



223(f) Refinancing Procurement Process Timeline

For Architects & General Contractors



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Retirement Housing Foundation

RHF'S MISSION

- The Mission of Retirement Housing Foundation (RHF) is to provide various housing options and services for older adults, low-income families, and persons with disabilities in an environment which enhances their quality of life physically, mentally, and spiritually.



ALIGNMENT WITH RHF'S MISSION

- Implementing a 3-bid competitive procurement process will:
 - ✓ Support RHF's mission to provide various housing options and services to our resident communities.
 - ✓ Ensure RHF obtains the most responsive, responsible bid with the goal to get the job done on time and within budget to add value to our resident communities.



ALIGNMENT WITH RHF'S MOTTO

- Implementing a 3-bid Competitive Procurement Process for Architects and General Contractors will:
 - ✓ Support RHF's motto:

***Committed to Service,
Dedicated to Excellence &
Enhancing Quality of Life***

By ensuring the best price is obtained to allow for more repairs and services to benefit our residents.



WHAT IS PROCUREMENT?

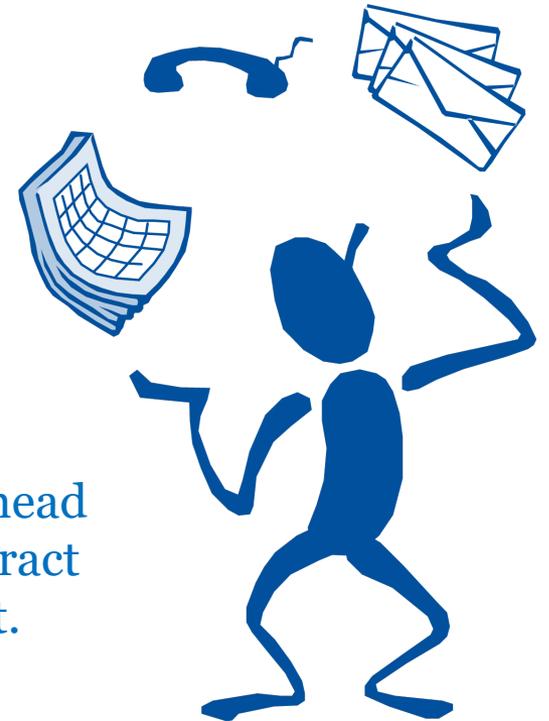
- Procurement – The acquiring by contract of supplies and services (including construction) through purchase, lease, or other means.
- Procurement begins at the point when needs are established and includes the description of requirements to satisfy needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.



GOAL OF PROCUREMENT PROCESS

- Choose the procurement route that fits the needs of the business to:
 - ✓ Control costs
 - ✓ Quality and
 - ✓ Profitability of the project.

In a volatile field where companies struggle to be ahead amidst cash flow problems, tight margins, and contract management, procurement is a difficult juggling act.



HUD's 5 METHODS OF PROCUREMENT

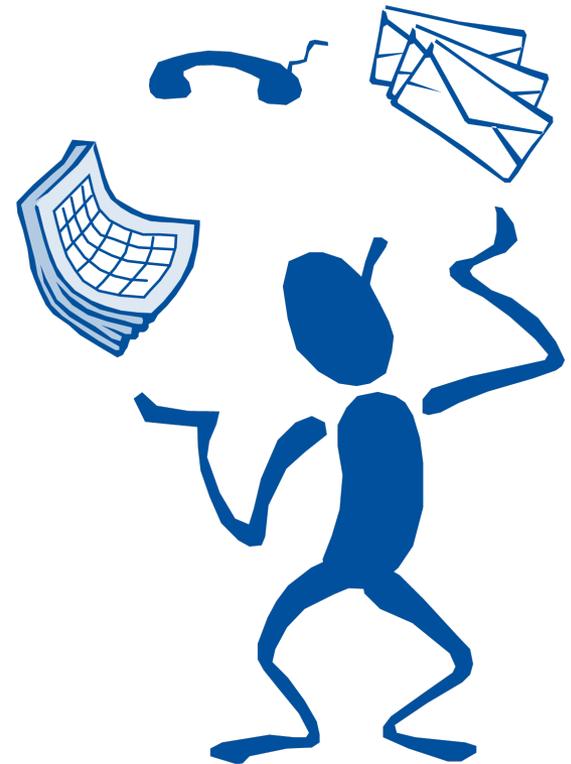
Micro Purchases
up to \$2,000

Small Purchases
\$2,000 - \$100,000

Sealed Bid Purchase
\$100,000+

Competitive Proposal
\$100,000+

Non-Competitive



MAJOR CHALLENGE

- The major challenge is incorporating the process into HUD's submission timeframe for 223(f) refinancing's is **120 days!**



OTHER MAJOR CHALLENGES

- Timely submission of Scope of Work (SOW)
- Initial Engagement of Lender
- HUD requirements by class of work to determine if an Architect or General Contractor is needed for the project
- Request for Qualifications vs Request for Proposals
- Documenting the procurement process
- Submission of Capital & Major Expense form
- Timing of Sponsor review/approval of Qualifications
- Overcoming the timely AEC required documentation
- Timing of 3rd Party Reports



SOLUTION

- To create a timeline incorporating the major challenges into a comprehensive procurement process specifically geared to acquiring Architects, Engineers, General Contractors within the parameters of the 223(f) refinancing program or an alternative financing program.



SCOPE OF WORK (SOW)

- Timely submission of Scope of Work (SOW)
 - The initial Scope of Work is a comprehensive wish list of repairs initiated by the onsite Property Manager and Regional Manager.
 - Approval of the wish list is made by the Senior Vice President of Operations.
 - The expected timeframe for a SOW to be completed and approved is 1-2 weeks.
 - The wish list of repairs will eventually become the non-critical repair SOW.



ENGAGEMENT OF LENDER

- Initial Engagement of Lender / Receipt of Initial Loan Sizing
 - A HUD approved lender is formally engaged and the initial loan sizing is provided which includes:
 - ✓ The initial terms of the loan and loan amount
 - ✓ The initial repair amount, which will include the total of critical and non-critical repairs allowed under the financing.
 - ✓ The expected timeframe for the initial engagement of Lender and receipt of Initial loan sizing is 3 weeks.



HUD REQUIREMENTS BY CLASS OF WORK

- HUD requirements by class of work guidelines is used to determine if an Architect or General Contractor is needed for the project.
 - The amount, level of repairs, extent of design services, and professional services needed by financing program and class of work is determined by HUDs guidelines for Requiring Professional Services by Activity¹ (see Appendix A)
 - For 223(f) refinancing's there is a per unit threshold of \$15,000/unit which triggers the requirement for either an Architect or General Contractor.

Note: The \$15,000 per unit limit for the cost of all repairs and alterations is only a trigger for when borrower must retain a project architect; it is different from the dollar-per-unit threshold for defining substantial rehabilitation and is not adjusted for the High Cost Factor.



¹ Refer to Section 5.3 in HUDs 2016 Multifamily Accelerated Processing (MAP) Guide entitled “Required Design Services and Documentation by Construction Activity and Program”.

TYPES OF COMPETITIVE PROPOSALS

- There are two types of competitive proposals:
 - Request for Qualifications (RFQ) or Qualification-Based Selection (QBS)
 - Requests for Proposals (RFPs).



RFQ (or QBS)

- Qualifications-Based Selection (QBS)
 - The Qualifications-Based Selection (QBS) method is conducted using an RFQ and ensures a HUD experienced Architect is acquired.
 - The QBS method can only be used for A/E services, or Developer's related contracts, or when specifically authorized by HUD.
 - Use of the QBS is limited and is different, primarily, from the RFP method since it selects the highest-ranked respondent on technical factors - it does **not** use price as an evaluation factor.
 - The most common use of RFQs is for Architect/ Engineer (A/E) contracts.
 - The timeframe to send and receive QBS for A/E and Construction Contracts is 2 weeks.



RFQ (or QBS)

(continued)

- Qualifications-Based Selection (QBS)
 - The documentation received must go before the Project Development & Acquisitions Committee and RHF Board for evaluation.
 - Evaluation Factors include the following:
 - ✓ Evidence of the A/E's or firm's ability to perform the work as indicated by profiles of the principals' and staffs' professional and technical competence/experience, and their facilities;
 - ✓ Capability to provide professional services in a timely manner;
 - ✓ If design work is involved, evidence that the A/E is currently registered in the State of the project's location and carries Errors and Omissions insurance (Note that this is a yes or no criterion: if the answer is no, the firm is disqualified, not point-scored);
 - ✓ Past performance in terms of cost control, quality of work, and compliance with performance schedules
 - ✓ Demonstrated knowledge of local building codes and Federal building alterations requirements
 - ✓ And any other documents necessary as determined by HUD, RHF or the financing program.



RFP

- Request for Proposals
 - RHF prefers the competitive method of procurement², however, the sealed bid method is preferred for new construction (see HUD's 5 Methods of Procurement in Appendix B).
 - The method of solicitation to obtain 3 RFP's must be run for a period sufficient to achieve effective competition, generally for two weeks.
 - The Format of the RFP should include:
 - ✓ Cover Page
 - ✓ Table of Contents
 - ✓ Statement of Work (SOW)
 - ✓ Submission Requirements, along with pricing instructions
 - ✓ Evaluation Factors
 - ✓ Attachments (include mandatory HUD & Financing forms)



RFP

(Continued)

- Request for Proposals
 - The submission requirements include all HUD-required forms and certifications and are consistent with the factors used for evaluation.
 - The timeframe needed to complete the RFP process from the time it is sent, to receipt of the information and presentation to the PDAC for approval is approximately 5-6 weeks.
 - Evaluation Factors, Non-Price (24 CFR 85.36(d)(3)(iii))
 - The RFP must contain a clear statement of the evaluation factors to guide the offerors in structuring their proposal. Non-price factors are also called “technical factors.”
 - Evaluation Factors, Price (24 CFR 85.36(d)(3)(iii), 24 CFR 85.36(f))
 - Price must be a factor in making awards. There are two options in evaluating price, which must be indicated in the RFP.



RFP

(Continued)

- Request for Proposals
 - Evaluation Factors, Price (24 CFR 85.36(d)(3)(iii), 24 CFR 85.36(f))
 - *Where Price is Assigned an Explicit Point(s)*. Under this method, RHF may award price a specific number of points. For example, RHF may rank proposals on a 100-point scale. Of the total points, RHF may award, for example, 80 points for technical merit and 20 points for price. In using this method, a company will need to determine the weight given to price versus technical factors and how to convert price into a point scale.
 - *Where Price and Other Technical Factors are Considered*. Under this method, technical factors are first determined and offerors are ranked. Then, prices are evaluated. RHF can award to the offeror whose price and technical factors are the most advantageous. This method is also known as the “trade-off” method in that RHF trades-off, or weighs the importance of, price versus technical factors. This is the preferred method by RHF for its 223(f) refinancing's.



DOCUMENTATION

- Documenting the procurement process
 - When you reject the lowest bid, make sure to document *why* you didn't take the lowest price.
 - What does your code or procurement policy allow when it comes to “lowest responsive and responsible bidder?”
 - Does your policy spell out the “right to reject the Bid of any Bidder whom it finds...to be non-responsible” or “not in the best interest of the project”?
 - Is the lowest bidder “responsible”?
 - Have you investigated the “past performance of the lowest bidder.. and the nature of the project”?
 - How has the bidder performed for your agency in the past?
 - Can you explain in detail what happened with previous projects?
 - Is the lowest bidder's quote “responsive?”
 - Did they submit all materials requested as requested?



DOCUMENTATION (continued)

- Is the lowest bidder's quote "responsive?"
 - Did they submit all materials requested as requested?
 - Be sure you follow the rules of your specific procurement policy. You should also consult your legal team if you have questions!



DOCUMENTATION

- Submission of Capital & Major Expense (CME) form
 - RHF has an existing CME Policy which includes obtaining 3 bids.
 - The CME is generated for the final 3 selected offerors
 - The CME is also reviewed by the Project Development & Acquisitions Committee (PDAC) for approval of the final applicant.



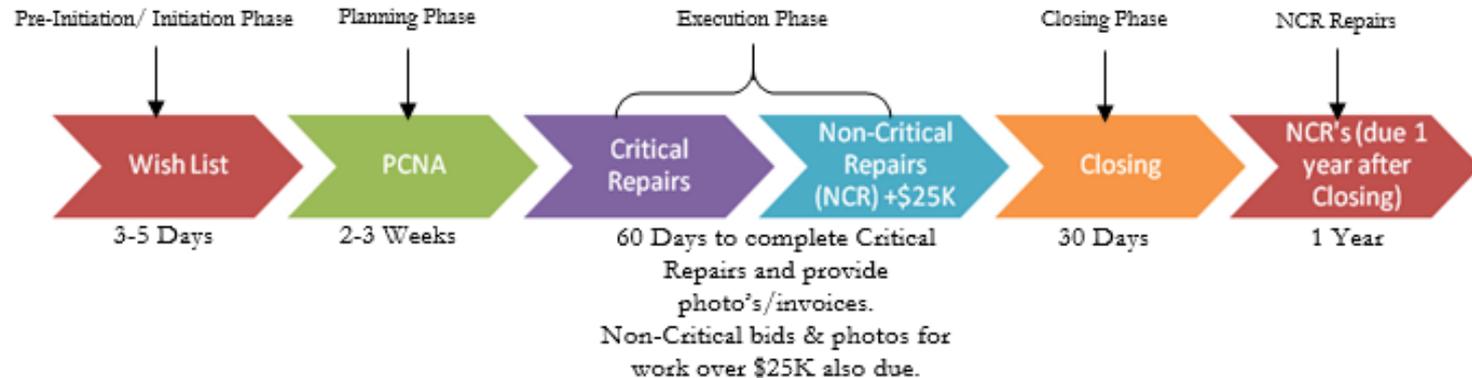
REVIEW / APPROVAL TIMING

- Timing of Sponsor review/approval of Qualifications
 - The Board meets quarterly to review/approve RFQ's.
 - PDAC meets quarterly to review/approve the final RFP.
- Overcoming the timely AEC required documentation
 - Last year HUD implemented an Architect/Engineer Cost Review which takes several weeks to complete in order for 223(f) refinancing's to be submitted.
- Timing of 3rd Party Reports
 - The lender commissions the 3rd Party Reports needed for the refinancing and they usually take 4 weeks to generate the reports.



CURRENT TIME LINE

- Below is a sample of the old timeline to process 223(f) refinancing's.



- The Phase most affected by the implementation of the procurement process and review/approval by PDAC and the Board is the Planning Phase.



PROPOSED TIME LINE

- Implementing: 1) The competitive/non-competitive methods of procurement, 2) the AEC Review process and 3) approvals by the PDAC and RHF's Board into the 223(f) refinancing process has extended the **Planning Phase** of the refinance process by approximately 3-5 months (depending on the responsiveness of offerors).



Note: Both the PDAC & RHF Board meet quarterly.



GOAL - NEXT STEPS

- This project assisted in Identifying the method of procurement to be used for 223(f) refinancing's = The Competitive Proposal method in combination with the Non-Competitive Method of Procurements.
- Creating a comprehensive Procurement Process for HUD experienced Architects, Engineers and General Contractors.
- Implementing a comprehensive review/approval process by PDAC and RHF's Board of Directors
- Continuing to identify various aspects of the procurement process as it relates the refinancing process and timeline.



APPENDIX



Appendix A

Required Professional Services by Activity

PROGRAM	CLASS OF WORK*	SERVICES AND DOCUMENTS		
		CNA**	DESIGN	CONSTRUCTION
223(a)(7)	Repairs & Level 1 Alterations not exceeding routine maintenance and <=\$1,500 per unit	Required	n/a	List of Immediate Repairs/Costs, bids for trade or component items >\$25k, dimensioned sketches of accessibility remedies, and work by qualified tradesmen
223(f)	Repairs & Level 1 Alterations <\$15,000/unit***	Required	n/a	Same as above
223(f)	Level 2 Alterations or any repairs and alterations =>\$15,000/unit***	Required	Project Architect	Itemized Repairs/Costs, Dimensioned drawings of reconfigured spaces, GC & HUD 2328 needed as determined by Project Architect
223(f)	Level 3 Alterations	Required	Project Architect	Itemized Repairs/Costs, Dimensioned drawings of reconfigured spaces, GC and HUD 2328 required for Level 3 Alterations
220,221,231, 241(a)	All classes of work	Required	Project Architect	Full drawings and specifications, Architect administration of work, GC & HUD 2328, Davis-Bacon wage standard



Appendix B

HUD's 5 Methods of Procurement as defined in the HUD Handbook 7460.8 Rev 2.

HUD – Methods Of Procurement Comparison Chart					
	Small Purchases		Sealed Bids	Competitive Proposals	Non-Competitive
	Micro Purchases Up to \$2,000.00	\$2,000 to \$100,000	\$100,000 and higher	\$100,000 and higher	
Obtain Bids	Solicit ONE quote In Writing Or Verbally	Solicit REASONABLE number of quotes In Writing Or Verbally	<ul style="list-style-type: none"> Specification IFB Advertise Open Publicly 	<ul style="list-style-type: none"> Scope of Work RFP Factors Relative Importance Evaluate Advertise 	ONLY ONE BIDDER
Award Contract	Single Quote No Competition	<ul style="list-style-type: none"> Requires Competition (recommend a minimum of three) Awarded to "Best Value" 	<ul style="list-style-type: none"> Requires Competition Always an Apparent Low Bidder Awarded to Lowest Cost Fixed Firm Price Contract. 	<ul style="list-style-type: none"> Requires Competition Awarded to Most Advantageous (Best Overall Value) 	<ul style="list-style-type: none"> Available only from a single source. Public extingency or emergency exits. HUD Approves. Lack of competition
Prove Cost Reasonableness	Signature signifies that the cost is reasonable.	Apparently obvious or price analysis	Price Analysis	<ol style="list-style-type: none"> Price Analysis (Qualifications & Cost) Cost Analysis (Qualifications ONLY) 	Cost Analysis
Independent Cost Analysis	Not Required	Required	Required	Required	Required
Bonding Requirements	Not Required	Not Required	Required for construction Contracts.	Not Required	Required for construction contracts.
Wage Rates	Not Required	Required for construction & maintenance contracts.	Required for construction & maintenance contracts	Not Required	Required for construction contracts over \$2,000.
Required HUD Forms	Not Required	General - Table 5.1 Construction HUD 5370-EZ or HUD 5370 Maintenance – Table 5.1 Sect. II-HUD 5370-C	Non-Construction HUD-5369-B HUD-5369-C Construction HUD-5369 HUD-5369-A HUD-5370	Non-Construction HUD-5369-B HUD-5369-C A/E Contract HUD-51915	See small purchases, sealed bids and competitive proposals.
Check List of Parties Excluded from Federal Procurement	Required	Required	Required	Required	Required
Check List of Denial of Participation	Required	Required	Required	Required	Required
Documenting Rationale for Award	Historical Data	Historical Data or written summary (Finding of Fact)	Historical Data or written summary (Finding of Fact)	Written Summary (Finding of Fact)	Written Summary (Finding of Fact)



Exhibit B (continued)

Methods of Procurement Defined

- Choose the method of procurement that is reasonable based on the facts surrounding the particular situation. The methods of procurement outlined in **24 CFR 85.36(d)** are:
 - **1. Micro Purchases Up to \$2,000.00**
 - **2. Small Purchase Procedures \$2,000 to \$100,000.** If the relatively simple and informal small purchase methods are used, price or rate quotations will be obtained from an adequate number of qualified sources.
 - **3. Sealed Bids \$100,000 and higher.** Sealed bidding may only be used when it is possible to quantify the costs of the required services (e.g., number of hours) to permit the submission of firm bids and award a firm fixed-price contract to the lowest responsive and responsible bidder considering only price and price-related factors. Sealed bidding does not permit the use of other factors.



Exhibit B (continued)

Methods of Procurement Defined

- **4. Competitive Proposals \$100,000 and higher .** This method is generally preferred when procuring professional services because it allows for the consideration of technical quality or other factors (in addition to price) for securing services estimated to cost more than the Federal small purchase threshold or a lower threshold as established by the PHA (e.g., to conform to State law). Competitive offers are solicited, proposals are evaluated, and award is made to the offeror whose proposal is most advantageous to the PHA, with price and other factors (as specified in the solicitation) considered. Either a fixed-price or cost reimbursement type contract may be awarded. This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the conditions in 24 CFR 85.36(d)(3) must be followed.



Exhibit B (continued)

Methods of Procurement Defined

- **5. Noncompetitive Proposals.** This method may only be used when the other methods of procurement are infeasible and the circumstances described in 24 CFR 85.36(d)(4) are applicable (e.g., legal services are available from only a single source; public exigency or emergency for the requirements will not permit a delay resulting from competitive solicitation; after solicitation of a number of sources, competition is determined inadequate; or HUD authorizes the use of noncompetitive proposals. An example of a situation considered to violate the requirements of full and open competition in 24 CFR 85.36 would be noncompetitive award to an attorney for legal services on a retainer basis.



Remember...

- RHF's method of procurement is used when cost estimates are above the \$100,000 Federal Simplified Acquisition threshold
- RHF prefers the Competitive Proposal and Non-Competitive methods of Procurement, however, the Sealed Bid procurement method is used for new construction.
- Open on scheduled date, time and place.
- Seek proper approvals and
- Award to most responsive and responsible bidders.



Responsive Bidders Defined

- A bidder or offeror which submits a reply or bid which conforms to the material terms and conditions of the solicitation
- The Contracting Officer must assess the responsiveness by ensuring that all required documents were provided (e.g., bid bond) as noted in the solicitation or request and seek proper approvals for the selected offeror
- *Makes bidders or offerors to a solicitation eligible entities to be considered for award!*
- Per §85.36(d)(2)(ii)(D) award contracts to the lowest responsive bidder



Responsible Contractors Defined

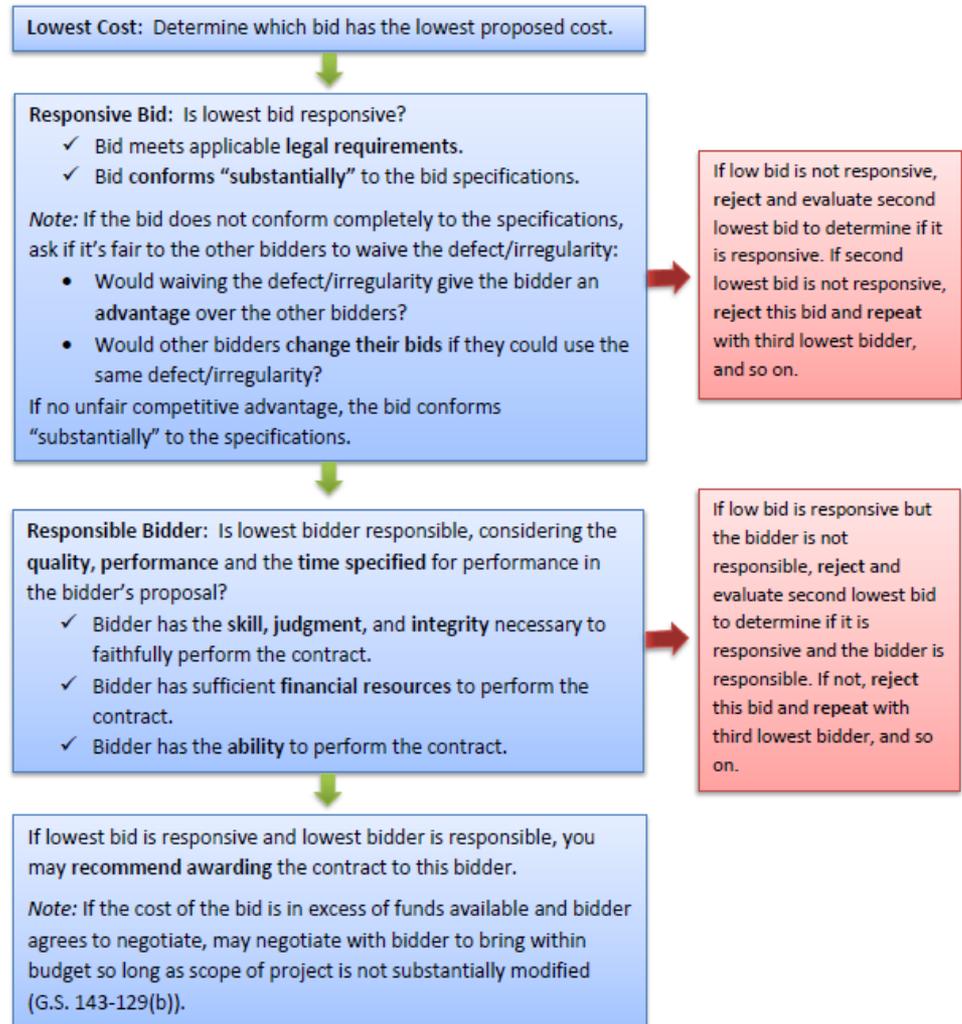
- A bidder/offeror that has the ability to perform successfully under the terms and conditions of the proposed contract/agreement
- In determining responsibility, the Contracting Officer shall consider the bidder's
 - Satisfactory record of integrity & business ethics
 - Compliance with public policy
 - Performance record & experience
 - Financial & technical resources



SAMPLE

Awarding Competitively Bid Contracts

Lowest Responsive Responsible Bidder Flowchart



References:

G.S. 143-128, 143-129, 143-131; *Professional Food Services Management v. North Carolina Department of Administration*, 109 N.C. App. 265, 426 S.E.2d 447 (1993); *Kinsey Contracting Co. v. City of Fayetteville*, 106 N.C. App. 383, 416 S.E.2d 607, disc. review denied, 332 N.C. 345, 431 S.E.2d 149 (1992). For additional information, see Frayda S. Bluestein, “Understanding the Responsiveness Requirement in Competitive Bidding,” Local Government Law Bulletin No. 102 (May 2002), available at <http://www.sog.unc.edu/pubs/electronicversions/pdfs/lglb102.pdf>.



PURPOSE FOR THIS PROJECT

- To be successful in the above pursuits, all stewards of the company must maintain a culture of entrepreneurial spirit to save costs in all aspects of their work.

Therefore, the value of creating a specific procurement process as it relates to the various financing processes will assist in continuing consistency throughout the department for current and future employees.



References and Resources

- Procurement Handbook for Public Housing Authorities, HUD Handbook 7460.8 REV 2, dated 2/2007 at:
www.hud.gov/sites/documents/DOC_10725.PDF
- HUD's 2016 Multifamily Accelerated Processing (MAP) Guide at:
www.hud.gov/sites/documents/4430GHSGG.PDF
- HUD's Sealed Bid PowerPoint entitled, “Unit 5 Introduction to Procurement for Public Housing Authorities Sealed Bids” on their website at: *www.hud.gov/sites/documents/SEALEDDBIDS.PPT*
- RHF's existing Capital & Major Expense Policy

