Officer with

the intent to mislead, upon conviction thereof shall be subject to disciplinary action up to an including termination.

2. **Invalid Actions.** All CHA contracts shall include a provision requiring compliance with this Policy. Any contracts negotiated, entered into, or performed in violation of any provisions of this Policy shall be void and/or voidable as to the CHA. Any official action of an agent of the CHA obtained an undertaken in violation or any provisions of this Policy shall be invalid and without force or effect whatsoever.
3. **Other Remedies.** Nothing in this Policy shall preclude the CHA from maintaining an action for an accounting for any pecuniary benefit received by any person, or to recover damages for any acts or practices in violation of this Policy or other laws.

XV. USE OF NON-FEDERAL FUNDS

Funds obtained from public sources other than HUD shall use the procurement standards applicable to those funds, provided such standards are consistent with the minimum requirements of this policy.

Procurement transactions funded exclusively by private sources, such as Foundations, shall meet the procurement standards applicable to the grant and specified in the grant agreement with the CHA, and shall be exempt from the following provisions of this policy: Section II. "Competition", Subsection A, B and C; Section III. "Documentation", Subsection B; Section IV. "Procurement Methods", Subsections A and B 1., 2., 3. and 4; Section VI. "Section 3"; Section VIII. "Alternative Procurement"; and Section XI. "Property Management Budgets".