

CHAPTER 8. ARCHITECTS/ENGINEERS

8-1. DETERMINATION OF NEED. During Joint Review, the PHA and the Field Office shall reach agreement upon the PHA's need for architectural/engineering (A/E) professional services, taking into account PHA staff capabilities and the type and complexity of work. For example, professional services may

* include: development of design concepts; survey and subsurface exploration; preparation of design and construction documents, work write-ups, and cost estimates; evaluation of construction bids; general or daily supervision of construction; review of contract modifications (change orders); certification that construction is being performed in accordance with the construction contract; and participation in joint and final inspections.

8-2. SELECTION PROCESS.

a. Competitive Proposals. The PHA shall use competitive proposal procedures for procurement of A/E professional services. Such procedures may be: (1) qualifications-based whereby the PHA evaluates competitors' qualifications and then selects the most qualified competitor, subject to negotiation of fair and reasonable compensation; or (2) qualifications plus price-based whereby the PHA evaluates competitors based on technical factors, including price, and then selects the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. In both cases, price is negotiated.

b. Applicability. The competitive proposal procedures shall apply to the procurement of all modernization-funded A/E contracts over \$25,000. The small purchase procedures shall apply to the procurement of all modernization-funded A/E contracts that do not cost more than \$25,000 (see paragraph 9-2a).

c. Request for Proposals (RFP). The PHA shall publicize the RFP and solicit proposals from as many qualified sources as possible (at least three). The RFP shall identify all evaluation factors and their relative importance (see subparagraph d). The RFP shall include: a description of the project(s) to be modernized; a clear, concise statement of the construction work requiring professional services (copy of HUD-approved budget may be made available); extent of professional services required; required *

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* qualifications; number of construction contracts to be awarded; form of the A/E contract; submission deadline;

and name of the PHA contact person. The RFP shall request the architect/engineer, if interested, to respond to the evaluation factors set forth in subparagraph d. The announcement of the availability of the RFP may be accomplished through: public announcement in local newspapers; direct requests to qualified architects/engineers in the PHA's files, which the PHA or other PHAs have previously retained; use of a list of names or firms secured from local professional societies; and use of techniques set forth in paragraph 6-2c for minority architects/engineers.

d. Evaluation Factors.

- (1) Evidence of the architect/engineer's or firm's ability to perform the work, as indicated by profiles of the principals and staffs' professional and technical competence and experience and their facilities;
- (2) Capability to provide professional services in a timely manner;
- (3) Evidence that, where design work is involved, the architect/engineer is currently registered in the State where the project is located;
- (4) Past performance in terms of cost control, quality of work, and compliance with performance schedules;
- (5) Knowledge of local building codes;
- (6) Certified statement that the architect/engineer or firm is not debarred, suspended or otherwise prohibited from professional practice by any Federal, State or local agency;
- (7) Price (optional factor); and
- (8) Other factors, such as Indian preference requirements, determined to be appropriate by the PHA.

e. Number of Proposals. If the PHA receives less than three proposals, the PHA shall analyze why, such as whether the RFP was unnecessarily restrictive or insufficiently announced. Depending on the results of its analysis, the PHA may either reject the proposals *

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* and issue a revised RFP or proceed to evaluate the proposals.

- f. Evaluation of Proposals. The PHA shall have a method for conducting technical evaluations of the proposals received and for selecting the awardee. The PHA shall evaluate all proposals against the evaluation factors set forth in the RFP and eliminate those that are obviously unqualified to provide the required services. The PHA shall select the two or three most qualified names or firms and rank them in a one-two-three order, based on the aggregate of the evaluation factors.
- g. Comprehensive Proposal. Once the architects/engineers or firms have been ranked, the PHA shall invite the first ranked firm to submit a written comprehensive proposal and shall arrange for any necessary meetings to allow for evaluation and modification of the proposal, if necessary. If the PHA fails to reach agreement with the first ranked firm, the PHA shall follow the same procedure with the second and third ranked firms until it obtains an agreement with the most qualified firm at a fair and reasonable cost. Price is negotiated even if price was included in the RFP as an evaluation factor (see paragraph 8-4). The agreement should cover the specific services to be provided, time and order of services, staffing requirements, areas of responsibility and liability, and fee structure, including amount and method of payment.

8-3. FORM OF AGREEMENT. When the PHA and the architect/engineer reach agreement, the agreement shall be placed in writing. The use of Form HUD-51915, Agreement Between Owner and Architect, as modified by the Field Office to include all provisions required by 24 CFR 85.36(i), is mandatory. The contract shall require the architect/engineer to certify that all drawings and specifications accurately reflect HUD-approved work and meet the mandatory standards. The contract shall not be modified to require that the PHA pay interest for late payments.

8-4. CONTRACT COST.

- a. Cost Analysis. The PHA shall perform a cost analysis in connection with the procurement of professional services, including contract modifications. This analysis requires the PHA to make an independent estimate of the contract cost before receiving proposals. This estimate will enable the PHA, after

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* receiving proposals, to determine the reasonableness of the proposed contract cost during negotiations.

- b. Profit (Fees). The PHA shall negotiate profit as a separate element of the contract cost. To establish a fair and reasonable profit, consideration will be given to: the complexity of the design work to be performed; extent that previously completed architectural drawings are being used; extent that prefabricated or modular components are being used; extent that the modernization work involves multiple repetition of the same basic design or replacement of equipment; number of construction contracts to be administered; the risk borne by the architect/engineer; the architect's/engineer's investment; the amount of subcontracting; the quality of the architect's/engineer's record of past performance; and industry profit rates in the surrounding geographical area for similar work.
- c. Allowable Costs. Under 24 CFR 85.22, allowable costs are determined in accordance with 48 CFR Part 31, Contract Cost Principles and Procedures.
- d. Contract Type. The A/E contract shall be either a firm fixed-price or a cost-plus-fixed-fee (which includes an established ceiling) type. Cost-plus-a-percentage-of cost type contracts are prohibited. *

8-5. HUD-ESTABLISHED THRESHOLD. Based on an assessment of the PHA's past performance in preparing A/E contracts and in-house technical capability, the Field Office may establish a dollar threshold over which the PHA shall submit A/E contracts for prior Field Office review and approval.

- a. Criteria. In determining the appropriate dollar threshold for PHA submission, the General Engineer shall consider the following criteria:
 - (1) Past Performance in Preparing Contracts. In the past:
 - (a) The scope of the work was consistent with the PHA's assessment of its needs for professional services and with any agreements reached with the Field Office during or subsequent to Joint Review; and
 - (b) The contract cost was appropriate to the work to be performed and did not exceed the approved budget amount.

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- (2) In-House Technical Capability. The PHA has experienced staff who are capable of reviewing proposed A/E contracts.
 - b. Notification to PHA. After completing the assessment, the General Engineer shall notify the PHA of the

established dollar threshold over which A/E contracts are required to be submitted for prior Field Office approval and the reasons. This notification shall be included in the letter to the PHA approving the CIAP Application.

8-6. PHA CERTIFICATION.

- a. PHAs with Thresholds. Upon selecting and reaching agreement with the architect/engineer, the PHA shall prepare and execute each contract without prior Field Office review and approval, unless the contract exceeds the dollar threshold that has been established by the Field Office (see paragraphs 7-1 and 8-5). Where HUD approval is not required, the designated PHA official shall certify in writing to the following and send a copy of the certification and the executed contract to the Field Office:

(1) The scope of the work is consistent with the PHA's assessment of its needs for professional services and with any agreements reached with the Field Office during or subsequent to Joint Review;

* (2) The contract cost is appropriate to the work to be performed and does not exceed the approved budget amount; and

(3) Where the contract cost is over \$25,000, the competitive proposal procedures were used to obtain the professional services.

- b. Recognized Performers. For alternative requirements for recognized non-Indian performers, as defined in Chapter 11 of the Field Office Monitoring of PHAs Handbook 7460.7 Rev-1, refer to that Handbook. *

8-7. HUD REVIEW AND APPROVAL.

- a. Review and Approval. Where the A/E contract requires prior HUD approval, the PHA shall not execute the contract until it has received such approval. Where submitted by the PHA, the General Engineer shall promptly review the proposed A/E contract. This review

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shall ascertain that the proposed scope of work is consistent with the approved budget and the PHA's staffing requirements and that the contract cost is appropriate for the work to be performed. As needed, the General Engineer shall consult with other Field Office staff, such as Counsel, and may inform the PHA

by telephone of any required changes or deficiencies. Within 10 working days of receipt of the proposed contract, the General Engineer shall prepare a letter to the PHA for the signature of the Director, Housing Management Division or designee, authorizing the PHA to proceed with execution, with or without changes, or disapproving due to specified reasons.

- b. Monitoring. The General Engineer shall periodically review the PHA's solicitation and evaluation of proposals, through on-site review of PHA files, to ensure that the PHA is following competitive proposal procurement. The General Engineer also shall periodically review copies of executed contracts, including the PHA certification where prior Field Office approval was not required, and the PHA's in-house technical capability to determine whether there has been a change in capability which would warrant a higher or lower dollar threshold. If deficiencies are found, the Field Office monitoring letter (see paragraph 10-17a(3)) may require the PHA to submit proposed A/E contracts over a reduced threshold to the Field Office for review and approval before execution.