

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4091 SJUD SB 341 (FILE 1) 981

Instructions for Preparation of Form HUD-5079 Modernization List Part II

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Low-Income Housing Program

The Part shall be used where a previously approved Modernization List is being amended for a Modernization Project or a Modernization Program. The term "Modernization Project" refers to modernization approved after June 30, 1976. The term "Modernization Program" refers to modernization approved before July 1, 1976. This Part shall be used to cancel or recapture unused modernization funds and to add or delete individual projects from the Modernization Project. In both cases, an Annual Contributions Contract (ACC) amendment also is required. See Handbook 7485.1 REV-2.

1. **Block 1, Public Housing Agency.** Enter the name of the PHA for which a previously approved Modernization List is being revised.
2. **Block 2, Modernization List Number.** Enter a new Modernization List Number which consists of the Regional Office code identification, the Field Office numeric code identification (see Handbook of Codes, 2160 4B, Chapter 1, paragraph 1-1), the last two digits of the current Federal Fiscal Year (FFY), and the chronological number (expressed as three digits) of the List recommended for approval during the FFY. For example, the seventh List recommended for approval by the Chicago Area Office during FFY 1982 would be designated V-06-82-007.
3. **Block 3, Modernization Project Number.** Enter either the Modernization Project Number or the Phase Number, as shown on the previous Modernization List which is being revised. The Phase Number is the FFY in which the Modernization Program was approved and the sequential number of the Modernization Program, e.g., 75-04.
4. **Block 4, Previous Modernization List Number and Date Approved.** Enter the number and approval date of the previous Modernization List which is being revised.
5. **Block 5, Minimum Loan Interest Rate.** For the Modernization Project or the Modernization Program, enter the Minimum Loan Interest Rate that was in effect at the time the previous Modernization List was approved.
6. **Block 6, Maximum Debt Service Contribution Percentage.** For the Modernization Project or the Modernization Program, enter the Maximum Debt Service Contribution Percentage that was in effect at the time the previous Modernization List was approved.
7. **Block 7, Maximum Number of Debt Service Annual Contributions.** For the Modernization Project, enter the Maximum Number of Debt Service Annual Contributions which is twenty (20). For the Modernization Program, leave blank for subsequent entry by the Office of Finance and Accounting (OFA), Headquarters, the number of years remaining for each individual project.
8. **Block 8, Cancellation, Recapture or Other.** Check the appropriate box to indicate whether the type of action is a cancellation, recapture, or other (such as the addition or deletion of individual projects). If other, explain at the bottom of Columns 13-15.
9. **Column 9, Current Allocation.** For the Modernization Project or the Modernization Program, enter the current allocation of costs approved under the previous Modernization List by the amounts of maximum modernization cost, contract authority, and budget authority. For the Modernization Program, obtain the current allocations from the Assisted Housing Accounting System in the Regional Accounting Division.
10. **Column 10, Revised Allocation.** For the Modernization Project, enter the revised allocation of costs being approved under this Modernization List by the amounts of maximum modernization cost and contract authority. To calculate the revised allocation of contract authority, multiply the revised allocation of maximum modernization cost by the Maximum Debt Service Contribution Percentage in Block 6. Enter the revised allocation of budget authority only if the ACC for the previous Modernization List has not been amended. For the Modernization Program, enter only the maximum modernization cost, leaving blank for subsequent entry by OFA, Headquarters, the contract authority and budget authority.
11. **Column 11, Amount Canceled or Recaptured.** For the Modernization Project, enter the amount canceled or recaptured, if any, which is Column 9 less Column 10, by the amounts of maximum modernization cost and contract authority. Enter the amount of budget authority only if the ACC for the previous Modernization List has not been amended. For the Modernization Program, enter only the maximum modernization cost, leaving blank for subsequent entry by OFA, Headquarters, the contract authority and budget authority.
12. **Column 12, Individual Projects in Modernization Project.** Enter the number of each individual project included in the Modernization Project or Modernization Program, e.g., ILL-2-1, ILL-2-2, etc., including the number of each individual project to be added or deleted under the Modernization Project.
13. **Column 13, Current Maximum Modernization Cost.** For each individual project in Column 12, enter the current allocation of maximum modernization cost approved under the previous Modernization List.
14. **Column 14, Revised Maximum Modernization Cost.** For each individual project in Column 12, enter the revised amount of maximum modernization cost being approved under this Modernization List.
15. **Column 15, Difference.** For each individual project in Column 12, enter the difference between the amounts of maximum modernization cost in Column 13 and Column 14. If Column 13 is more than Column 14, enter a minus (-). If Column 13 is less than Column 14, enter a plus (+).
16. **Totaling Columns 13 through 15.** For all individual projects listed in Column 12, enter the totals of the figures in Columns 13 through 15. These totals must be equal to the maximum modernization cost for the Modernization Project or Modernization Program in Columns 9 through 11.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOUSING - FEDERAL HOUSING COMMISSIONER							
PROJECT ACCOUNTING DATA							
TO: <input checked="" type="checkbox"/>				FROM: <input checked="" type="checkbox"/>			
REGIONAL OFFICE CODE (RAD Only)				FIELD OFFICE CODE (RAD Only)			
REQUEST FOR RESERVATION ACTION AS FOLLOWS:							
RAD ONLY	1. TYPE OF ACTION (One Only)	HOUSING ONLY	RAD ONLY	6.1 MEMO ENTRY - MODERNIZATION ENTER TITLE (Code O, D, S, V, W, X, Y, Z)	HOUSING ONLY	RAD ONLY	HOUSING ONLY
	New..... (N, R) Amendment Modernization..... (A) Amendments - Sec. 8/Public Housing Unit Increase..... (B) Cost Increase..... (E) Decrease..... (G) Termination..... (T) Correction..... (I or P)			6.1 A. Farmers Homes..... (E) HFDA (Sect. 8-E)..... (H) HFDA - 40 Years..... (I) HFDA - 30 Years..... (J) Moderate Rehabilitation..... (M) PHA-Owned..... (P) Section 202..... (T) Other..... (O) B. Area-wides..... (A) New Communities..... (N) Section 23 - Conversions..... (C) Loan Management..... (L) Property Disposition..... (D) N.S.A..... (R) Not Applicable..... (B)			
	2 PROGRAM TYPE (One Only) Section 8 - NC..... (N) Section 8 - SR..... (R) Section 8 - E/Mod. Rehab..... (E) Public Housing - Conventional..... (A) Public Housing - Turnkey..... (C) Public Housing - AWR..... (F) Public Housing - AWOR..... (H) Indian - Conventional..... (I) Indian - Turnkey..... (L) Indian - AWR..... (M) Indian - AWOR..... (P) Section 23 - NC..... (S) Section 23 - SR..... (T) Section 23 - E..... (V) Modernization..... (X,Y)		6.2A 6.2B1 6.2B2				
	3 PROJECT NUMBER VA-30-901			7. DATE PRIOR LETTER OF NOTIFICATION/ RESERVATION DOCUMENT SIGNED MM DD YY 6 15 80			
	4 PHA/PRIVATE OWNER NAME USA Housing Authority			8. DATE LETTER OF NOTIFICATION/ RESERVATION DOCUMENT SIGNED MM DD YY 6 15 80			
	5. AREA (One Only) Metropolitan..... (M) Non-Metropolitan..... (N)			9. TERM IN YEARS 2 0			
				10. TYPE OF FUNDS (One Only) Assigned Program Funds..... (P) Assigned Amendment Funds..... (A) Recaptured Funds..... (R) Not Applicable..... (N)			
11. UNIT AND FUND SECTION							
RAD ONLY RECAPTURE (R); OR CAN- CELLATION (I, A, B, E)	HOUSING USE ONLY (Columns B through G)						RAD USE ONLY HASH TOTAL
	TOTAL UNITS	ELDERLY UNITS	SOURCE YEAR	CONTRACT AUTHORITY	BUDGET AUTHORITY	LOAN AUTHORITY	
	A	B	C	D	E	F	
	900	0	1980	\$114,414	\$2,288,280	\$1,248,240	
(A copy of the completed form shall accompany the required documentation as stipulated in the appropriate administrative program HUD Handbook)							
<input checked="" type="checkbox"/> _____ (Date)				<input checked="" type="checkbox"/> _____ (Signature of Field Office Manager or Supervisor)			

Previous Edition is Obsolete

HUD-62640 (2-80)

TABLE - FORM HUD-52540, MEMO ENTRY CODES (Item 6.2) FOR SECTION 8

MEMO 6.2A	MEMO 6.281	MEMO 6.282	CODE 6.2A, B1, + B2
FMHA	Not Applicable	Not Applicable	EBB
	Areawide	Not Applicable	EAB
	Areawide	New Community	EAN
	New Community	Not Applicable	ENB
HFDA (Other than 40 or 30 Years)	Not Applicable	Not Applicable	HBB
	Areawide	Not Applicable	HAB
	Areawide	Section 23 - Conversion	HAC
	Areawide	Loan Management	HAL
	Section 23 - Conversion	Not Applicable	HCB
	Loan Management	Not Applicable	HLB
HFDA (40 Years)	Not Applicable	Not Applicable	IBB
	Areawide	Not Applicable	IAB
	Areawide	New Community	IAN
	Areawide	Section 23 - Conversion	IAC
	New Community	Not Applicable	INB
	New Community	Section 23 - Conversion	INC
	Section 23 - Conversion	Not Applicable	ICB
	Neighborhood Strategy Area	Not Applicable	IRB
HFDA (30 Years)	Not Applicable	Not Applicable	JBB
	Areawide	Not Applicable	JAB
	Areawide	New Communities	JAN
	Areawide	Section 23 - Conversion	JAC
	New Community	Not Applicable	JNB
	New Community	Section 23 - Conversion	JNC
	Section 23 - Conversion	Not Applicable	JCB
	Neighborhood Strategy Area	Not Applicable	JRB
MODERATE REHAB **	Not Applicable	Not Applicable	MBB
	Area Wide	Not Applicable	MAB
	Property Disposition	Not Applicable	MDB
	Area Wide	Property Disposition	MAD
PHA-OWNED	Not Applicable	Not Applicable	PBB
	Areawide	Not Applicable	PAB
	Areawide	New Community	PAN
	Areawide	Section 23 - Conversion	PAC
	New Community	Not Applicable	PNB
	New Community	Section 23 - Conversion	PNC
	Section 23 - Conversion	Not Applicable	PCB
PHA-OWNED*	Areawide	Property Disposition	PAD
	Property Disposition	Not Applicable	PDB
	Not Applicable	Not Applicable	TBB
SECTION 202	Areawide	Not Applicable	TAB
	Areawide	New Community	TAN
	New Community	Not Applicable	TNB
	Areawide	Property Disposition	TAD
	Property Disposition	Not Applicable	TDB
	Not Applicable	Not Applicable	OBB
OTHER	Areawide	Not Applicable	OAB
	Areawide	New Community	OAN
	Areawide	Section 23 - Conversion	OAC
	New Community	Not Applicable	ONB
	New Community	Section 23 - Conversion	ONC
	Section 23 - Conversion	Not Applicable	OCB
	Neighborhood Strategy Area	Not Applicable	ORB
	Areawide	Property Disposition	OAD
OTHER*	Property Disposition	Not Applicable	ODB
	Areawide	Loan Management	OAL
OTHER**	Loan Management	Not Applicable	OLB

* Only Applicable to Substantial Rehabilitation

** Only Applicable to Existing

**INSTRUCTIONS FOR PREPARATION OF FORM HUD-52540,
PROJECT ACCOUNTING DATA**

General - Form HUD-52540, Project Accounting Data (PAD) must be completed for each action relating to the reservation of units and/or loan, contract, and budget authority for a project. The PAD, signed by the Field Office Manager/Supervisor, and supporting documentation shall be submitted to the Regional Accounting Division (RAD) in accordance with outstanding procedures in the appropriate administrative program HUD Handbook. All applicable codes shall be entered by Housing on the lines provided for Housing only and by RAD on the lines provided for RAD only.

Any correction to data previously submitted on the Project Accounting Data form shall not be entered on this form. The Field Office must notify the RAD by memorandum of any corrections required. The RAD will enter all corrections relating to the reservation of units and/or loan, contract, and budget authority.

Specific Instructions for Completing the Project Accounting Data Form -

Block TO: - Enter the name and address of the Regional Accounting Division Director.

Block FROM: - Enter the name and address of the Field Office Manager/Supervisor.

Blocks Office Codes: - Do not enter the Regional and Field Office Codes. This part will be completed by the RAD

Block 1, Type of Action: Enter the type of action as described below using the appropriate code letter:

(N, R) New (N) - an initial reservation for the subject project, including new Modernization Projects.

New (R) - do not enter. For RAD use only.

(A) Amendment - a change (increase or decrease) to a previous reservation for the subject project. All decrease units and/or funds shall be shown in parentheses, e.g., (10,000).

(T) Termination - a total termination of a previous reservation as a result of an official HUD action.

(I, C or P) Correction - do not enter. For (AD use only).

Block 2, Program Type: One only of the following program types must be entered using the designated code letter:

(N) - Section 8 New Construction

(R) - Section 8 Substantial Rehabilitation

(E) - Section 8 Existing

(A) - Public Housing - Conventional

(C) - Public Housing - Turnkey

(F) - Public Housing - Acquisition with Rehabilitation

(H) - Public Housing - Acquisition without Rehab.

(I) - Indian - Conventional

(L) - Indian - Turnkey

(M) - Indian - Acquisition with Rehabilitation

(P) - Indian - Acquisition without Rehabilitation

(S) - Section 23 - New Construction

(T) - Section 23 - Substantial Rehabilitation

(V) - Section 23 - Existing

(Y) - Modernization - Approved since July 1, 1978

(X) - Modernization - Approved prior to July 1, 1978

Block 3, Project Number: For Section 8 enter the appropriate 11-character assigned project number. For Public Housing, Indian, Section 23, and Modernization, enter the appropriate assigned project number. For actions involving conversion of projects from Section 23 to Section 8, both project numbers should be listed. The project number relating to the current action should be listed first; the related project number should be listed following the abbreviation "Ref: _____"

Block 4, PHA/Private Owner Name: Enter the name of the (Public Housing Agency/Private Owner) program participant as shown on the Notification Letter.

Block 5, Area: Enter either Metropolitan or Non-Metropolitan. Do not enter for Modernization program.

Block 6, Memo Entry: (See Table of Codes printed on reverse side of Form HUD-52540.)

Section 8: All memo entries must have a three-letter code, comprised of one letter code from Group A and two letter codes from Group B. Project types in Group A are shown in their order of importance i.e., if a project was both a HFDA and a Section 202 project -- for coding purposes -- it would be classified as a HFDA project and the corresponding code letter (H), (I), or (J) would be entered in Block 6A. Enter in Blocks 6B1 and 6B2 all applicable Group B categories. If no Group B categories apply, enter the code letter (B) Not Applicable in Blocks 6B1 and 6B2. If only one category is applicable, enter that code letter in Block 6B1 and enter the code letter (B) Not Applicable in Block 6B2.

It should be noted that several of the above combinations may apply to all program types. For example, the code letters OAB designating *OTHER-AREAWIDE-NOT APPLICABLE* could be for Construction, Substantial Rehabilitation or Existing. You will have already indicated the type in E. Program Type, and in order to keep this listing as short as possible identical codes have not been duplicated.

Other Programs: For Public Housing, enter in Block 6A, one of the following categories as applicable: Loan Management (L); Property Disposition (D); or Other (O) - leave Block 6B1 and Block 6B2 blank. No entries shall be made for Indian Housing or the Modernization programs.

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INSTRUCTIONS CONTINUED:

Block 7. Date Prior Letter of Notification/Reservation Document Signed: Enter the date (month/day/year) of the most recent Notification Letter or Reservation Document. Not applicable to New types of action.

Block 8. Date Letter of Notification/Reservation Document Signed:

Section 8, Public and Indian Housing: During the first 11 months of a fiscal year the RAD shall enter the reservation transaction date (month/day/year) which has been transmitted to the Field Office for which a PAD is being submitted. During the last month of the fiscal year, the Field Office shall enter the date of the Notification Letter or Reservation Document for which a PAD is being submitted and a copy of the Notification Letter or Reservation Document must be attached. This includes documents for the termination of projects. **Modernization Program:** The Field Office shall enter the approved date shown on Form HUD-5079, Modernization List.

Block 9. Term: Enter the number of years for which HUD is obligated to pay annual contributions. For amendments, enter the number of years remaining in the Annual Contributions Contract of the project.

Block 10. Type of Funds:

- Use this block for new reservations and amendments which increase the loan, contract, and/or budget authority. Enter in this block the type of funds being used to make the reservation. e.g., assigned program funds, assigned amendment funds or recaptured funds. If it is determined that more than one type of fund is to be used to make the reservation, a separate PAD shall be prepared for each type of fund.
- For amendments which decrease the loan, contract, and/or budget authority, leave this block blank. The RAD will enter the applicable type of funds.
- There may be instances whereby no funds are involved in the transaction taking place. In this instance, the type of funds is Not Applicable (N). Also, Not Applicable (N) shall be entered when recapturing prior year funds and/or units.

Block 11. Unit and Fund Section: Complete this section for all new or amendatory types of action. This section shall not be completed if termination is shown in Block 1. Complete columns B through G for each source year of funds affected by a new or amendatory action. Columns A and H are to be completed by the RAD.

Column A - To be completed by the RAD.

Column B - **Total Units:** Enter the total number of assisted housing units for the subject project. If the type of action is amendment (Change), enter only the units increased or decreased. If units are being decreased, enter the number of units in parentheses, e.g., (25).

Column C - Enter the number of elderly units included in the total units shown in column B.

Column D - **Source Year:** Enter the contract and budget authority source year to which the reservation is charged i.e., 1974 (1974 and prior) or current fiscal year. Enter in this column the letters "RR" for Funds Recaptured from other than 1974 and prior, and the current fiscal year, e.g., 1976 and 1977.

Column E - **Contract Authority:** Enter the amount of annual contributions contract authority being reserved for the subject project. If type of action is for an amendment, enter only the amount of the increase or decrease. If contract authority is being decreased, enter the amount of funds in parentheses, e.g., (\$25,000).

Column F - **Budget Authority:** Enter the amount of budget authority being reserved. Budget authority is the maximum total amount of annual contributions committed to a project. If the type of action is amendment, amount shown shall be the increase or decrease only of budget authority. If being decreased, enter the amount of budget authority in parentheses, e.g., (\$25,000).

Column G - **Loan Authority:** Enter the amount of loan authority (estimated total development cost) being reserved. If type of action is amendment, amount shown shall be for increase or decrease only of loan authority. If being decreased, enter the amount of loan authority in parentheses, e.g., (\$25,000).

Column H - To be completed by the RAD.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
LOW INCOME PUBLIC HOUSING
**MODERNIZATION PROJECT AMENDMENT TO
CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT**

1. Modernization Project Number _____
2. Individual Project Number(s) _____
3. Amendment to Annual Contributions Contract Number _____ dated _____
(the "Contract")

TERMS

4. The Contract is amended to assist in financing modernization of the Individual Projects. This amendment is a part of the Contract.
5. The following provisions shall be applicable to the Modernization Project:
- a. Number and Date of Modernization List _____
 - b. Maximum Modernization Cost _____
 - c. Contract Authority _____
 - d. Minimum Loan Interest Rate _____
 - e. Maximum Debt Service Contribution Percentage _____
6. The modernization work shall be carried out in accordance with all HUD regulations and other requirements applicable to the public housing modernization program. The PHA agrees to comply with these regulations and requirements.
7. The modernization work to be carried out is described in a Modernization Program, a statement of the basic elements of the Modernization Project. The Modernization Program has been adopted by the PHA and approved by HUD, and may be revised from time to time by agreement between HUD and the PHA. The PHA agrees to carry out the modernization work in accordance with the Modernization Program.
- a. The Modernization Program includes a budget stating the maximum amounts approved by HUD for the modernization work. The PHA shall not incur Modernization Cost over the amount approved in the budget for the Modernization Project. The PHA shall not incur Modernization Cost over the amounts approved in the budget for each Individual Project or for any work item, except in accordance with a HUD-approved budget revision.
 - b. Modernization Cost means Development Cost for the modernization work.
 - c. The Maximum Modernization Cost for the Modernization Project is stated in Section 5 to this amendment. The PHA shall complete the modernization work at the lowest possible cost in accordance with the approved Modernization Program, and in no event in excess of the Maximum Modernization Cost for the Modernization Project.
9. a. Subject to the provisions of Part II of this Contract, and to assist in the modernization, HUD agrees to lend to the PHA up to the amount of the Maximum Loan Commitment. The Maximum Loan Commitment shall be equal to the Maximum Modernization Cost for the Modernization Project, as stated in Section 5, or the approved Actual Modernization Cost of the Modernization Project, if the Actual Modernization Cost Certificate has been approved, less the amount by which advances against the HUD loan provided for in this Contract for the Modernization Project, and Project Notes issued for the Modernization Project, have been retired with funds other than loans provided under this Contract. The Maximum Loan Commitment under this Contract for a Modernization Project shall in no event be less than the aggregate amount of the outstanding advances against the HUD loan provided for in this Contract, and advances HUD has agreed to make against such HUD loan to secure Project Notes issued for the Modernization Project.
- b. Each advance on account of the HUD loan for the Modernization Project shall bear interest on the unpaid principal amount from the date the advance is made to the date of repayment at the rate or rates which HUD determines on the date such advance is made and redetermines on each anniversary of such date to be equal to the annual rate on Treasury borrowings by HUD pursuant to Section 4 (b) of the Act. However, the interest rate for each advance, shall not be less than the "Minimum Loan Interest Rate" determined by HUD pursuant to Section 4 (a) of the Act and specified in Section 5 to this amendment.
10. After issuance of the Actual Modernization Cost Certificate (in accordance with Section 405 of Part II of the Contract), Section 5 to this amendment shall be amended as follows:
- a. To state the Actual Modernization Cost in lieu of the Maximum Modernization Cost.
 - b. To reduce the amount of contract authority for the Modernization Project to an amount equal to the product of the Maximum Debt Service Contribution Percentage times the Actual Modernization Cost.

- 11. a. HUD shall make Debt Service Annual Contributions to the PHA for the Modernization Project.
- b. The first Debt Service Annual Contribution shall accrue and be payable on the first Annual Contributions Date after the effective date of this amendment, and shall be disbursed to the PHA no later than the second Annual Contributions Date after the effective date. The first Debt Service Annual Contribution shall be an amount equal to the Maximum Debt Service Contribution Percentage times the Maximum Modernization Cost.
- c. The second and subsequent Debt Service Annual Contributions shall be payable on each Annual Contributions Date after the date on which the first Debt Service Annual Contribution is payable for the Modernization Project. HUD shall pay no more than twenty Debt Service Annual Contributions for the Modernization Project. The second and subsequent Debt Service Annual Contributions shall be in the amounts determined in accordance with Section 415 of Part II of the Contract.
- d. The Maximum Contribution Period for the Modernization Project shall begin on the date the first Debt Service Annual Contribution is payable under paragraph b of this Section, and shall continue for twenty years.
- 12. Upon payment in full of all indebtedness of the PHA in connection with the Modernization Project for which Debt Service Annual Contributions are pledged and of any other indebtedness of the PHA to HUD in connection with such Modernization Project, all obligations of HUD and the PHA shall terminate except as provided in Section 406(C) of Part II of the Contract with respect to operating reserves. Provided, however, that the provisions of Section 308(D) or (C) of Part II of the Contract shall remain in effect so long as HUD determines that there is an outstanding indebtedness of the PHA to HUD which arose in connection with any Individual Project or Projects under the Contract and is not eligible for payment from annual contributions; and provided further that for a period of ten years following the last payment of operating subsidy to the PHA, any disposition or demolition of any Individual Project Buildings or realty shall be accomplished in accordance with HUD regulations and requirements and the PHA shall continue to operate the Individual Project(s) as low-income housing under the Contract in accordance with HUD regulations and requirements.
- 13. The PHA shall continue to operate each Individual Project as low-income housing in compliance with this Contract, the Act and all HUD regulations and other requirements for so long as HUD and the PHA have any further obligations under this amendment or the Contract with respect to the Modernization Project or the Individual Project(s).
- 14. Section 404 of Part II of the Contract shall not be applicable to the Modernization Project.
- 15. If the PHA does not comply with any of its obligations under this amendment, HUD may direct the PHA to terminate work on all or any part of the work described in the Modernization Program. The PHA shall not incur any additional cost for the terminated work without HUD approval.

The parties have caused this amendment to be effective as of the date of execution on behalf of the United States, as stated below.

(Seal)
Attest

(Public Housing Agency)

By _____
(Chairman)

Date _____

UNITED STATES OF AMERICA
Secretary of Housing and Urban Development

By _____

(Official Title)

Date _____

HUD 53009 12 811

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING - FEDERAL HOUSING COMMISSIONER
LOW INCOME PUBLIC HOUSING

**MODERNIZATION PROJECT AMENDMENT TO CONSOLIDATED
ANNUAL CONTRIBUTIONS CONTRACT FOR MODERNIZATION
OF SECTION 23 LEASED HOUSING BOND-FINANCED PROJECTS**

1. Leased Housing Bond-Financed Modernization Project Number _____
2. Individual Leased Housing Bond-Financed Project Number(s) _____
3. Amendment to Annual Contributions Contract Number _____
dated _____ (the "Contract")

TERMS

4. This Contract is amended to assist in financing modernization of the Individual Leased Housing Bond-Financed Project(s) listed above. This amendment is a part of the Contract.
5. The following provisions shall be applicable to the Modernization Project:
- Number and Date of Modernization List _____
 - Maximum Modernization Cost _____
 - Contract Authority _____
 - Minimum Loan Interest Rate _____
 - Maximum Debt Service Contribution Percentage _____
6. The modernization work shall be carried out in accordance with all HUD regulations and other requirements applicable to the public housing modernization program. The PHA agrees to comply with these regulations and requirements.
7. The modernization work to be carried out is described in a Modernization Program, a statement of the basic elements of the Modernization Project. The Modernization Program has been adopted by the PHA and approved by HUD, and may be revised from time to time by agreement between HUD and the PHA. The PHA agrees to carry out the modernization work in accordance with the Modernization Program.
8. a. The Modernization Program includes a budget stating the maximum amounts approved by HUD for the modernization work. The PHA shall not incur Modernization Cost over the amount approved in the budget for the Modernization Project. The PHA shall not incur Modernization Cost over the amounts approved in the budget for each Individual Project or for any work item, except in accordance with a HUD-approved budget revision.
- b. Modernization Cost means Development Cost for the modernization work.
- c. The Maximum Modernization Cost for the Modernization Project is stated in Section 5 to this amendment. The PHA shall complete the modernization work at the lowest possible cost in accordance with the approved Modernization Program, and in no event in excess of the Maximum Modernization Cost for the Modernization Project.
9. a. Subject to the provisions of Part II of this Contract, and to assist in the modernization, HUD agrees to lend to the PHA up to the amount of the Maximum Loan Commitment. The Maximum Loan Commitment shall be equal to the Maximum Modernization Cost for the Modernization Project, as stated in Section 5, or the approved Actual Modernization Cost of the Modernization Project, if the Actual Modernization Cost Certificate has been approved, less the amount by which advances against the HUD loan provided for in this Contract for the Modernization Project, and Project Notes issued for the Modernization Project, have been retired with funds other than loans provided under this Contract. The Maximum Loan Commitment under this Contract for a Modernization Project shall in no event be less than the aggregate amount of the outstanding advances against the HUD loan provided for in this Contract, and advances HUD has agreed to make against such HUD loan to secure Project Notes issued for the Modernization Project.
- b. Each advance on account of the HUD loan for the Modernization shall bear interest on the unrepaid principal amount from the date the advance is made to the date of repayment at the rate or rates which HUD determines on the date such advance is made and redetermines on each anniversary of such date to be equal to the rate per annum on Treasury borrowings by HUD pursuant to Section 4(b) of the Act, however, the interest rate for each advance shall not be less than the "Minimum Loan Interest Rate" determined by HUD pursuant to Section 4(a) of the Act and specified in Section 5 to this amendment.
10. After issuance of the Actual Modernization Cost Certificate (in accordance with Section 405 of Part II of the Contract), Section 5 to this amendment shall be amended as follows:
- To state the Actual Modernization Cost in lieu of the Maximum Modernization Cost.

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- b. To reduce the amount of contract authority for the Modernization Project to an amount equal to the product of the Maximum Debt Service Contribution Percentage times the Actual Modernization Cost
- 11 a. HUD shall make Debt Service Annual Contributions to the PHA for the Modernization Project
 - b. The first Debt Service Annual Contribution shall accrue and be payable on the first Annual Contributions Date after the effective date of this amendment, and shall be disbursed to the PHA no later than the second Annual Contributions Date after the effective date. The first Debt Service Annual Contribution shall be an amount equal to the Maximum Debt Service Contribution Percentage times the Maximum Modernization Cost
 - c. The second and subsequent Debt Service Annual Contributions shall be payable on each Annual Contributions Date after the date on which the first Debt Service Annual Contribution is payable for the Modernization Project. HUD shall pay no more than twenty Debt Service Annual Contributions for the Modernization Project. The second and subsequent Debt Service Annual Contributions shall be in the amounts determined in accordance with Section 415 of Part II of the Contract.
 - d. The Maximum Contribution Period for the Modernization Project shall begin on the date the first Debt Service Annual Contribution is payable under paragraph b of this Section, and shall continue for twenty years
- 12. Upon payment in full of all indebtedness of the PHA in connection with the Modernization Project for which Debt Service Annual Contributions are pledged and of any other indebtedness of the PHA to HUD in connection with such Modernization Project, all obligations of HUD and the PHA shall terminate except as provided in Section 406(C) of Part II of the Contract with respect to operating reserves: Provided, however, that the provisions of Section 303(B) or (C) of Part II of the Contract shall remain in effect so long as HUD determines that there is an outstanding indebtedness of the PHA to HUD which arise in connection with any Individual Project or Projects under the Contract and is not eligible for payment from annual contributions, and provided further that for a period of ten years following the last payment of operating subsidy to the PHA, any disposition or demolition of any Individual Project buildings or realty shall be accomplished in accordance with HUD regulations and requirements and the PHA shall continue to operate the Individual Project(s) as low-income housing under the Contract in accordance with HUD regulations and requirements
- 13. Section 404 of Part II of the Contract shall not be applicable to the Modernization Project.
- 14. If the PHA does not comply with any of its obligations under this amendment, HUD may direct the PHA to terminate work on all or any part of the work described in the Modernization Program. The PHA shall not incur any additional cost for the terminated work without HUD approval.
- 15. a. Under the Constitution and laws of the State, the Modernization Project and each Individual Project are exempt from all real and personal property taxes levied or imposed by the State, city, county or other political subdivision.
 - b. An agreement or agreements, identified as follows, have been adopted and executed by the governing body of each locality in which each Individual Project is located, providing for the local cooperation required by HUD under the Act.
- 16. The PHA certifies that clear title will be conveyed to or vest in the PHA at the end of the Section 23 lease term in accordance with the Lease Agreement and Trust Indenture.

<u>Individual Project No.</u>	<u>Governing Body of Locality</u>	<u>Date</u>
-------------------------------	-----------------------------------	-------------

- 17. After expiration of the respective lease terms, the PHA shall continue to operate each Individual Project as low-income housing in compliance with the Contract, the Act and all HUD regulations and requirements for so long as HUD and the PHA have any further obligations under this amendment or the Contract with respect to the Modernization Project or the Individual Project(s).

The parties have caused this amendment to be effective as of the date of execution on behalf of the United States, as stated below:

(Seal)
Attest

(Public Housing Agency)

By _____
(Chairman)

Date _____

UNITED STATES OF AMERICA
Secretary of Housing and Urban Development

By _____

(Official Title)

Date _____

HUD-62008 (8-81)



7485.1 REV-2

APPENDIX 18

(RESERVED)

PHA _____
 HUD-Established Threshold _____

SAMPLE MODERNIZATION CONTRACT STATUS CONTROL LOG

RMS No. HI-00445R

		Architect/Engineer Agreement					Bidding Documents			Contract Award				Contract Changes			Contract Settlement			
Mod Project Number	Indiv. Project Number	Date Rec'd	Action Taken	Date Letter To PHA	Amount & Date of Execution	Description of Contract	Date Rec'd	Action Taken	Date Letter To PHA	Date Rec'd	Action Taken	Date Letter To PHA	Budget Amount	Amount & Date of Award	Date Rec'd	Action Taken	Date Letter To PHA	Date Rec'd	Action Taken	Date Letter To PHA



RMS NO. HI-00446R

SAMPLE MODERNIZATION REQUISITION FOR FUNDS CONTROL LOG

Individual Project No. or Modernization Project No. VA-30-901

Public Housing Agency USA Housing Authority

Federal Fiscal Year	Allocation (Phase No.)	Date HUD-5402 Received	Amount Requested (Phase No.)	Amount Approved	Cumulative Amount Approved	Dir. Advance (DA) or Prof. Note (PN)	Funds Available for Requisition	Remarks
1979	\$ 250,000		\$	\$	\$		\$ 250,000	ACC amendment executed on 11/29/79
		1/15/80	20,000	20,000	20,000	DA	230,000	HUD-5402 to RO on 1/16/80
		6/24/80	150,000	150,000	170,000	PN	80,000	HUD-5402 to RO on 6/25/80 PN Closing on 8/2/80
		9/14/80	60,000	20,000	190,000	DA	60,000	HUD-5402 to RO on 9/14/80

SAMPLE MODERNIZATION REQUISITION FOR FUNDS CONTROL LOG

Public Housing Agency USA Housing Authority

Individual Project No. or
Modernization Project No. VA-30-5

Federal Fiscal Year	Allocation (Phase No.)	Date HUD-5402 Received	Amount Requested (Phase No.)	Amount Approved	Cumulative Amount Approved	Dir. Advance (DA) or Proj. Note (PN)	Funds Available for Requisition	Remarks
1976	\$ 100,000 (Phase 76-02)		\$	\$	\$		\$ 100,000	ACC amendment executed on 12/15/76
		2/28/77	25,000 (Phase 76-02)	15,000	15,000	DA	85,000	HUD-5402 to RO on 3/1/77
		5/1/77	40,000 (Phase 76-02)	40,000	55,000	PN	45,000	HUD-5402 to RO on 5/2/77 PN Closing on 7/11/77
1977	75,000 (Phase 77-03)						120,000	ACC amendment executed on 11/13/77

Form Approved
OMB No. 2502-0188

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT LOW-INCOME PUBLIC HOUSING PROGRAM REQUISITION FOR FUNDS MODERNIZATION - PROJECT NOTES Department of Housing and Urban Development			NUMBER	
We hereby request an advance of \$ <u>285,000</u> under our:				
1/ Preliminary Loan Contract Number _____ and				
2/ Annual Contributions Contract Number <u>A-1234</u> and				
3/ _____				
to be paid to: <u>National Bank, P.O. Box 000, Anywhere, Virginia 23546</u> <u>363-47-5899</u> (General Depository and Account Number)				
1/ The Public Housing Agency (PHA)				
2/ Paying Agents as provided in Requisition Agreement Number _____				
For account of:				
Project number	Note Number	Amount	DEDUCTIONS FOR APPLICATION TO REPAYMENT OF PRELIMINARY LOAN 2/	
			Principal	Interest
VA-70-1M		\$ 100,000	\$	\$
VA-70-3M		75,000		
VA-70-901		50,000		
VA-70-902		60,000		
We hereby certify that all applicable provisions of the contract, including those relating to the payment of prevailing salaries and wages, have been complied with by the FHA, that no litigation is pending or threatened which would materially affect the planning, development, operation, or financing of any project covered by the contract, that the PHA is not in default under any of the provisions of the contract, and that the people of the locality in which any such project is situated have not (either by vote of the governing body of such locality, or by referendum) indicated that they do not want such project.				
FOR PHA USE ONLY			FOR HUD USE ONLY	
NAME AND ADDRESS (include ZIP Code) OF PUBLIC HOUSING AGENCY			APPROVED (Signature of Official Authorized to Approve)	
URA Housing Authority P.O. box 1122 Anywhere, Virginia 23546			TITLE	
TITLE			CONCURRENCE (Signature of Project Financing Specialist) (Direct Advance Only)	
DATE				
Direct Advance to be repaid from proceeds of Project Note Sale closing _____				
1/ Cross out lines not applicable. 2/ Indicate Preliminary Loan Note, Advance Note or Permanent Note. 3/ Show the principal amount of deduction (if any) applicable in repayment of preliminary loans, by Project. Interest will be computed by HUD.				
FOR HUD USE ONLY (Interest and Program Accounting Group, 11-7)				
VERIFIED	DATE	AUTHORIZED CERTIFYING OFFICER - INITIALS ONLY		DATE
BF-1106 NUMBER	DATE	AMOUNT OF CHECK		
Interest Accrues From				
SECURITY TYPE	PRINCIPAL PURCHASES	INTEREST PURCHASES	ACCRUED INTEREST (1/1/1111)	JOURNAL VOUCHER NUMBER
SECURITY NUMBER				PREPARED BY
PUBLIC LAW				APPROVED BY
INTEREST RATE				COMMIT LOT NUMBER
NUMBER OF INTEREST DAYS				SECURITY LOT NUMBER

Previous Edition is Obsolete

HEID-840L (4-78)

Form Approved
OMB No. 2502-0188

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT LOW-INCOME PUBLIC HOUSING PROGRAM			NUMBER		
REQUISITION FOR FUNDS					
MODERNIZATION - DIRECT ADVANCES					
Department of Housing and Urban Development					
We hereby request an advance of \$ <u>90,000</u> under our:					
1. Preliminary Loan Contract Number _____ and					
2. Annual Contributions Contract Number <u>A-1234</u> and					
3. _____					
to be paid to <u>National Bank, P.O. Box 099, Anywhere, Virginia 23546</u> <u>365-47-5859</u>					
<i>(General Depository and Account Number)</i>					
1. The Public Housing Agency (PHA) _____					
2. Paying Agents as provided in Requisition Agreement Number _____					
for account of _____					
Project number	Note Number	Amount	DEDUCTIONS FOR APPLICATION TO REPAYMENT OF PRELIMINARY LOAN 1/		
			Principal	Interest	
VA-30-1M		D \$15,000	\$	\$	
VA-30-2M		20,000			
VA-30-4M		10,000			
VA-30-901		30,000			
VA-30-902		15,000			
We hereby certify that all applicable provisions of the contract, including those relating to the payment of prevailing salaries and wages, have been complied with by the PHA, that no litigation is pending or threatened which would materially affect the planning, development, operation, or financing of any project covered by the contract, that the PHA is not in default under any of the provisions of the contract; and that the people of the locality in which any such project is situated have not (either by vote of the governing body of such locality, or by referendum) indicated that they do not want such project.					
FOR PHA USE ONLY			FOR HUD USE ONLY		
NAME AND ADDRESS (include ZIP Code) OF PUBLIC HOUSING AGENCY			APPROVED (Signature of Official Authorized to Approve)		
USA Housing Authority P.O. Box 1122 Anywhere, Virginia 23546			TITLE		
			BY		
TITLE			CONCURRENCE (Signature of Project Financing Specialist) (Direct Advances Only)		
DATE					
Direct Advance to be repaid from proceeds of Project Note Sale closing _____					
1/ Cross out lines not applicable. 2/ Indicate Preliminary Loan Note, Advance Note or Permanent Note. 3/ Show the principal amount of deduction (if any) applicable in repayment of preliminary loans, by Project. Interest will be computed by HUD.					
FOR HUD USE ONLY (Central and Program Accounting Group, 11/1)					
VERIFIED	DATE	AUTHORIZED CERTIFYING OFFICER: INITIALS ONLY		DATE	
SP-1166 NUMBER	DATE	AMOUNT OF CHECK			
Interest Accrues From _____					
SECURITY TYPE	SECURITY NUMBER	PRINCIPAL PURCHASES	INTEREST PURCHASES	ACCRUED INTEREST (1/2/3/4/5)	JOURNAL VOUCHER NUMBER
PUBLIC LAW <td></td> <td></td> <td></td> <td></td> <td>PREPARED BY</td>					PREPARED BY
INTEREST RATE					APPROVED BY
NUMBER OF INTEREST PAYS					COMMIT LOT NUMBER
					SECURITY LOT NUMBER

Previous Edition is Obsolete

HUD-5402 (4-78)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM
SCHEDULE/REPORT OF MODERNIZATION EXPENDITURES
PART I - SUMMARY - MODERNIZATION PROJECT EXPENDITURES

NAME OF PHA		ABBREVIATED MODERNIZATION PROJECT NUMBER		REPORT FOR _____ QUARTER OF FFY 19 _____		DATE SUBMITTED		PAGE _____ OF _____	
CONTROL NUMBER	TOTAL FUNDS APPROVED	TOTAL FUNDS OBLIGATED	TOTAL FUNDS ADVANCED	TOTAL FUNDS EXPENDED	COMPLETION	QUARTER AND FFY OF END OF IMPLEMENTATION PERIOD	COMMENTS		
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		
MODERNIZATION PROJECT TOTAL									
I hereby certify that the above information is true and accurate, and that the planned PHA inspections as specified in the Modernization Organization and Staffing Plan have been performed.									
SIGNATURE OF EXECUTIVE DIRECTOR OR DESIGNEE							DATE		

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12/83

APPENDIX 23

7485.1 REV-2

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM SCHEDULE/REPORT OF MODERNIZATION EXPENDITURES PART II - INDIVIDUAL PROJECT EXPENDITURES				
NAME OF PHA	ABBREVIATED MODERNIZATION PROJECT NUMBER	PAGE ____ OF ____		
INDIVIDUAL PROJECT NUMBER	REPORT FOR _____ QUARTER OF FEDERAL FISCAL YEAR 19 ____			
SUMMARY BY DEVELOPMENT ACCOUNT	TOTAL FUNDS APPROVED	TOTAL FUNDS OBLIGATED	TOTAL FUNDS EXPENDED	
			PLANNED	ACTUAL
1408 Management Improvements				
1410 Administration				
1415 Liquidated Damages				
1430 Fees and Costs				
1440 Site Acquisition				
1450 Site Improvement				
1460 Dwelling Structures				
1465.1 Dwelling Equipment - Nonexpendable				
1470 Nondwelling Structures				
1475 Nondwelling Equipment				
1495.1 Relocation Costs				
Maximum Modernization Cost				
INDIVIDUAL PROJECT NUMBER				
SUMMARY BY DEVELOPMENT ACCOUNT	TOTAL FUNDS APPROVED	TOTAL FUNDS OBLIGATED	TOTAL FUNDS EXPENDED	
			PLANNED	ACTUAL
1408 Management Improvements				
1410 Administration				
1415 Liquidated Damages				
1430 Fees and Costs				
1440 Site Acquisition				
1450 Site Improvement				
1460 Dwelling Structures				
1465.1 Dwelling Equipment - Nonexpendable				
1470 Nondwelling Structures				
1475 Nondwelling Equipment				
1495.1 Relocation Costs				
Maximum Modernization Cost				

HUD-52826 (4-82)

**INSTRUCTIONS FOR PREPARATION OF SCHEDULE/REPORT OF MODERNIZATION EXPENDITURES,
FORM HUD-52826**

REPORT SUBMISSION

Where a modernization program has been approved by HUD, submit the original and three copies (or any lesser number of copies as specified by HUD) of this form to HUD no later than the twentieth day of the month following the end of a quarter, i.e., January 20, April 20, July 20 and October 20, for each Modernization Project. The first quarterly report is due twenty days after the end of the start quarter, which is the first full quarter following execution of the Annual Contributions Contract (ACC) amendment.

PART I - SUMMARY - MODERNIZATION PROJECT EXPENDITURES

- 1. HEADING.** Insert the PHA Name and the Abbreviated Modernization Project Number, which is the Federal Fiscal Year (FFY) in which the Modernization Project was approved and two digits representing the sequential number of the Modernization Project, beginning with the first modernization funding after modernization as a separate project was implemented, e.g., 82-03. Also insert the number of the Quarter and FFY for which the form is being submitted, Date Submitted, and Page Number, e.g., Page 1 of 3.

Quarter Ending	FFY Quarter
12/31	1
3/31	2
6/30	3
9/30	4

- 2. COLUMN A, CONTROL NUMBER.** Enter the standard eight-digit number used in automatic data processing. The first two digits represent the State code, the next three digits represent the PHA code, and the last three digits represent the individual project code, e.g., 00-000-000. For a list of State codes, refer to these instructions below.
- 3. COLUMN B, TOTAL FUNDS APPROVED.** For each individual project in Column A, enter the latest HUD-approved amount of modernization funds, rounded to the nearest ten dollars.
- 4. COLUMN C, TOTAL FUNDS OBLIGATED.** For each individual project in Column A, enter the cumulative amount of modernization funds, rounded to the nearest ten dollars, obligated by the PHA for work to be performed by contract labor (i.e., contract award) and force account labor (i.e., work actually started, including funds expended on administrative salaries and management improvements). Funds that are recorded as being obligated shall remain obligated so that total funds obligated are always greater than or equal to total funds expended. Total funds obligated shall not exceed total funds approved.
- 5. COLUMN D, TOTAL FUNDS ADVANCED.** For each individual project in Column A, enter the cumulative amount of modernization funds, rounded to the nearest ten dollars, advanced by HUD to date through either direct advances or project notes. This is the amount of funds actually received, not requisitioned, by the PHA. Total funds advanced shall not exceed total funds approved.
- 6. COLUMN E, TOTAL FUNDS EXPENDED.** For each individual project in Column A, enter the amount of actual cumulative expenditures through the quarter being reported, rounded to the nearest ten dollars. Total funds expended shall not exceed total funds approved.
- 7. COLUMN F, COMPLETION.** For each individual project in Column A, enter the letter "C" if no further modernization funds will be expended. For the Modernization Project total, enter the letter "C" if no further modernization funds will be expended.
- 8. COLUMN G, QUARTER AND FFY OF END OF IMPLEMENTATION PERIOD.** For each individual project in Column A, enter the number of the latest HUD-approved quarter and FFY in which the modernization program will be completed, e.g., 1-84, which is by December 31, 1983. For determining FFY quarters, see item 1 above.
- 9. COLUMN H, COMMENTS.** For each individual project in Column A, enter any appropriate comments concerning implementation progress or problems.
- 10. TOTALING COLUMNS.** For the Modernization Project total, enter the totals of the figures in Columns B, C, D and E.

PART II - INDIVIDUAL PROJECT EXPENDITURES

- 1. GENERAL.** Prepare a separate Part II for each individual project included in the Modernization Project, except where two or more individual projects with separate project numbers are approved for Comprehensive Modernization, but are considered to be a single project because they are contiguous and constitute a single management entity. In such cases, the individual projects may be treated as one individual project for purposes of completing Part II of this form.
- 2. HEADING.** Insert the PHA Name, Individual Project Number, Abbreviated Modernization Project Number, number of the Quarter and FFY for which the form is being submitted, and Page Number, e.g., Page 2 of 3.
- 3. COLUMNS.** For each development account, enter the total modernization funds approved by HUD, obligated by the PHA, and actually expended by the PHA. The development accounts are the same as those on Part I of Form HUD-52825, Comprehensive Assessment/Program Budget.

4. **TOTAL FUNDS EXPENDED-PLANNED.** When the first quarterly report is submitted, enter the cumulative planned expenditures for each development account for the first year (4 quarters) of the implementation period. These planned expenditures shall remain the same until the fifth, ninth, thirteenth or seventeenth quarters of the implementation period, when planned expenditures for the second or a subsequent year of the implementation period shall be updated to show an additional year. For example, if the total planned expenditures are estimated to be \$100,000 for the first year and \$300,000 for the second year, the PHA would update the first year estimates when the fifth quarterly report is submitted to show \$400,000 total planned expenditures through the second year of implementation.

**INSTRUCTIONS FOR ADAPTING FORM FOR USE FOR MODERNIZATION PROGRAMS APPROVED BETWEEN
FFYS 1975 AND 1981**

- For modernization programs approved before modernization as separate project was implemented (July 1, 1979), the PHA shall insert, on Parts I and II, the Phase Number in lieu of the Abbreviated Modernization Project Number. The Phase Number is the FFY in which the modernization program was approved and the sequential number of the modernization program, e.g., 77-06.
- On Part II, the development accounts are at a higher level of summary. The PHA shall enter the total modernization funds approved by HUD, obligated by the PHA and actually expended by the PHA which are consistent with the latest HUD-approved Form HUD-52990, Modernization Program Budget.
- On Part II, the PHA shall enter the cumulative planned expenditures for the balance of the implementation year at the time the form is first submitted. Thereafter, the PHA shall follow the instructions set forth in Item 4 of Part II.

STATE CODES

The following is a list of the state codes. The applicable state code is the first two digits of the Control Number.

<u>State or Possession</u>	<u>Code</u>	<u>State or Possession</u>	<u>Code</u>
Alabama	01	Ohio	39
Alaska	02	Oklahoma	40
Arizona	04	Oregon	41
Arkansas	05	Pennsylvania	42
California	06	Rhode Island	44
Colorado	08	South Carolina	45
Connecticut	09	South Dakota	46
Delaware	10	Tennessee	47
District of Columbia	11	Texas	48
Florida	12	Utah	49
Georgia	13	Vermont	50
Hawaii	15	Virginia	51
Idaho	16	Washington	53
Illinois	17	West Virginia	54
Indiana	18	Wisconsin	55
Iowa	19	Wyoming	56
Kansas	20	American Samoa	60
Kentucky	21	Canal Zone	61
Louisiana	22	Canton and	
Maine	23	Enderbury Isl(s)	62
Maryland	24	Guam	66
Massachusetts	25	Johnston Atoll	67
Michigan	26	Midway Islands	71
Minnesota	27	Puerto Rico	72
Mississippi	28	Ryukyu Islands	
Missouri	29	South	73
Montana	30	Swan Islands	74
Nebraska	31	Trust Territories of	
Nevada	32	Pacific Islands	75
New Hampshire	33	Misc. Caribbean	
New Jersey	34	Islands (U.S.)	76
New Mexico	35	Misc. Pacific	
New York	36	Islands (U.S.)	77
North Carolina	37	Virgin Islands	78
North Dakota	38	Wake Island	79

SAMPLE FIELD OFFICE SUMMARY REPORT ON ALL MODERNIZATION APPROVED AFTER FFY 1974

Form Approved
OMB No. 2502-0215

FFYs 1975-1983

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM
SCHEDULE/REPORT OF MODERNIZATION EXPENDITURES
PART I - SUMMARY - MODERNIZATION PROJECT EXPENDITURES

FIELD OFFICE _____		ABBREVIATED MODERNIZATION PROJECT NUMBER		REPORT FOR _____ QUARTER OF FFY 19 _____		DATE SUBMITTED _____		PAGE _____ OF _____	
FFY	TOTAL FUNDS APPROVED	TOTAL FUNDS OBLIGATED	TOTAL FUNDS ADVANCED	TOTAL FUNDS EXPENDED	COMPLETION	QUARTER AND FFY OF END OF IMPLEMENTATION PERIOD	COMMENTS		
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		
1975									
1976									
1977									
1978									
1979									
1980									
1981									
1982									
1983									
FIELD OFFICE TOTAL									
<p>I hereby certify that the above information is true and accurate, and that the planned SNA is approved by the Modernization Organization of the Department of Housing and Urban Development.</p>									
SIGNATURE OF MANAGER _____						DATE _____			

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HUD-52826 (4-82)
PART I

APPENDIX 24

7485.1 REV-1

SAMPLE REGIONAL OFFICE SUMMARY REPORT ON ALL MODERNIZATION APPROVED AFTER FFY 1974

Form Approved
OMB No. 2502-021R

FFYS 1975-1983

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM
SCHEDULE/REPORT OF MODERNIZATION EXPENDITURES
PART I - SUMMARY - MODERNIZATION PROJECT EXPENDITURES

REGIONAL OFFICE		ABBREVIATED MODERNIZATION PROJECT NUMBER		REPORT FOR _____ QUARTER OF FFY 19 _____		DATE SUBMITTED		PAGE _____ OF _____	
FFY	TOTAL FUNDS APPROVED	TOTAL FUNDS OBLIGATED	TOTAL FUNDS ADVANCED	TOTAL FUNDS EXPENDED	COMPLETION	QUARTER AND FFY OF END OF IMPL. MENTATION PERIOD	COMMENTS		
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		
1975									
1976									
1977									
1978									
1979									
1980									
1981									
1982									
1983									
REGIONAL OFFICE TOTAL									
SIGNATURE OF REGIONAL ADMINISTRATOR						DATE			

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APPENDIX 26

7485.1 REV-2

HUD-52826 (4-82)
PART 1



SAMPLE CHECKLIST FOR MONITORING OF PHYSICAL IMPROVEMENTS

PHA Name: _____ Field Office Engineer: _____
 Modernization Project _____ Date: _____
 or Phase No: _____
 Project No: _____

ITEMS	YES	NO	COMMENTS
1. Site inspections being conducted by the PHA or its architect/engineer are adequate to ensure that PHA interests are being preserved.			
2. Contractor is providing adequate supervision and direction of the work.			
3. Material and workmanship conform to contract requirements.			
4. Architect/engineer is keeping the PHA informed of work progress and endeavoring to guard against defects and deficiencies in the contractor's work.			
5. Architect's/engineer's decisions and interpretations are consistent with the intent of and reasonably inferable from the contract documents.			
6. Architect/engineer revises and approves or takes other appropriate action upon contractor's submittal of shop drawings and product data and samples, with reasonable promptness so as to cause no delay.			
7. Premises are being kept free from accumulation of waste materials or rubbish caused by the contractor.			
8. There are no observable safety violations.			
9. Where applicable, PHA has used competitive negotiation process to obtain professional services.			
10. Where architect's/engineer's contracts were not reviewed by HUD before execution:			
a. PHA certifications are on file and are correct; and			

SAMPLE CHECKLIST FOR MONITORING OF PHYSICAL IMPROVEMENTS

ITEMS	YES	NO	COMMENTS
b. HUD-established threshold is correct.			
11. Where construction and bid documents were not reviewed by HUD before bid advertisement:			
a. PHA certifications are on file and are correct; and			
b. HUD-established threshold is correct.			
12. Where proposed contracts were not reviewed by HUD before award:			
a. PHA certifications are on file and are correct; and			
b. Additional PHA submissions are not required.			
13. PHA has sent required notices of contract awards to Regional Office of Department of Labor.			
14. PHA has sent copies of all executed contract documents to HUD.			
15. PHA disapproval of any subcontractor was for justifiable cause.			
16. PHA has cleared each subcontractor with regard to the HUD Consolidated List of Debarred, Suspended, or Ineligible Contractors and Grantees.			
17. PHA has obtained certificates of insurance from each contractor and subcontractor.			
18. Where change orders were not reviewed by HUD before issuance:			
a. PHA certifications are on file and are correct; and			
b. HUD-established threshold is correct.			
19. PHA is properly approving time extensions.			

FOR MODERNIZATION PROGRAMS APPROVED BEFORE MODERNIZATION AS A SEPARATE PROJECT Form Approved
 WAS IMPLEMENTED OMB No. 2502-0219

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 LOW-INCOME HOUSING PROGRAM

ACTUAL MODERNIZATION COST CERTIFICATE

NAME OF PUBLIC HOUSING AGENCY URA Housing Authority		ANNUAL CONTRIBUTIONS CONTRACT NUMBER A-1234				
LOCALITY Anywhere, Virginia		MODERNIZATION PROJECT NUMBER 75-04 (Phase Number)				
The Public Housing Agency hereby certifies to the Department of Housing and Urban Development as follows:						
1. That the total amount of Modernization Cost (herein called the "Actual Modernization Cost") of the Project(s), approved in Federal fiscal year _____, is as shown below:						
	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	MODERNIZATION PROJECT TOTAL
a. Funds Approved (ICC)	340,000. 00	260,000. 00				600,000.00
b. Funds Approved (Latest Budget)	340,000. 00	260,000. 00				600,000.00
c. Funds Advanced	338,000. 00	260,000. 00				598,000.00
d. Funds Expended (Actual Modernization Cost)	335,000. 00	259,000. 00				594,000.00
e. Excess of Funds Approved (a-d)	5,000. 00	1,000. 00				6,000.00
f. Excess of Funds Advanced (c-d)	3,000. 00	1,000. 00				4,000.00
2. That all modernization work in connection with the Project(s) has been completed;						
3. That the entire Actual Modernization Cost or liabilities therefor incurred by the PHA have been fully paid;						
4. That there are no undischarged mechanics', laborers', contractors', or material-men's liens against such Project(s) on file in any public office where the same should be filed in order to be valid against such Project(s); and						
5. That the time in which such liens could be filed has expired.						
DATE	SIGNATURE OF EXECUTIVE DIRECTOR					
FOR HUD USE ONLY						
The audited costs agree with the costs shown above.						
DATE	VERIFIED (Director, Housing Division)					
DATE	APPROVED (Field Office Director)					
No further modernization monies may be approved unless an actual modernization cost certificate is filed at HUD's request upon completion of a modernization program.						

FOR MODERNIZATION PROGRAMS APPROVED AFTER MODERNIZATION AS A SEPARATE PROJECT FORM APPROVED
 WAS IMPLEMENTED

OHB No. 2502-0219

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT LOW-INCOME HOUSING PROGRAM ACTUAL MODERNIZATION COST CERTIFICATE						
NAME OF PUBLIC HOUSING AGENCY USA Housing Authority				ANNUAL CONTRIBUTIONS CONTRACT NUMBER A-1234		
LOCALITY Anywhere, Virginia				MODERNIZATION PROJECT NUMBER 79-VA-30-901		
The Public Housing Agency hereby certifies to the Department of Housing and Urban Development as follows:						
1. That the total amount of Modernization Cost (herein called the "Actual Modernization Cost") of the Project(s), approved in Federal fiscal year _____, is as shown below:						
	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	INDIVIDUAL PROJECT NUMBER	MODERNIZATION PROJECT TOTAL
a. Funds Approved (ICC)	709,530.00	538,710.00				1,248,240.00
b. Funds Approved (Latest Budget)	709,530.00	538,710.00				1,248,240.00
c. Funds Advanced	709,530.00	538,710.00				1,248,240.00
d. Funds Expended (Actual Modernization Cost)	709,530.00	537,710.00				1,247,240.00
e. Excess of Funds Approved (a-d)	709,530.00	538,710.00				1,000.00
f. Excess of Funds Advanced (c-d)	709,530.00	538,710.00				1,000.00
2. That all modernization work in connection with the Project(s) has been completed;						
3. That the entire Actual Modernization Cost or liability therefor incurred by the PHA have been fully paid;						
4. That there are no undischarged mechanics', laborers', contractors', or material-men's liens against such Project(s) on file in any public office where the same should be filed in order to be valid against such Project(s); and						
5. That the time in which such liens could be filed has expired.						
DATE		SIGNATURE OF EXECUTIVE DIRECTOR				
FOR HUD USE ONLY						
The audited costs agree with the costs shown above.						
DATE		VERIFIED (Director, Housing Division)				
DATE		APPROVED (Field Office Director)				
No further modernization monies may be approved unless an actual modernization cost certificate is filed at HUD's request upon completion of a modernization program.						

Previous Edition is Obsolete

HUD-13001 (6-78)

**INSTRUCTIONS FOR PREPARATION OF FORM HUD 53001
ACTUAL MODERNIZATION COST CERTIFICATE**

GENERAL INSTRUCTIONS:

Prepare a separate Actual Modernization Cost Certificate for each terminated or completed Modernization Project. Use as many pages of this form as necessary to cover all of the individual projects included in the Modernization Project. Submit the original and one copy of this form to HUD upon termination or completion of the Modernization Project.

HEADING INSTRUCTIONS:

In the upper left corner, insert the PHA Name and Locality (*city/county and State where the PHA Central Office is located*). In the upper right corner, insert the Annual Contributions Contract (ACC) Number and Modernization Project Number, which was previously entered on Form HUD-52990, Modernization Program Budget.

LINE INSTRUCTIONS:

Enter only modernization funds provided by HUD for the Modernization Project. Enter all figures in dollars and cents.

1. Line 1a, Funds Approved (ACC). For the Modernization Project, enter the total funds as they were originally approved through amendment to the ACC. Do not enter any figures for individual projects included in the Modernization Project.
2. Line 1b, Funds Approved (Latest Budget). For each individual project included in the Modernization Project, enter the latest HUD-approved funds through revisions to Form HUD-52990. Also enter the total funds approved for the Modernization Project, which is the same total entered on Line 1a.
3. Line 1c, Funds Advanced. For the Modernization Project, enter the total funds advanced by HUD through either direct advances or project notes. Do not enter any figures for individual projects included in the Modernization Project.
4. Line 1d, Funds Expended. For each individual project included in the Modernization Project, enter the funds actually expended. Also enter the total funds expended for the Modernization Project.
5. Line 1e, Excess of Funds Approved. For the Modernization Project, enter the total excess of funds approved by subtracting the total on Line 1d from the total on Line 1a. If Line 1d is greater than Line 1a, enter the figure in brackets. Do not enter any figures for individual projects included in the Modernization Project.
6. Line 1f, Excess of Funds Advanced. For the Modernization Project, enter the total excess of funds advanced by subtracting the total on Line 1d from the total on Line 1c. Do not enter any figures for individual projects included in the Modernization Project.

**INSTRUCTIONS FOR ADAPTING FORM FOR USE FOR MODERNIZATION PROGRAMS APPROVED BEFORE
MODERNIZATION AS A SEPARATE PROJECT WAS IMPLEMENTED:**

1. In the upper right corner, insert the Phase Number in lieu of the Modernization Project Number. The Phase Number is the Federal fiscal year in which the modernization program was approved and the sequential number of the modernization program, e.g., 75-04.
2. For Lines 1a, 1c, 1e, and 1f, enter the funds approved (ACC), funds advanced, excess of funds approved, and excess of funds advanced, respectively, for each individual project.
3. Enter the Modernization Program Total in lieu of the Modernization Project Total.

U.S. Department of Housing and Urban Development
Office of Housing

Washington, D.C. 20410

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HUD-401



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
H O U S I N G

TRANSMITTAL

7460.8

8/24/81

-
1. This Transmits:
A new HUD Handbook 7460.8, Procurement Handbook for Public Housing Agencies, dated 8/81.
 2. Purpose:
This Handbook concerns procurement practices, policy and procedures. It is a guide for use by Public Housing Agencies (PHAs) when purchasing supplies and services needed to manage projects with economy and efficiency and corresponding savings in subsidy costs to the Government.



Assistant Secretary for Housing-
Federal Housing Commissioner

H:DISTRIBUTION: W-1, W-2, W-3, W-3-1, W-4, R-1, R-2, R-3, R-3-1(H),
R-3-2, R-4, R-4-1, R-4-2, R-5, R-5-1, R-5-2, 138, 045, 061



Handbook

7460.8

U.S. Department of Housing and Urban Development
Washington, D.C. 20410
Office of Housing

Program Participants and Departmental Staff

August 1981

Procurement Handbook for Public Housing Agencies

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CHAPTER 1. INTRODUCTION

- 1-1. PURPOSE. This Handbook concerns procurement practice, policies and procedures for Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) to enter into and administer contracts for purchasing supplies and services needed to manage existing projects including public housing and modernization work. It is not intended for use in preparing contracts for new construction because other administrative controls apply and the construction contracts are closely monitored by a HUD Field Office. However, many of the procurement practices herein are also appropriate for construction contracts. All references to PHAs in this Handbook shall also include IHAs except where separate or specific procedures are written for IHAs.
- 1-2. GENERAL INFORMATION. This Handbook provides procedures and guidelines for the procurement of supplies, equipment and services by PHAs, to ensure that they are obtained efficiently and economically, and in compliance with applicable Federal law and Executive Orders. The procedures and guidelines herein follow the procurement standards established by the Office of Management and Budget, outlined in Attachment A to OMB Circular A-102. (See Appendix 5.) Compliance with the Attachment O are not mandatory at this time. In view of the fact that they may become mandatory in the near future, PHAs should have a current OMB Circular A-102 on file and should seek to comply on a voluntary basis at this time.
- a. Financial assistance is provided to PHAs under an Annual Contributions Contract (ACC) with the Department of Housing and Urban Development (HUD). The Annual Contributions Contract establishes contractual requirements that a PHA must comply with while using HUD-assisted project funds. HUD's interest in the economic use of such funds is based on the fact that the HUD annual contribution is the amount of Federal subsidy necessary, after application of net operating income, to meet operating expenses and interest and principal payments on the indebtedness of the PHA.
 - b. A substantial portion of a PHA's operating funds are expended for the purchase of items of personal property and services required for administering PHA programs and managing its projects. This Handbook will implement the

basic obligation under the ACC that the PHA shall operate its projects in such manner as to promote serviceability, efficiency, economy, and stability. The Handbook should be used by PHAs to develop purchasing procedures that will ensure PHA compliance with this obligation.

- c. Proper purchasing practice results in monetary savings, good public relations, and avoidance of allegations of favoritism, collusion, or other improper actions. This Handbook is based on the best features of private and public practice, including past experiences and current operations of PHAs. The sample forms included are intended as guides to be adapted to suit the particular requirements of each PHA. Similarly, the suggested procedures and recommendations are intended as guides to be adapted to meet local circumstances, consistent with the ACC and HUD regulations and requirements.

1-3. DEFINITIONS.

- a. Procurement Practice. The combined actions of all individuals involved in the day-to-day procurement for an organization. Good procurement practice should result in effective and timely support of the organization's goals. Simply put, it is "what is done".
- b. Procurement Policy. That written policy which directs and to an extent limits procurement actions and practices of an organization. In short, it is the "do's and don'ts".
- c. Procedures. The "how to's" of procurement - the specific steps to do the job, using methods that have been tried and proven acceptable, and that are efficient and yet at all times ethical.
- d. Ethics. The rules or standards governing the conduct of the members of a profession; also the moral quality of a course of action.
- e. Mismanagement. Failure of those charged with management responsibilities to accomplish the goals and objectives of the program through adequate performance.

CHAPTER 2. PROCUREMENT PRACTICE AND AUTHORITY

2-1. GENERAL.

- a. Good procurement practice is both an art and a science, requiring professional ability and skill that must be developed over a long period of experience and training. Procurement practice is in a process of continual change, with new procedures and methods to be learned every day; yet the unwritten rules of exchange between individuals, the customs of trade, and the basic concepts of contract law have existed for thousands of years.
- b. Purchasing and Contracting are separate procurement functions in which one involves the other. Contracts state the terms of an anticipated or actual purchase, but not all contracts are purchases nor do they necessarily lead to a purchase. Some do create a purchase when all the terms of a purchase are stated, including the parties involved, specific quantities and prices, and time and place of delivery and payment. Other contracts may establish only the price, means of payment, method of placing orders, and a specified time period during which the terms are effective. Purchases may or may not be made under that type of contract. (The HUD Consolidated Supply Contracts are an example of the latter type.) All purchases are contracts in the broad sense, even over-the-counter sales, in that two parties agree to exchange something of value at a specific time and place. However, for the purpose of this Handbook, the contracts referred to will mean written contracts signed by properly appointed Contracting Officers or other officials duly authorized and empowered by a Federal, State or local governing body to write such contracts.

2-2. PURCHASING RESPONSIBILITY. Purchasing Clerks, Agents and Officers are normally authorized to make purchases under existing contracts and agreements; the size of purchase authorized and the complexity of each purchase separates the skill levels. The normal skill progression for a person in the procurement field is entry as a Purchasing Clerk and progress to Purchasing Agent, Purchasing Officer, and eventually promotion to Contracting Officer.

2-3. CONTRACTING RESPONSIBILITY. Contracting Officer is the highest level in the procurement field, with lateral moves possible to Contract Analysts, Contract Law, Contract Negotiation, and other

specialized contracting functions. When writing contracts, the Contracting Officer's signature binds the PHA to the contract. It is generally accepted that a PHA contract is not valid unless an authorized Contracting Officer has signed it, but there are exceptions. For instance, if the individual that signs the contract is not authorized in writing but the actions of the PHA lead a contractor to believe that the individual has contracting authority (e.g., by referring to that person as the "Contracting Officer"), the court may uphold a contract signed by that individual whether or not written contracting authority exists. If an individual has contracting authority, that individual must not bind the PHA by making an implied contract. An example would be by making a promise or statement of intent to buy, verbally or in a written request for price quotation. All actions which could be misinterpreted as committing the PHA to a purchase must be clarified with a statement such as, "This Request for Price Quotation is not an offer to buy, and must not be assumed as such."

- 2-4. PROCUREMENT AS A MANAGEMENT-ORIENTED FUNCTION. Many PHAs view procurement as a simple buying function intended as a support service for their project managers. Such an approach is no longer appropriate. Procurement as a function has become a complex process involving the expenditure of such large sums of money that it has become imperative to find ways and means of accomplishing that function in the most effective and economical manner. This requires a shift in the perception of the purchasing function. It must become management-oriented, which involves:
- a. Centralization of responsibility for procurement.
 - b. Establishment of planning and control mechanisms such as performance goals and reports on actual performance.
 - c. Installation of a reporting system that will provide management with complete, timely, accurate, and comprehensive information on the various aspects of the procurement function.
 - d. Measurement of performance against the procurement goals.

Individuals performing the procurement function at many PHAs do not have any specialized procurement experience or training. For the most part, they are clerks who have moved up into the procurement positions. Successful application of this Handbook by the PHAs will depend on (1) the staffing of the procurement

function by the PHAs with people qualified by experience and training and (2) their commitment and dedication at the direction of PHA management to effective performance of that function, using the guidance provided by this Handbook. PHAs must recognize that procurement is no longer a simple buying function, and be prepared to staff the procurement function with people who are qualified and to provide them with the training to keep abreast of developments in the purchasing field. PHAs should periodically review their entire procurement system in light of their experience and changing conditions.

- 2-5. FRAUD ASSESSMENT. Where the potential for fraud is greatest, the controls must also be greatest. For instance, when the same individual places purchase orders, receives the items purchased, and disburses the funds in payment of the purchase, there is an obvious lack of checks and balances and a high potential for fraud. Although a small PHA must at times assign multiple functions to a single individual, the PHA Board must be aware of the potential for fraud, and understand that this situation calls for continued monitoring by the Board or another responsible official.
- 2-6. CODE OF CONDUCT. PHAs shall maintain a written code or standards of conduct which shall govern their officers, employees or agents engaged in the award and administration of procurement contracts. No employee, officer or agent of the PHA shall participate in selection, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when a financial or other interest in a firm selected for award as held by:
- a. The employee, officer or agent involved in making the award;
 - b. Any member of his or her immediate family;
 - c. His or her partner; or
 - d. An organization which employs, or is about to employ, any of the above.

The PHA's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

PHAs may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

7460.8

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- (2-6) To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the PHA's officers, employees, or agents, or by contractors or their agents.

CHAPTER 3. PROCUREMENT POLICY

- 3-1. ACC PROVISIONS. Under Section 5 of Part 1 of each Annual Contribution Contract (ACC) the PHA is required to operate its projects in compliance with all provisions of the ACC and all applicable provisions of the United States Housing Act of 1937 (42 U.S.C. 1437) Section 1.1. Section 201 of Part 2 of the ACC provides that the Local Authority at all times operate each project in such manner as to promote serviceability, efficiency, economy and stability.

Section 306 of Part 2 of the ACC requires that in purchasing of equipment, materials, and supplies, and in the award of contracts for services or for repairs, maintenance, and replacements, the Local Authority shall comply with all applicable State and local laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time previously for proposals with specified exceptions.

- 3-2. ACC EXCEPTIONS TO COMPETITIVE BIDDING. The ACC requires that the PHA make purchases and award contracts only to the lowest responsible bidder after formal advertising for a sufficient time as established by the Board, except:
- a. When the amount involved in any one case does not exceed an amount specified by HUD; or
 - b. When the public exigencies require the immediate delivery of the articles or performance of the service; or
 - c. When only one source of supply is available and the purchasing or contracting officer of the Local Authority shall so certify; or
 - d. When the services required are (1) of a technical and professional nature, or (2) to be performed under Local Authority supervision and paid for on a time basis. 1/

In addition, procurement under the Consolidated Supply Program may be made without advertising, unless advertising is required by State or local law; and in the latter case, the CSP supplier should be included in the solicitation for bids (see paragraph 5-4b).

1/ Instructions contained in paragraphs 3-1 and 3-2, a through d, are taken from the Annual Contributions Contract and are binding upon PHAs.

- 3-3. THE BOARD OF COMMISSIONERS. The governing body of the PHA is normally the Board of Commissioners (the Board). It is similar in function to the board of directors of a private corporation. A PHA Commissioner is normally a non-salaried public official. The Board selects and employs the Executive Director of the PHA (referred to herein as the Director). The Director is responsible to the Board for the efficient operation of the PHA's business and for carrying out Board policies.
- 3-4. PHA POLICY. Among the specific policies which should be established by the Board of Commissioners is the procurement policy of the PHA. Although the size of a PHA will determine which positions/individuals will perform certain functions, the procurement policy should not vary by PHA size except in dollar amount limits. The Board should designate the Director as the person responsible for carrying out its policy. The Director should have the authority to then formally delegate responsibility for certain functions to positions/individuals based on the organization of the PHA and its staffing. The Director, with the assistance of HUD, may prepare the implementation of this policy. The adoption of such a policy would authorize the Director and his/her staff to make purchases, standardize administrative procedures, and furnish internal controls on purchases and contracts. It should not contain detailed procedures, but should authorize the Director to establish such procedures as he/she deems necessary to carry out the policy. All procurement policy should be established by Board resolution and entered in the minutes of the Board meeting. Paragraph 3-5 is a sample statement of procurement policy appropriate for medium-sized PHAs. Each PHA Board should prepare a procurement policy which expresses goals and limits which are appropriate for the size of the PHA.
- a. Section 7(b) of the Indian Self-Determination and Assistance Act and the Indian housing regulation, at 24 CFR 805.204, requires that Indian Housing Authorities (IHAs) give preferences in the award of contracts and subcontracts to Indian organizations and Indian-owned economic enterprises. Accordingly, an IHA's "Statement of Procurement Policy" should be modified from the Sample Statement in paragraph 3-5 to identify its Indian preference policy and requirements.
- 3-5. SAMPLE STATEMENT OF PROCUREMENT POLICY.

The following sample statement of "procurement policy" includes HUD requirements under the ACC and recommended policies for adoption by the PHA.

(3-5) Procurement Policy of the _____ (locality) _____ Housing Agency

Established by Board Action on _____ (date) _____

- "a. Purchases and contracts for equipment, materials, supplies and nonpersonal services, shall be made in the following manner:
- "(1) The Executive Director (or other qualified individuals) shall make purchases not to exceed \$ _____ (e.g., \$250) in the open market using small purchase procedures (including petty cash and blanket purchase agreements) after such inquiry as necessary to ensure that the price obtained is the most advantageous to the PHA; and the Director shall adopt procedures for audit of the petty cash fund to eliminate abuse and misuse. Specific use of the petty cash fund should be defined by the Director.
 - "(2) For purchases and contracts from \$ _____ to \$ _____ (e.g., \$250 to \$5000), the Director (or other qualified individuals) shall use competitive negotiation and invite offers orally, by telephone, or in writing from at least three suppliers if they are available in the locality. A file shall be kept with an abstract of invitations made and offers received.
 - "(3) For purchases and contracts in excess of \$ _____ (e.g., \$5000), the Director (or other qualified individuals) shall use formal advertising methods (unless otherwise justified) and shall solicit bids by advertisement in at least one newspaper of general circulation, or by mailing solicitations to bid to all available dealers, and by posting notices in public places, or by a combination of such methods. (If State or local laws require particular methods of advertising, this statement should be revised to reflect such methods.)
 - "(4) For equipment and supplies included in HUD Consolidated Supply Contracts (CSCs), purchases should be made from the contract supplier offering the lowest price without further solicitation or invitation for bids, unless required by state law or it is believed that lower prices may be available elsewhere. If the purchase is made from any supplier other than one offering the lowest price, based on a requirement for quality, availability, optional features, local service options, or other justifiable reasons, such justification shall be in

- (3-5) writing and filed with the purchase order file copy. For purchases from CSCs over \$ _____ (e.g. \$50,000) the Director shall conduct a survey of other sources to investigate the possibility that a better price may be obtained by formal advertising. A statement of the results of this survey shall be attached to the file copy of each CSC purchase over \$50,000 for audit review.
- "(5) The PHA should enter into governmental agreements to use State and local contracts, and request that the contracting agency (State, County or City) note in the contract that use by the PHA is authorized. Approval for use of these contracts should also be a part of the Board Policy regarding procurement.
- "(6) All procurement of equipment, materials, supplies and non-personal services shall be documented. Expenditures under \$ _____ (e.g. \$250) shall be supported by receipts, and purchases over that amount shall be made by standard purchase order. Each purchase, regardless of dollar amount, shall be supported by a purchase request approved by a department supervisor or higher authority. Purchase requests for over this limitation shall be stamped or signed by the Comptroller to indicate that sufficient funds are available for payment. However, the Comptroller shall not exercise approval authority. Furthermore, purchase orders and contracts for over this limitation shall be sent to the Comptroller for firm obligation of funds before purchase is made. Purchase requests shall be filed with the resulting purchase documents.
- "b. The Director shall establish written procedures to monitor the procurement actions of the staff and which will ensure compliance with the above policy. These procedures and any changes thereto will be submitted to the Board for approval.
- "c. For purchases specified in paragraphs a(2) and a(3) of this policy statement, lack of competition is permissible only when an emergency exists which permits no delay because of the possibility of injury, loss of life or destruction of property, or when only one source of supply is available and the Director or Contracting Officer shall so certify. If an award is made without competition, a formal report of such award, together with a certification or statement justifying the lack of competition shall be made to the Board. When there is competitive bidding, the award shall be made to the lowest responsible bidder who meets the requirements.

When there is no competition the best possible price shall be negotiated with the supplier.

- "d. Positive efforts shall be made by the Director to use small, minority-owned and women-owned businesses as sources for supplies and services. Such efforts should include developing a bidders mailing list for these sources, and encouraging these businesses to compete for contracts to be awarded."

3-6. CONTRACTING AUTHORITY.

- a. The Director, together with such staff as he/she may authorize, is responsible for conducting the PHA's purchasing and contracting activities; preparing bid offerings as appropriate; opening and evaluating bids; recommending bid acceptance to the Board; and negotiating competitive and non-competitive contracts. If the Board desires that the Director or a member of the staff have contracting authority, it should state in the minutes of a Board meeting that the Director or staff member is appointed as Contracting Officer. The Board should also designate which members of the staff are empowered to make purchases or sign purchase orders, and the dollar limit each is allowed for a single purchase.
- b. The Contracting Officer is a position encompassing many responsibilities. Although contracting authority flows from the PHA Board through the Executive Director, the Contracting Officer bears responsibility at the operating level, performing the tasks of contract initiation, development, negotiation, award, and subsequent contract administration throughout the life of the contract.
- c. The signature of the Contracting Officer on PHA contracts is a legal commitment, and requires continuing performance by the Contracting Officer on behalf of the PHA or performance by the PHA through the Contracting Officer under the terms of the contract. Such performance involves response to disputes and claims by the contractor, as well as consideration and acceptance or rejection of contractors' requests for changes in performance, specifications or price. The Contracting Officer may also negotiate equitable price increases if allowed under the terms of the contract or caused by changes in performance or specifications requested by the PHA.
- d. The Contracting Officer must answer all challenges to bid awards and, should a bidder or contractor elect to sue the PHA regarding any dispute or claim, the Contracting Officer

must be prepared to defend the contract in court. The signature on a contract makes the Contracting Officer responsible for that contract; this responsibility cannot be passed to subordinates who assist in contract preparation. The legal and ethical obligations of each term and clause of a contract must be understood and accepted by the Contracting Officer before the contract is signed. A higher authority signature of concurrence or approval on any cover letter of attachment to a contract does not affect the legal commitment which is the contract signature, but only signifies that the Contracting Officer's actions are in accord with the agency's policies and goals.

3-7. ACCOUNTING FOR PROCUREMENT ACTIONS.

- a. Day-to-day Operations of the PHA. The ACC, under Article III, requires that the PHA maintain complete and accurate books of account and records which permit a speedy and effective audit, and which will fully disclose the amount and disposition by the PHA of funds used in the development and operation of each project. This includes personal property records showing the acquisition and disposition of all nonexpendable equipment and a record of an annual inventory of such equipment. The Director is responsible for the annual inventory, as well as maintaining the records for this equipment. Since equipment required by the PHA is normally obtained through the purchasing department, the functions of accounting for and inventorying equipment may be assigned to that department.
- b. Nonexpendable Equipment. Attachment N to OMB Circular A-102 defines nonexpendable equipment as that personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A PHA may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.
- c. Audits. HUD and the Comptroller General of the United States have the right to audit all books, documents, papers, and records of the PHA that are pertinent to financial assistance under the ACC. The PHA is also responsible for contracting for additional audits as required by HUD, and the cost of such audits should be charged to Development Cost or Operating Expense, as appropriate. OMB Circular A-102, Attachment O, Section 14h states that negotiated contracts should contain provisions for audit.

CHAPTER 4. PROCUREMENT PROCEDURES

- 4-1. GENERAL. Compliance with the procedures herein does not relieve the PHA of any contractual responsibilities under its contracts. The PHA is responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising under contracts entered into. These include but are not limited to contractor evaluation, disputes and claims. Violations of law are to be referred to the local, State or Federal authority having proper jurisdiction.
- 4-2. AUDITS AND REVIEWS. HUD will periodically perform audits and management reviews of PHA procurement procedures to determine whether the PHA's procurement meets the standards set forth in this Handbook and to serve as an opportunity to give technical assistance to remedy any areas of the procurement procedures that do not fully comply.
- 4-3. OPEN MARKET PROCUREMENT. Any supplier should have an opportunity to compete for the business of a PHA, except where the amount of the purchase is so small that it is administratively impractical to do so, or where an IHA's procurement policy provides for preferences in soliciting bids or estimates from Indian firms. PHAs should follow this principle of free competition by soliciting bids in the open market. The extent of solicitation depends on a variety of factors, including the availability of suppliers, the amount of the purchase, the time element involved, the provisions of applicable local and State laws, and the policy of the PHA Board. In addition, special attention should be given to soliciting bids from and awarding contracts to small and minority firms, women's business enterprises, and labor surplus area firms. Discrimination in contracting practices on the basis of race, color, or national origin is a violation of Title VI of the Civil Rights Act of 1964. Procurement standards governing State and local grantee procurement, as established by the U.S. Office of Management and Budget, and outlined in Attachment O to OMB Circular A-102, paragraph 9, give the following guidelines:
- "a. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

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- "(1) Including qualified small and minority business on solicitation lists.
 - "(2) Assuring that small and minority businesses are solicited whenever they are potential sources.
 - "(3) When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum small and minority business participation.
 - "(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses.
 - "(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration, as required.
 - "(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in (1) through (5) above.
- "b. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.
- "c. Grantees are encouraged to procure goods and services from labor surplus areas."

4-4. THE PURCHASE REQUEST. (See Appendix 2 for sample.)

- a. Procurement action is normally initiated when the PHA's Purchasing Department receives a Purchase Request from another department of the PHA. The Purchase Request is an internal form prepared by a department in response to a requirement for management of a project. It may be for supplies, or services, or both. Internal procedures should be developed which limit the kinds of supplies and/or services that may be entered on one Purchase Request, and which specify exactly what information is required by the Purchasing Department. Inasmuch as the requesting department is normally most familiar with the item(s) requested, providing complete and accurate purchase information should be the responsibility of that department.

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- b. As a minimum, Purchase Request information should include:
- (1) an established unit cost;
 - (2) sufficient purchase description to simplify procurement, but not so detailed as to eliminate all suppliers except one;
 - (3) quantity to be purchased, sufficient to last a reasonable time so that repeated small purchases need not be made, but not so large as to cause storage problems or that would eliminate small suppliers from competing;
 - (4) approval for the request by department head or higher authority;
 - (5) indication by finance or accounting that funds are available; and
 - (6) time the items are required and point of delivery.

Successive or separate deliveries should be specified if it will facilitate work in progress.

4-5. PRELIMINARY STEPS.

- a. Before initiating any procurement action, the PHA should follow an established procedure which provides that proposed procurement actions will be reviewed to select the most advantageous method of purchase that is consistent with Board Policy and to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidating requests in some cases or breaking them out in others to obtain a more economical purchase. Where appropriate, an analysis should be made of leasing alternatives, and any other analysis to determine which source of supply would be the most economical.
- b. One source of supply that a PHA should consider is to purchase directly under an existing State or local contract. The PHA should enter into governmental agreements to use State and local contracts, and request that the contracting agency (State, County or City) note in the contract that use by the PHA is authorized. Approval for use of these contracts should also be a part of the Board Policy regarding procurement.

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- c. The type of procurement action, whether by small purchase procedures, formal advertising, or negotiation, should be appropriate for the particular circumstance, and should be one which results in the most efficient and economical purchase in the best interest of the PHA. However, the methods of contracting known as the "cost-plus-a-fixed fee" and "cost-plus-a-percentage-of-cost" contract should not be used by a PHA. These methods are extremely difficult to administer and monitor, and are generally considered not to be in the best interest of the purchasing agency. OMB Circular A-102, 10 U.S.C. 2306(a) and 41 U.S.C. 254(b) specifically prohibits the "cost-plus-a-percentage-of-cost" type of contract because it binds the government agency to pay costs to be incurred in the future but undetermined at the time the contract is made, plus a commission based on a percentage of these future costs. The result of such a pricing arrangement is that the profit to the contractor increases in proportion to the contractor's cost incurred in the performance of the contract.

4-6. HUD CONSOLIDATED SUPPLY PROGRAM (CSP).

- a. An alternate source that always should be considered is a direct purchase under the HUD Consolidated Supply Program contracts for common use items and equipment such as ranges, refrigerators, water heaters, paint, windows, doors, etc. The CSP objective is to assist PHAs to operate efficiently and economically and to assure the availability to PHAs of material with the extra durability required for safety and security and economical maintenance of low-income housing.
- b. The basic concept of the CSP is that HUD enters into open-end contracts with suppliers of common use items under which PHAs are entitled to make purchases through issuance of a purchase order. If the PHA adds additional requirements or clauses to the purchase other than those listed in the CSP contract, a separate PHA contract may be made. There is no guarantee to the suppliers of any specific, or minimum, volume of business under the CSP contracts, and all ordering, billing and payment is handled through direct contact between the PHAs and the suppliers without further HUD involvement. PHA use of CSP contracts in making their purchases generally results in considerable savings of both time and money over any other method of purchase available to PHAs. Copies of CSP catalogs listing current contracts and ordering information are published by HUD and distributed to each PHA. Additional copies of the catalogs may be obtained upon request from:

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Department of Housing and Urban Development
Supply Management Branch
Room 6240
451 - 7th Street S.W.
Washington, D.C. 20410
Telephone No.: (202) 755-5840

- c. PHAs should use Consolidated Supply Contracts (CSCs) in operating projects in order to take advantage of the savings they offer. To obtain delivery under a CSC, the PHA merely sends a purchase order directly to the contractor. The purchase order should state the CSC contract number, and items, quantities and prices as listed in the CSC. The contract prices may include delivery, and also may offer installation as an option. If purchase orders are issued during the development of a project, delivery of the items may be scheduled in increments to coincide with the completion of sections of the project.
- d. The CSC provides for multiple contract awards, giving the PHA the opportunity to standardize on items in use, or to select items that have features which are more suitable to the needs of the PHA. However, justification is required for any selection other than the lowest priced one as an effort to encourage purchasing at the lowest available price. If a PHA makes its selection from any contractor other than one offering the lowest price, based on a specific requirement for quality, availability, optional features, or local service options, it should have no difficulty justifying its selection. This justification must be in writing and should be filed with the purchase order file copy.
- e. Since PHAs order directly from the suppliers listed in the CSP Contract, any complaints arising from an order should be made directly to the supplier. If the complaint is not resolved by the supplier in a reasonable time, the PHA should then inform HUD in writing of the unresolved complaint. Contractor performance is monitored by HUD throughout the contract year and evaluated before new awards are made.
- f. Installed item prices in CSCs include:
 - (1) Total compliance with the Davis-Bacon Act; compliance with Equal Employment Opportunity requirements as set forth at 41 CFR Section 1-12.803.

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- (4-6)
- (2) A one year guarantee on the workmanship.
 - (3) A 100% Labor Performance Bond.
 - (4) Complete installation, according to approved shop drawings.
 - (5) Weekly progress reports of installation submitted to the PHA.
 - (6) Supervision by factory-trained personnel to assure installation is in accordance with the manufacturer's recommendations.
 - (7) Complete comprehensive and liability insurance on every job.
 - (8) Removal and disposal of all debris from the job site.
- g. If the PHA should require any bond other than the 100 percent Labor Performance Bond included in the installed item price, the contractor may add the cost of such additional bond to the total invoice charged to the PHA. If any State or local law requires licensing or registration by the contractor, such license or registration will be at the expense of the contractor.
- h. Prior to the start of any installation, the contractor should should furnish to the PHA evidence of (1) 100 percent Labor Performance Bond, and (2) complete comprehensive and liability insurance.
- i. The PHA should perform on-site inspection of every item delivered and/or installed under CSP contracts for compliance with the specifications therein. In any instance where contractor performance is questioned, the PHA is encouraged to secure the services of an independent testing laboratory to assist in the inspection and to perform field testing of the product where required.
- j. Prior to or with the contractor's invoice and request for payment to the PHA for items installed by the contractor, the contractor must furnish to the PHA full and complete payroll records as evidence of the contractor's compliance with the Davis-Bacon Act.
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CHAPTER 5. METHODS OF PROCUREMENT

- 5-1. GENERAL. Once the preliminary steps have been taken and the PHA has made a decision to initiate procurement action, a further decision must be made as to what method of procurement will be used. The PHA may use Appendix 1, Contract Process Checklist as a guide. Procurement may be made by one of the following methods:
- a. small purchase procedures;
 - b. formal advertising (competitive sealed bids);
 - c. competitive negotiation;
 - d. noncompetitive negotiation.
- 5-2. SMALL PURCHASE PROCEDURES. These are relatively simple and informal procurement methods that are appropriate when authorized by the PHA Board and do not exceed State and local law limits. The administrative cost of issuing separate purchase orders for small purchases and paying separately by issuing a check, often exceeds the cost of the items purchased. Likewise, it is usually administratively impractical to solicit bids or quotations on individual purchases involving such small amounts. The following methods are being used by many PHAs to handle such small purchases efficiently:
- a. Blanket Purchase Agreements (BPAs) are similar to charge accounts, and provide monthly invoicing. They are established by negotiating a contract for discounted purchases with local wholesale and retail supply firms. Generally, a hardware store, a plumbing supply firm, an electrical supply firm, a gasoline service station, and an office supply store provide the necessary variety. In order to avoid the appearance of sole source procurements, several of each of these types of firms should be considered as sources, with purchases made on a rotational basis.
 - (1) A fixed discount from the standard price is written into the contract. Where there is a choice among firms of the same type, the one offering the best discount is normally selected. Individuals authorized to purchase may be specified in a letter to each firm

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- (5-2) and a total dollar limit for each purchase also may be established. This letter must be updated as often as personnel changes require.
- (2) For each purchase, the supplier is requested to furnish a delivery or sales ticket describing the items and showing the cost, date delivered, and person making the purchase. The tickets are usually accumulated until the end of the month and compared with a monthly invoice from the vendor, at which time a check is issued for full payment if the delivery tickets support the invoice.
- b. Petty Cash. Petty cash funds, if established by Board policy, can be used for small purchases which cannot be obtained from BPA suppliers. The maximum amount for each purchase is established by the PHA Board as part of its policy, and the supplier's sales ticket is used to support a petty cash voucher for the purchase.
- (1) The Director may appoint one or more individuals as a Petty Cash Purchasing Agent in a letter which may be carried by the individual(s) to show suppliers the authority for making BPA purchases. This letter should also show the maximum amount for a purchase from a single vendor at one time.
- (2) The petty cash fund should be established in an amount sufficient to cover small purchases over a reasonable period, for instance one week. The petty cash agent can replenish funds by submitting vouchers to the PHA finance officer or comptroller, vouchers which have accumulated since the previous turn-in. A check is then issued for the total dollar amount of the vouchers and the check may be cashed at the petty cash agent's convenience.
- (3) The Director should establish procedures for periodic audits and frequent spot checks of the petty cash fund. The fund total should always equal the cash on hand plus the total of accumulated vouchers. The petty cash agent must never commingle personal cash with the petty cash fund. During the workday petty cash should be carried in a secure holder such as a wallet or pouch secured by a chain. Petty cash should not be taken from the PHA after work, but kept in a safe in a secure area.
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- 5-3. REASONABLE SOLICITATION. When the amount of a purchase warrants some solicitation but does not warrant formal competitive bidding, the extent of solicitation should depend on the amount involved. For smaller purchases, it may be sufficient to telephone only one supplier if the price quoted is known to be reasonable. Solicitation of quotations from three or more suppliers is recommended for larger purchases, with informal bids obtained orally, by telephone, or in writing. All oral or telephone bids should be recorded on the file copy of the purchase order or on some other form designed for that purpose. If an item is bought from time to time and the price is the same at all suppliers, it is suggested that the PHA avoid purchasing from one supplier to the exclusion of all others.
- 5-4. FORMAL ADVERTISING. (See Appendix 3 for Sample Solicitation.)
- a. In formal advertising, competitive sealed bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. An Indian Housing Authority, if provided for in its procurement policy, may solicit competitive sealed bids from Indian firms only. (See paragraph 5-14d(11) and 24 CFR 805.204a.)
 - b. When the amount and nature of a purchase justify competitive bidding or if it is required by paragraph 3-2, PHAs generally invite formal bids from suppliers located in the normal markets that ordinarily supply the locality in which the project is situated. In this manner all bidders receive equal opportunity to compete for public business and the PHA receives the benefits which flow from competition. If the required item is listed in a CSC also, the PHA should include the CSC contractor(s) in its mailing list, as the CSC contractors are obligated to submit a bid equal to or less than the price they offer in the CSC (plus the cost of bid and performance bonds, if required).
 - c. In most cases it is desirable to invite bids by mailing copies of the solicitation to prospective bidders and posting copies in the PHA office and the local Post Office. The purpose of inviting bids is to obtain the best price, and solicitations need not be limited to those in the immediate locality. Unless State or local laws require newspaper advertising, the amount of the proposed purchase normally influences the decision to advertise in newspapers.

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- d. In order for formal advertising to be effective, appropriate conditions should be present, including the following:
- (1) A complete, adequate and realistic specification or purchase description is available to bidders.
 - (2) Two or more responsible suppliers are willing and able to compete effectively for the PHA's business.
 - (3) The procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made on the basis of price.
- e. If formal advertising is used for a procurement, the following procedures apply:
- (1) A sufficient time as established by Board Policy prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
 - (2) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
 - (3) All bids shall be opened publicly at the time and place stated in the invitation for bids.
 - (4) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Prompt payment discounts may only be used to determine low bid when prior experience of the PHA indicates that such discounts are generally taken.
 - (5) All bids may be rejected when there are sound documented business reasons in the best interest of the PHA.

5-5. BID OPENING.

- a. Sealed bids received by the PHA should be delivered promptly to the Office designated for the public bid opening. The bid should be marked on the outside of the sealed wrapper

- (5-5) with the date and time of receipt with a stamp identifying the agency, and, if done manually, the receiving employee's signature should be included. To avoid unnecessary disputes, the Director should ensure that bids are delivered to the designated office unopened and without delay; and that on the day bids are to be opened, incoming mail is searched for additional sealed bids up to the time set for opening. Sealed bids should be stored in a locked bid box, cabinet, or safe until the appointed bid opening time.
- b. Bids should be publicly opened on the scheduled date and time shown in the solicitation, and read aloud to all bidders attending the opening. The reading should include the bidder's name, the bid price(s), and other data required to be submitted with the bid, such as bonds, and acknowledgment of amendments. This information should be recorded and made available for public inspection. No commitment should be made to any bidder at the bid opening. This is to permit full and complete evaluation of all bids that may be considered under the conditions allowed for late bids. Questions and disagreements raised by bidders at the opening should be taken under advisement for consideration. When the bids received have been publicly opened and read, an abstract or tabulation of bids should be prepared showing all bidders and prices bid. When only one bid is obtained, an abstract of bids should still be made, indicating why only one bid was received. Firms contacted but not bidding may be listed on the abstract as "no bid received". Even items considered to be "sole source" should be abstracted in this manner.
- c. No bid should be considered for award if the bid is not responsive to the essential requirements of the solicitation. Conditions and alternatives imposed by the bidder which give the bidder an advantage over other bidders, or limit the PHA's rights, or affect price, quantity or delivery against the best interest of the PHA, are causes for bid rejection as nonresponsive. Under the "firm bid" rule, one of the principles upon which formal advertising is based, the bidder is legally bound by the bid, as submitted, after bids have been opened. The only exception to this rule is an obvious mistake in the bid, such as a misplaced decimal.
- d. Questions often arise concerning bid and performance bonds, modifications of bids, withdrawal of bids, errors in bids, late bids, alternate bids, equal bids, etc. The following general rules may be helpful guides:

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- (5-5) (1) Bid and performance bonds may be required by the PHA when the amount of the contract is expected to exceed \$2500 or such other amount as the Board may establish. Bid bonds merely guarantee that the bidder will execute a contract, if awarded, and provide a performance bond. Usually a performance bond equal to 25% of the contract amount is adequate. The PHA should decide whether the protection of a bond is prudent for any specific case, considering that the cost of the bond premium will be included in the bid and therefore will increase the cost of the items purchased. This does not change bonding requirements for modernization and development programs.
- (2) Usually a bidder is permitted to withdraw or modify his/her bid prior to the time of opening, but should not be permitted to change it thereafter, as this would give the bidder an advantage over other bidders. Where there is an obvious error in the bid (such as a misplaced decimal), it is customary, upon verification of the error, to consider the bid as corrected. The unit price usually governs if there is a error in the extension of total prices.
- (3) If the PHA modifies the specifications or conditions prior to opening bids, the changes must be mailed to all firms or persons who received a copy of the invitation to bid. Use of registered mail with return receipt is a good method of mailing amendments that ensures each bidder receives a copy. To minimize disputes and protests, all information made available to one bidder must be made available to all bidders.
- (4) Bids received after the time specified for submission should be classified as late bids and returned unopened to the bidder. A record of the time, date, and person receiving the late bid should be made on the outside of the envelope. Late bids received before the award is made may be considered if they were: (1) sent by registered or certified mail a reasonable time in advance of the opening date and it is determined by the PHA that the late receipt was due solely to delay in the mails for which the offeror was not responsible; or (2) submitted by certified mail a reasonable time in advance of the opening date and it is determined

by the PHA that the late receipt was due solely to mishandling by the PHA; provided that timely receipt at the PHA is established by examination of an appropriate date stamp or other documentary evidence.

- (5) When two or more low bids are equal in all respects, the award usually is decided by drawing lots.
- (6) Unless responsive to the specifications, alternate bids should not be considered unless all bidders have an opportunity to bid on the alternate.

5-6. AWARD OF CONTRACT.

- a. After bids are opened publicly at the time and place specified in the invitation for bids, an abstract or tabulation of all bids received is prepared and filed as part of the permanent record of any contract awarded. Each bid is then evaluated by the Director or Contracting Officer, and the award made only to a responsible contractor that possesses the technical capacity and ability to perform successfully under the terms and conditions of the solicitation. In determining responsibility, consideration must be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Rejection of any bid during the evaluation process must be fully documented and all reasons for rejections stated. After evaluation, the lowest responsible bidder as to price who meets the requirements specified is awarded the contract.
- b. The evaluation as to contractor responsibility is very important. The award of a contract to an offeror solely on the basis of the lowest evaluated price is a disservice to the PHA if subsequently the contractor defaults, is late in his/her deliveries, or otherwise performs unsatisfactorily, with the result that the PHA incurs additional procurement or administrative costs, and acceptable supplies or services may not be furnished within the time required. Such awards are also unfair to other offerors who are capable of satisfactory performance, and tend to discourage them from submitting bids or proposals on future procurements.
- c. A determination of nonresponsibility shall be made by the Contracting Officer if, after a thorough pre-award survey, the information obtained does not support a finding that the

prospective contractor is responsible. Recent unsatisfactory performance regarding either quality or timeliness of delivery is an example of a problem which the Contracting Officer must consider and resolve as to its impact on the current procurement prior to making an affirmative determination of responsibility. Additional information helpful to making a pre-award survey can be found in the Code of Federal Regulations Title 41, Subpart 1-1.12 (CFR 41 1-1.12), which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

5-7. THE PURCHASE ORDER. (See Appendix 4 for sample.)

- a. Purchase from vendors, under small purchase procedures, may be made by an authorized Purchasing Agent placing a verbal order with a local vendor, and either a telephone or letter order with a distant vendor to ship C.O.D. The sales slip or cash register receipt should be attached to the Purchase Request and used to substantiate either a petty cash turn-in or a Blanket Purchase Agreement invoice.
- b. Purchases from vendors who have been awarded contracts with the PHA are made in two ways:
 - (1) If the contract has a stated quantity, price, time and place of delivery, then receipt of the award and properly signed contract constitutes a purchase order, and the contractor must comply with the contract terms and deliver the items as stated.
 - (2) If the contract is an "open-end" contract, an appropriate purchase order should be furnished to the contractor to initiate delivery of any item. The purchase order is usually a standard form, and is initiated by the Purchasing Department in response to a departmental Purchase Request. Since the vendor and the price are already established in the contract, the purchase order may be prepared without delay and processed through the Finance or Accounting section for obligation of available funds. This purchase order, when signed by an authorized Purchasing Agent, is sent to the contractor and constitutes an order for delivery of the quantity specified on the Purchase Request at the contract price.

- (3) Purchase orders used with "open-end" contracts may be prepared in multiple copies, with one or more to be used as a receiving report. Receiving information, including notice of inspection and acceptance, should be forwarded to the Finance or Accounting section to be matched with the contractor's invoice before payment is made.

5-8. PURCHASE, RECEIPT AND PAYMENT.

- a. It is most important in the orderly process of purchase, receipt and payment to ensure that funds are available and obligated towards final payment for all items purchased. At the start of the process, any request for purchase should be routed through the finance or accounting department of the PHA, and an indication made on the face of the purchase request that sufficient funds are available to cover the estimated cost of the items requested. The finance or accounting department may at that time commit funds by recording that the funds are available for the intended purchase. If funds are not available that department may return the Purchase Request to the originating department, but at no time should the finance or accounting department have the authority to approve or disapprove Purchase Requests.
- b. Further in the process, before a contract or purchase order is signed, these documents should be routed through the finance or accounting department for a final obligation of funds. With the recording of an obligation, the funds are then "frozen", and may be used only to pay for the specific contract or purchase order. Sufficient copies of the purchase document should be prepared and distributed to provide purchase, receipt, payment, accounting and, if required, suspense copies to be held for reference pending delivery of unfilled orders or back-orders.
- c. The PHA must keep an effective control on unfilled orders and available obligated funds by maintaining suspense files until delivery is made. Payment is made only after the delivery is inspected and found to be satisfactory. This helps to eliminate disputes that arise when shortages or damages are not discovered until after payment has been made.
- d. It is the responsibility of the Director or the Contracting Officer to see that supplies and/or services received from vendors and contractors are inspected (if supplies) or

certified that performance was satisfactory (if services), and that receiving documents are prepared and processed for payment. This acceptance should not be delayed, since prompt payment will help to ensure good relations with the public, and in addition, many contracts allow a discount for prompt payment if made within a specified number of days. Discounts, if offered by the contractor, should always be taken by the PHA to the greatest extent possible, and procedures should be established which facilitate expedited receipt and prompt payment.

5-9. TRADE-IN OF EQUIPMENT. When an invitation to bid is issued by a PHA for replacement of items having trade-in value, such as motor vehicles or office equipment, the invitation should include a description of the items that will be replaced. The invitation should then invite bidders to quote:

- a. A price for furnishing of the new item, or
- b. A price for furnishing the new item less the allowance for trade-in of the old item, or
- c. A cash offer for the old items, regardless whether the new item is purchased from that bidder.

It is not necessary that the same quantity of old items be offered as the quantity of new items to be purchased. The award of the contract would be made in the manner which would be most financially advantageous. In the case of paragraph c., invitations to bid may also be sent to firms that purchase used equipment, whether or not they also sell new items.

5-10. OPEN-END SUPPLY CONTRACTS.

- a. When a PHA knows that it will use recurrently needed items such as floor wax or cleaning compounds, but does not know the exact quantity that will be required for the coming year, the estimated quantity needed is stated in the invitation to bid, and the resulting contract is known as an open-end contract. Annual open-end contract purchasing has long been recognized as a worthwhile instrument in procurement by many government departments as well as commercial firms. Some of the advantages are:
 - (1) Prices are fixed in advance for a one-year period, facilitating budget preparation and ready determination of material costs.

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- (5-10) (2) A ready source of supply of frequently needed items is ensured.
- (3) Operating capital is not tied up in shelf stocks.
- (4) There is no deterioration or obsolescence of items on hand, such as when large stocks are carried.
- (5) Custodial care and record-keeping of supply stocks is greatly reduced.
- (6) The need for making repeated contracts is eliminated.
- b. An annual open-end contract is normally entered into by formal advertising and, when feasible, may provide for a minimum quantity or fixed dollar amount to be ordered. In inviting bids, the following provision should be included as a special condition:

"Any contract resulting from this invitation will be an 'open-end' type of contract and there is no guarantee that any specified quantities will be ordered. For the information of the bidder there are _____ dwelling units operated by this PHA and items costing approximately \$ _____ were used last year. In accepting this contract the contractor agrees to accept all orders placed under this contract during its existence and furnish items in strict accordance with the specifications listed herein and in accordance with the stated terms and conditions. The contractor shall bill the PHA monthly for all items accepted during the preceding month. Such billing shall be supported with sales or delivery tickets signed and dated by an authorized agent of the PHA."

- c. Some larger PHAs may wish to consider establishing two-year open-end contracts containing escalator clauses (if permitted by State and local law) providing for upward or downward price adjustments based on market fluctuations. This type of contract is difficult to administer properly unless the PHA has staff members trained in evaluating market conditions.

5-11. MAILING LISTS. PHAs will find it helpful to maintain mailing lists of suppliers for the items they frequently purchase. The lists usually include the names of suppliers who are known to be in a position to furnish required items as well as those qualified bidders who request the opportunity to bid on specified requirements. The PHA may request the HUD Field Office for assistance in finding additional sources of supply.

5-12. SPECIFICATIONS.

- a. In preparing bid documents, PHAs must describe clearly and completely the items or services required and the conditions of the contract. A PHA may request the HUD Field Office for assistance in preparing specifications for items which are not regularly purchased. To ensure adequate competition, specifications should be designed to not restrict the bidding to one supplier. If the time permitted for delivery is a factor for consideration in awarding the contract, the solicitation should so indicate and, if possible, specify the delivery requirements. Be sure there is complete understanding between the PHA and the bidder as to what is desired and what will be furnished. Some suggestions are:
- (1) Avoid the term "as per sample" unless samples can be supplied to each bidder.
 - (2) Avoid the term "best commercial quality" and similar terms since they are indefinite, and all manufacturers consider their products to be of "best quality".
- b. There are three basic types of specifications used in preparing contracts:
- (1) Performance specifications. Here the specifications contain performance characteristics desired for the item. The detailed design or exact measurements are not stated. The specification merely states the overall requirements allowing each contractor to furnish his/her own item to meet the required performance.
 - (2) Design specifications. Here the specifications contain description of the item desired as opposed to performance standard. Depending on the nature of the item, the design specification may contain precise measurements, tolerances, materials, product tests, quality control and other detailed information. The

information furnished is sufficiently detailed to ensure that all items manufactured to the specifications will be exactly the same.

- (3) Purchase descriptions. Here the specifications identify the item by a brand name with the mandatory use of an "or equal" statement to allow competition. Such specifications are used to procure items on the commercial market. Avoid specifying trade names except where there is no other method of clearly designating the quality of the item desired. When trade names or catalog numbers are used bidders should be informed that it is intended to be descriptive and not restrictive.

- c. In practice it is rare to find a government specification which fits completely into one of the above categories. Most specifications contain a combination of detail and performance requirements, and may include brand name descriptions of components. In evaluating contract performance, the aspects of technical performance and time of delivery relate to each other. Failure to meet time requirements is often caused by technical difficulties, while technical difficulties are often caused by the contractor not having enough time available to properly accomplish the job. When preparing contract specifications, the PHA must ensure that both the technical requirements and delivery time are within the capabilities of qualified bidders.

5-13. SOLICITATION PROCEDURES. All solicitations, regardless of whether by sealed bids or by negotiations, and without regard to dollar value, should be conducted in a manner that provides maximum open and free competition. Procedures should not restrict or eliminate competition. Examples of what is considered to be restrictive include, but are not limited to: (a) placing unreasonable requirements on firms in order for them to qualify to do business, (b) noncompetitive practices (collusion) between firms, and (c) unnecessary experience and bonding requirements. The PHA should have written procedures which provide, as a minimum, the following requirements.

- a. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, should:
 - (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall

not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service, and when necessary, set forth minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other basic requirements of an item. The specific features of the named brand which must be met by offerors should be clearly stated.

- (2) Clearly set forth all requirements which offerors must fulfill, and all other factors to be used in evaluating bids or proposals. These include time and place of delivery, packing, labeling and shipping instructions, freight charges f.o.b. origin or destination, guarantees expected, subcontractor approval reservations, tax considerations, and other appropriate provisions which would affect either the contractor's price or ability to deliver as specified.

5-14. CONTRACT CLAUSES. Special provisions are normally included in the solicitation for bids as well as in the final contract award (or in a combined Solicitation-Offer-Award form), and the offeror has the option to not bid if compliance with any clause or provision is undesirable or impossible. In addition to provisions defining a sound and complete procurement contract, a PHA should include the following contract provisions or clauses in contracts and subcontracts as appropriate. Assistance is available from the HUD Field Office to help the PHA in writing standard clauses for the provisions indicated below, and many other commonly used procurement clauses.

- a. Contracts for other than small purchases should contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- b. All contracts in excess of \$10,000, or such lesser amount as may be required by the PHA Board or State or local law, should contain suitable provisions for termination by the PHA including the manner by which it will be effected and

- (5-14) the basis for settlement. In addition, such contracts should describe conditions under which the contract may be terminated because of circumstances beyond the control of the contractor, or for the convenience of the government.
- c. Provisions for specific types of procurement are contained in Attachment O to OMB Circular A-102. This Circular should be reviewed before any solicitation and/or contract is prepared.
- d. Many contract clauses are in standard use by PIAs and government agencies. Some of the most common are listed below:
- (1) "No member, officer, or employee of the Local Authority, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the Local Authority was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."
 - (2) Award - The Agency reserves the right to reject any or all bids, to waive any informality in bids and, unless otherwise specified by the Authority or by the bidder, to accept any item in the bid. In case of mathematical error in the extension of prices in the bid, the unit prices will govern. The Agency reserves the right to award by item or in its entirety unless qualified by specific limitation of the bidder. Awards will be made to the lowest responsible bidder(s) conforming to the requirements of the invitation. (Items listed may be by project or community served and multiple awards may be made for same item delivered to a different project or community.)
 - (3) Payment Terms - In connection with any discount offered by the vendor, time will be computed from date of the delivery of the supplies to the carrier when final inspection and acceptance are at point of origin, or from date of delivery at the destination when final inspection and acceptance are at destination, or from date a correct bill or invoice, properly certified by the contractor, is received if the latter date is later than the date of delivery.

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- (5-14) (4) Default - In case of default of the contractor, the Agency may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. Provided, however, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefor shall be made at a proper reduction in price.
- (5) Delivery - When not otherwise specified, bidder must definitely state time of proposed delivery. Time, if stated as a number of days, will include Sundays and holidays. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified, or any extension thereof, the Agency may by written notice terminate the right of the contractor or proceed with deliveries of such parts thereof as to which there has been delay. In such event, the Agency may purchase similar materials or supplies in the open market or secure or the manufacture and delivery of the materials and supplies by contract or otherwise and the contractor shall be liable to the Agency for any excess cost occasioned the Agency thereby.
- (6) Samples - Samples of items, when required, must be furnished free of expense prior to the opening of bids. Samples received from successful bidders will not be returned. Samples received from unsuccessful bidders, upon request, will be returned at the bidders expense.
- (7) Prices - Unit price for each unit bid on shall be shown and such unit price shall include packing unless otherwise specified. In each case totals shall be inserted in the amount column of the solicitation. All prices are to be f.o.b. destination unless otherwise designated herein.
- (8) Late Bids - No bid or modification thereof received after the time specified for submission of bids will be considered except that when a bid or modification arrives by mail after the time set for opening, but before award is made, and it is determined by the Agency that nonarrival on time was due solely to delay in the mails or mishandling by the Agency after arrival, and for which bidder was not responsible, such bid or or modification thereof will be considered.
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- (5-14) (9) Inspection - All items covered by this contract shall be subject to inspection and acceptance at destination, including acceptance or rejection of some or all of the items.
- (10) Changes - The Agency shall have the right at any time to make changes to this contract of any kind including quantity, method of shipment or packing, place of delivery, and delivery schedule. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable adjustment shall be negotiated in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. (Note: If any contract is changed or modified, it becomes a negotiated contract, and it must then contain those contract provisions and clauses applicable to negotiated contracts.)
- (11) Indian Preference. In accordance with 24 CFR 805.204, an Indian Housing Authority shall incorporate the following clause (referred to as a section 7(b) clause) in each contract awarded in connection with a Project: 1/
- (a) The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450e(b)). Section 7(b) requires that to the greatest extent feasible (i) preferences and opportunities for training and employment shall be given to Indians, and (ii) preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises.
- (b) The parties to this contract shall comply with the provisions of said section 7(b) and all HUD requirements pursuant thereto.

1/ Instructions contained in this paragraph (11) are taken from the Indian Housing Regulation (24 CFR 805.204) and are binding upon Indian Housing Authorities.

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- (c) The contractor shall, in connection with this contract, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned Economic Enterprises, and preferences and opportunities for training and employment to Indians.
- (d) The contractor shall include this section 7(b) clause in every subcontract in connection with the project, and shall, at the direction of the IHA, take appropriate action pursuant to the subcontract upon a finding by the IHA or HUD that a subcontractor is in violation of the section 7(b) clause.

5-15. COMPETITIVE NEGOTIATION. This method is used when the exact specifications are not defined and the PHA desires the supplier to furnish a proposal to furnish an item that meets a general requirement. An example would be the purchase of cleaning services. Several suppliers would propose similar items but each would have different and perhaps desirable features. In competitive negotiation, proposals are requested from a number of sources, and the Request for Proposal (RFP) would also be publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and when specifications and features are agreed upon, a firm-fixed-price contract is awarded. If competitive negotiation is used, the following procedures apply:

- a. Proposals should be solicited from an adequate number of qualified sources to permit reasonable competition, and a RFP should be publicized. An RFP is similar to a solicitation for bids except that it is not a firm offer.
- b. The RFP should identify all significant evaluation factors, including price or cost parameters and performance or functional standards. Service contracts need not extend for 12 months if vendors are unwilling to commit a firm price for that long, but the length of the term may be an evaluation factor.
- c. The PHA should plan appropriate mechanisms for technical evaluation of the proposals received, determination of responsible offerors, designation of written or oral discussions, and method of selection for contract award. Proposals must be evaluated in accordance with published evaluation factors.

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- d. Award may be made to the responsible offeror whose proposal will be most advantageous to the PHA, price and other factors considered. Unsuccessful offerors should be notified promptly.
- e. Competitive negotiation may be used for procurement of professional services, such as architectural or engineering services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
- f. Automatic Data Processing (ADP) equipment and software (including programs, maintenance and services) should be procured by competitive negotiation. Desired performance standards should be specified and proposals invited from as many suppliers as possible so that various options and innovative features can be evaluated. The PHA should negotiate with all responsive and competitive suppliers under equal terms and conditions until a single proposal offers a clear advantage in cost or other considerations. Selection of a proposal other than one offering the lowest cost should be justified in writing, and PHA Board approval of this justification should be filed with the final purchase documents. Assistance in evaluating proposals may be requested from other PHAs already using ADP systems. In addition, many ADP programs and software packages are in the public domain since they were purchased as such by other PHAs. If a public domain ADP software package meets the PHA's requirements, it usually can be obtained from the owning PHA by paying for actual expenses incurred in preparation and transfer to the requesting PHA.
- 5-16. NONCOMPETITIVE NEGOTIATION. This is procurement by requesting a proposal from only one source (reasons for which must be fully justified), or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the other methods of award are considered infeasible. However, if the procurement is for professional, technical or managerial services (including ADP software and related services) and is expected to exceed \$10,000, prior HUD approval is necessary as described in paragraph 4-6a(2). Circumstances under which a contract may be awarded by non-competitive negotiation usually are limited to the following:
- a. Where the PHA's minimum needs could be satisfied only by items or services which are unique;
- b. Where time is of the essence and only one known source can meet the PHA's need within the required time-frame
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- (5-16) c. Where data is unavailable for competitive procurement;
or
- d. Where it is necessary that the desired item manufactured
by one source be compatible and interchangeable with
existing equipment.

CHAPTER 6. CONTRACT ADMINISTRATION

- 6-1. GENERAL. During the life of a contract situations may arise which affect the operation of either the PHA or the contractor, and which in turn may require that the contract be modified or terminated. Depending on other situations, it may be necessary for the PHA to debar or suspend the contractor. The following general definitions apply to these terms; due process requirements may be found in State and local laws.
- a. Modification. A change after award of a contract in any of the contract terms, including price, quantity, time and place of delivery, etc. Such changes are negotiated between the Contracting Officer and the contractor. When the changes are mutually agreed upon, including price adjustments for concessions made by either party, a contract modification document is prepared and signed by both parties to the original contract.
 - b. Termination. PHA contracts are usually terminated by the PHA, although the PHA may do so at the request of the contractor. Contracts are terminated for many different reasons. Most contracts have a "Default Clause" which provides for termination without negotiation when the contractor fails to perform as specified in the contract. Contracts terminated for other reasons, such as "for the convenience of the PHA" are negotiated until a satisfactory settlement is reached.
 - c. Debarment and Suspension. In general, a debarment by HUD is an exclusion from participation in all HUD-related programs for a reasonable, specified period of time commensurate with the seriousness of a violation of or failure to perform on other contracts. The time period may be indefinite pending the elimination of the circumstances for which debarment was imposed. Debarment may be imposed for violation of many contract clauses, including equal employment opportunity provisions, acceptance of contingent fees, or any of the Secretary of Labor regulations such as the Davis-Bacon Act. In each instance the seriousness of the offense should be considered in deciding whether debarment is warranted, and the decision should be made at the discretion of the Assistant Secretary for Housing in the best interests of the Department.

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- (6-1) (1) Suspension means a disqualification from all HUD related programs for a temporary period of time because a contractor is suspended upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct. Suspension is a drastic action and, as such, should not be based upon an unsupported accusation. A contractor is suspended pending investigation and appropriate action by HUD. All suspensions should be for a temporary period pending the completion of an investigation and such legal proceedings as may ensue. The contractor concerned should be furnished by registered mail a written notice of the suspension within ten working days after the effective date, stating the reasons for the suspension and as with debarment the right of the subject of the action to a hearing regarding the charges. Suspension and debarment result in the listing of the subject individual and firm in the Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees. Parties so listed are ineligible for contracts involving participation in HUD programs for the life of the sanction period, absent a finding by the Assistant Secretary for Housing that a contract would be in the public interest.
- (2) The PHA's role in debarment and suspension actions is an important one. It must make recommendations regarding suspensions and debarments and refer those recommendations and the evidence regarding cases involving serious complaints (4-10.f.), nonresponsibility (5-14.c.) and other violations and failures to the HUD Area Office for review. The Area Office, if it finds the evidence adequate, substantial or persuasive, will forward the matter to HUD Headquarters for action by the Assistant Secretary for Housing. The Area Office may, in such cases also take Temporary Denial of Participation or Conditional Participation action.
- d. Temporary Denial of Participation (TDP) and Conditional Participation (CP). These are administrative sanctions which restrict participation in HUD related programs and which may be applied by a HUD Area Manager or Regional Administrator. These restrictions are narrower in scope and effect than suspension and debarment. As with suspension and debarment PHAs are responsible for referring cases to HUD Area Offices for review and possible action. When the Area Office issues a TDP or a CP the subject becomes ineligible for HUD related participation in the program (multifamily or public housing) in which the violation occurred or the participation of the party is limited by

the provisions of the order. Such orders are effective within the jurisdiction of the Area or Regional office issuing the order. Such orders remain in effect until the causes are eliminated and the action is withdrawn or until the life of the sanction has run out.

6-2. LEGAL COUNSEL. Before proceeding with any of the above actions, the HUD Area Office and its Legal Counsel should consult with the PHA. Action to exclude or disqualify contractors from participation in HUD related programs should be based upon all available relevant facts. These actions should be used for the purpose of protecting the public and not for punitive purposes. To assure the public of benefits from the full and free competition of interested contractors, these measures should not be instituted for any time longer than deemed necessary, and should preclude awards only for the duration of the period of TDP, debarment or suspension.

6-3. OBTAINING PERFORMANCE.

- a. While there are a number of promises made and duties assumed by a contractor under the wide variety of PHA contracts presently used, the heart of performance problems is in either the technical requirements of the contract or in the time for performance. Much of the difficulty in the technical area is involved with the interpretation of specifications. There is no assurance that the articles delivered under a contract will meet those specifications. Whether or not the PHA inspects, accepts, rejects, or takes some other actions with respect to such non-specification supplies, will in all probability seriously affect its rights against the contractor. Monitoring the contractor's performance against the time when the performance is required is also an important part of contract administration.
- b. To make certain that the PHA gets what it is paying for, it is necessary to examine the contractor's work. In assuring technical performance this involves inspection. By whatever means it is accomplished, inspection is the key to the PHA's enforcing the technical requirements of the contract. This is particularly so because of the rules of law and the contract language which may in certain instances relieve the contractor of liability for defects which are not complained of before acceptance and use of the articles by the PHA. The PHA is not obligated to pay for the goods or accept them until the PHA has had an opportunity to inspect them. Such inspection, and any rejection resulting therefrom, must be within a reasonable time after delivery. If the PHA fails

to specify a particular defect because of failure to inspect, when such defect could have been found by reasonable inspection, the PHA may have waived its rights to future rejection based on that particular defect. Acceptance may be assumed to have occurred, with or without concurrence by the PHA, after a reasonable opportunity to inspect the goods has passed and the PHA has failed to make any notification to the seller that the goods do not conform to the contract requirements. After acceptance, the PHA must pay at the contract rate for any goods accepted.

- c. When goods do not conform to the contract, there are basically three choices. First, the PHA can reject the items; second, it can require the contractor to correct them; and third, it can accept them. Ordinarily contractors will be given an opportunity to correct the items. If the items are rejected, that means that the contractor is subject to being declared in default unless he can furnish conforming items within the required delivery schedule. If the contractor is required to correct the defects it would appear that the PHA has elected to have them corrected and could not, therefore, terminate the contract for default until the contractor has had a reasonable opportunity to correct the defects. If the contractor does not correct the defects within the required delivery schedule, the PHA may require delivery of the uncorrected items and negotiate a reduction in the contract price. The choice of which action to take under the circumstances is within the Contracting Officer's discretion.

- 6-4. PERFORMANCE UNDER CSCs. For purchases made by a PHA under Consolidated Supply Contracts, a specific failure of performance by a contractor should be reported immediately to the HUD CSC Contracting Officer at the office indicated in the CSC Catalog. Initial reports may be by telephone, but in all cases a written record of the offense or failure to perform should be submitted to HUD. This documented record is necessary for the HUD CSC Office to evaluate contractor performance and to take any action necessary to enforce the terms of the CSP contract.

CONTRACT PROCESS CHECKLIST

1. DETERMINE REQUIREMENTS, by reviewing:
 - a. Requests from other Departments for products
 - b. Recurring purchases
2. PREPARE SPECIFICATIONS, including:
 - a. Product description
 - b. Technical parameters
 - c. Time of performance
 - d. Place of delivery
 - e. Inspection and acceptance requirements
3. SELECT METHOD OF PROCUREMENT, either:
 - a. Small purchase
 - b. Negotiated Contract or Blanket Purchase Agreement
(After negotiation go to Step 8)
 - c. Formal advertising
4. PETTY CASH FUND
 - a. Establish Petty Cash Fund
 - b. Appoint one or more individuals as a petty cash purchasing agent
 - c. Establish procedures for periodic audits and frequent spot checks of the petty cash fund.
5. DEVELOP BIDDERS LIST, using:
 - a. Previously compiled lists
 - b. Other agency lists, such as Minority Contractors Association membership list
 - c. Current requests from suppliers for inclusion on bid list

APPENDIX 1

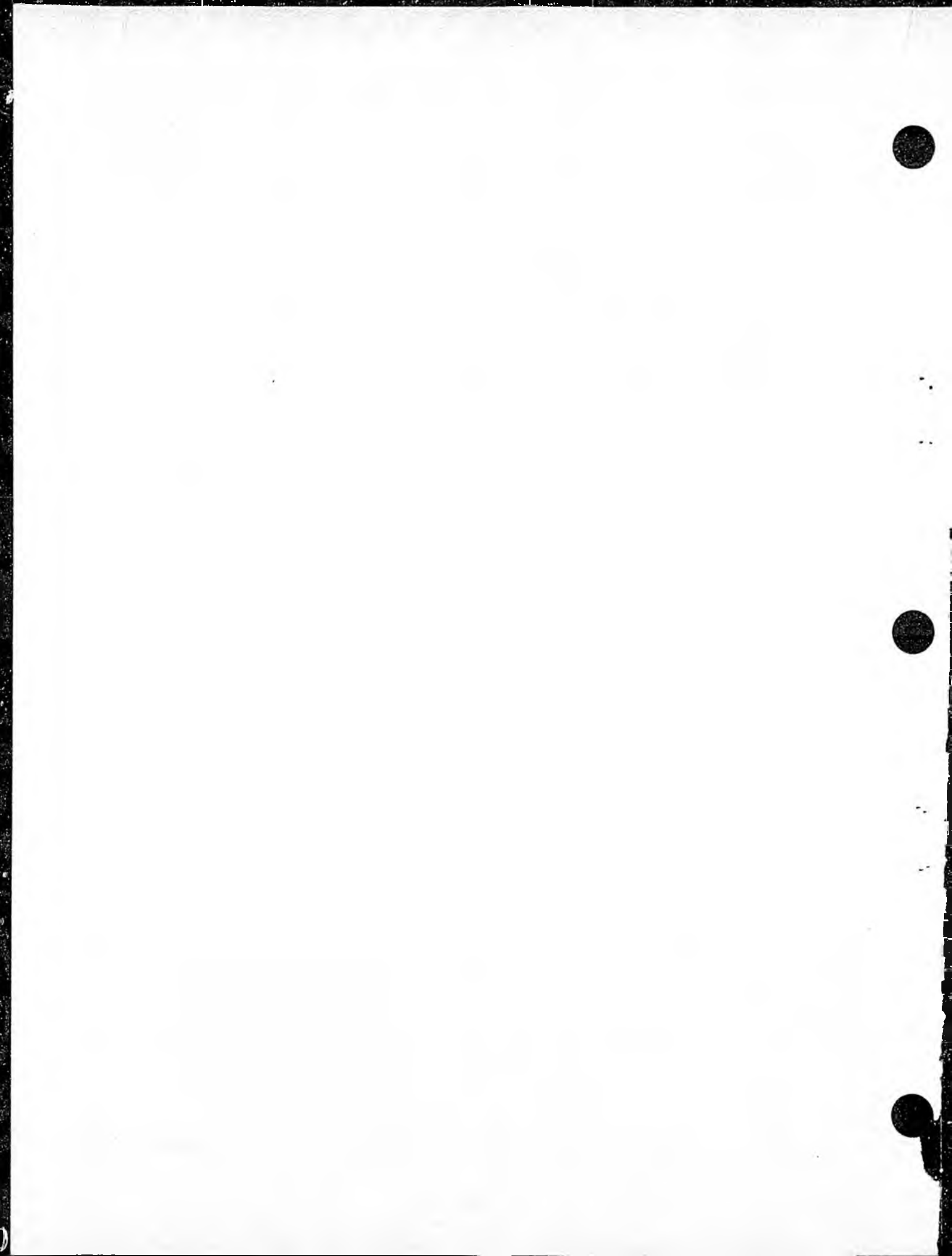
6. PREPARE SOLICITATION FOR BIDS
 - a. Establish time and place of public opening
 - b. Select specific contract clauses and terms
 - c. Establish evaluation and award procedures
 - d. Prepare solicitation and mail to bidders
 - e. Advertise solicitation in newspapers
7. RECEIVE SEALED BIDS and product samples or product test reports
 - a. Evaluate samples and test reports
 - b. Safeguard sealed bids until public opening
8. HOLD PUBLIC OPENING of all bids received
 - a. Record and abstract all bids and bidders
 - b. Indicate qualified contractors
9. CONTRACTING OFFICER'S EVALUATION of qualified contractors
 - a. Review past performance on other contracts
 - b. Examine capability of contractor to produce acceptable product
 - c. Investigate financial capability of contractor to remain in business
 - d. Research debarment and suspension lists and any other source that would indicate that the contractor is under investigation for criminal acts
10. AWARD CONTRACT to qualified and acceptable contractors
 - a. Specify each or all items awarded
 - b. Sign and date contract and mail to contractor
 - c. Notify disqualified low bidders of reasons for disqualifying



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APPENDIX 1

11. MAKE PURCHASES in accordance with contract terms
 - a. Submit purchase orders
 - b. Receive items
 - c. Inspect for performance
 - d. Enforce contract terms if performance is unsatisfactory
 - e. Process receipt documents for prompt payment discount





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APPENDIX 2

SAMPLE PURCHASE REQUEST

PURCHASE REQUEST		Page 1 of			
1. Requested by: (Department)		2. Request No.		3. Date Requested	
		4. Required by: (date)			
		5. For Work Order No.			
<input type="checkbox"/> Department will pick up <input type="checkbox"/> For Delivery To:					
SCHEDULE					
Item	Full Description of Supplier or Services	Quantity Required	Unit	Unit Price Estimated	Total Estimated
	(See continuation of Schedule)				
		Total Estimated Cost			
Justification for Request					
Name and Title of Requesting Individual (Type or Print)			Name and Title of Department Supervisor or other approving official (Type or Print)		
Signature		Date		Signature	
				Date	
Telephone no.			Telephone no.		
Fund Availability and/or Commitment			By		Date



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SAMPLE SOLICITATION, OFFER AND AWARD

SOLICITATION, OFFER AND AWARD		Page 1 of			
1. Issued by/address offer to:		2. Solicitation No.		3. Date Issued	
		<input type="checkbox"/> Formal Advertising <input type="checkbox"/> Negotiated Contract		4. For Purchase Request No.	
In advertised procurement "offer" and "offeror" shall mean "bid" and "bidder".					
SOLICITATION					
5. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in block 4. or if handcarried, in the depository located in _____ until _____ local time _____					
(place) (hour) (date)					
If this is an advertised solicitation, bids will be publicly opened at that time.					
All offers are subject to the provisions, specifications, instructions and conditions included herein, attached hereto, or incorporated herein by reference.					
FOR INFORMATION CALL (Name and number) (No collect calls): _____					
SCHEDULE					
Item	Description of Supplies or Services	Quantity	Unit	Unit Price	Total
(See continuation of Schedule)					
OFFER (To be completed by supplier or vendor)					
In compliance with the above, the undersigned offeror agrees, if this offer is accepted within _____ calendar days (60 days unless specified otherwise by offeror) from the date for receipt of offers specified above, to furnish any or all items at the price indicated in the schedule, delivered at the designated point(s), within the time specified in the schedule. The following discount is offered for prompt payment: _____% 10 Calendar Days, _____% 20 Calendar Days, _____% 30 Calendar Days					
OFFEROR: Name and Address Including ZIP Code			Name and Title of Person Authorized to Sign Offer (Type or Print)		
Area Code and Telephone No:			Signature		Date
AWARD (To be completed by PHA)					
Accepted as to Items Numbered:		Amount		Contract No.	
Fund Obligation		Amount		Payment will be made by:	
Name of Contracting Officer		Signature of Contracting Officer			Award Date



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APPENDIX 4

SAMPLE PURCHASE ORDER

PURCHASE ORDER		Page 1 of				
1. Issued by/mail invoice to:		2. Purchase Order No.		3. Date Issued		
		4. For Purchase Request No.				
		5. Against Contract No.				
<input type="checkbox"/> Agency will pick up by _____ <input type="checkbox"/> Deliver by _____ to: _____						
Subject to provisions of the above contract and additional terms and conditions on the reverse side of this form. FOR INFORMATION CALL (Name and number) (No collect calls): _____						
SCHEDULE						
Item	Description of Supplies or Services	Quantity Ordered	Unit	Quantity Received	Unit Price	Total
(See continuation of Schedule)		Total Cost of Items Ordered				
		Total Cost of Items Received				
Name and Title of Ordering Agent (Type or Print)		Signature of Ordering Agent		Date Signed		
Fund Obligation and Amount			By:	Date		
Items indicated in the "Quantity Received" column have been received, inspected and accepted except as noted herein.						
Signature of Receiver				Date Received		
Processed for Payment <u> </u> Partial <u> </u> Final						
Date	Amount	Voucher	By	Date		

SAMPLE OF REVERSE SIDE ON NEXT PAGE

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APPENDIX 4

SAMPLE PURCHASE ORDER, REVERSE SIDE

TERMS AND CONDITIONS

1. CONFLICT OF INTEREST - The vendor certifies by acceptance of an order that "No Related Official, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof. The term "Related Official" means any (1) member, officer, or employee of the Public Housing Agency, (2) member of the governing body of the locality in which the Project is situated, (3) member of the governing body of the locality in which the PHA was activated, and (4) other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project."
2. DELIVERY - If the vendor refuses or fails to make deliveries of the materials or services within the time specified, the PHA may by written notice terminate the right of the vendor to proceed with such deliveries. All packages shall bear the Purchase Order number.
3. PRICES - Prices should be stated in units specified, with packing included. All prices are considered to be F.O.B. destination unless otherwise designated herein.
4. INSPECTION - All items covered by this contract shall be subject to inspection and acceptance at destination.
5. BILLING - All invoices must bear our Purchase Order number. Submit separate invoices for each delivery, in duplicate.