



Jim Haining <jhaining@gmail.com>

Revised Procurement Policy (including new requirements of 2 CFR 200.317 - 300.326)

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Housing Agency Procurement Assistance

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Procurement Professionals,

Please see the attached revision of the Procurement Policy that I promised to distribute. Remember, HUD has given housing agencies until December 31, 2015, to discontinue use of 24 CFR 85.36, *Procurement*, and implement use of 2 CFR 200.317 - 300.326, *Procurement Standards*.

This attached revision of the Procurement Policy is based on a combination of the sample Procurement Policy issued by HUD within Appendix 1 of HUD Procurement Handbook 7460.8 REV 2, combined with the changes imposed by the pertinent sections of the previously referenced 2 CFR 200 when compared with the similar sections of 24 CFR 85.36 (please see the attached Side-by-Side Comparison of 24 CFR to 2 CFR that I distributed previously--a big Thank You again to Minneapolis Public Housing Authority for this document!).

Because this revised Policy is substantially based on the HUD-issued sample Policy within the Procurement Handbook, I strongly caution housing agencies to not take this revised policy and implement changes into their old Policy, but to "chuck" the old Policy and utilize this new Policy. I also caution housing agencies to not revise this Policy by placing therein extensive references to State statutes--such will, in my opinion, needlessly complicate the Policy (and it already states therein that you will comply with the stricter of Federal and State statutes). I also strongly recommend that you do NOT place any of your procedures within this Policy (this Policy will be approved by your Board; it is not efficient for procedures to be approved by Boards, as procedures are approved by the Executive Director or CEO to implement the Policy).

After the new Policy has been approved by your Board you may want to, as a courtesy, send it to your HUD Field office and advise them that you have revised your Policy in conformance with the requirements of 2 CFR 200.

A few thoughts pertaining to this draft Policy and a number of "myths and rumors" that have been circulating pertaining to the "road to 2 CFR 200":

(1) PROCUREMENT LEVELS: Two major changes for housing agencies brought on by the implementation of 2 CFR 200 are: (a) the previous level for the Micro Threshold increases from \$2,000 to \$3,000 (however, the Micro Threshold for construction-related procurements remains at \$2,000); and (b) the Small Threshold, a/k/a the Simplified Acquisition Threshold (SAT), increases from \$100,000 to \$150,000. To address the related "myths and rumors," I have heard "talk" that these new Thresholds "overrule" the stricter Thresholds that may apply as set by pertinent State statutes--this is not accurate. HUD has not issued any directive to overrule State statutes pertaining to these Thresholds. In addition,

I encourage housing agencies to carefully review their State statutes to ascertain if such statutes pertaining to local governmental agencies actually apply to housing agencies (a number of states actually exempt housing agencies from the local governmental procurement statutes).

(2) INDEPENDENT COST ESTIMATES (ICE); COST AND PRICE ANALYSIS (CPA): I have heard some "talk" and even seen some printed opinions that housing agencies no longer are required to conduct an ICE or a CPA. This is not accurate. Both requirements are listed within Section **§200.323 (a)** of the 2 CFR. At first glance it does appear that 2 CFR only requires the conduct of the CPA for procurements that exceed the SAT (\$150,000); however, the HUD Procurement Handbook still requires a stricter standard within Section 10.3 and Appendix 12 therein. My recommendation: Continue to perform the CPA until HUD clarifies this issue (it is my opinion that it will take some time for these specific revisions to "filter" to HUD and OIG auditors, and ceasing this important procedure prior to further written clarification from HUD may put your agency at risk for findings if an audit takes place in the interim). As for the ICE, within the same Section, 2 CFR requires that your agency "as a starting point . . . must make independent estimates before receiving bids of proposals.

I hope that this information is of a help. Please do not hesitate to contact me if you have any thoughts, questions, or concerns.

Regards,
Michael S. Gifford, C.P.M., CPSD
Housing Agency Procurement Assistance


I have a consulting practice providing procurement- and contracts-related mentoring, training, and technical assistance to housing agencies. I help housing agencies conduct procurement and contracts in a HUD-compliant and "best practice" manner. [Click here](#) to see my full resume. Please do not hesitate to contact me if you have any questions or concerns pertaining to procurement and contracts (initial answering of questions is "no charge"). As I am either on-the-road or on the phone a lot, an initial contact by e-mail is best; please be sure to include your return telephone number (office/cellular) so that I can call you back.

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2 attachments

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 **Side-by-SideComparison_24CFR-to-2CFR_2015.docx**
59K