



PROCUREMENT MANUAL
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1. INTRODUCTION

Houston First Corporation (“HFC”) has developed this Procurement Manual (“Manual”) to support and promote best practices in the acquisition of goods and services. HFC seeks to obtain the best value that results from an open and impartial process, while considering qualifications and competence, and in furtherance of the goals of non-discrimination and diversity participation.

This Manual, made effective January 17, 2019, supersedes and replaces all previous editions. In the event of a conflict or inconsistency between this Manual and applicable law, the requirements of applicable law shall control and prevail. This Manual may be amended or expanded by authorized action of the Board of Directors.

Nothing in this Manual creates, gives or recognizes a property interest or right of any kind for the Vendor prior to the award of a contract. Compliance with all statutory and legal requirements is required of all Vendors.

2. DEFINITIONS

As used in this Manual, the following terms have the meanings indicated, unless the context otherwise requires.

“**Board of Directors**” means the Board of Directors of HFC.

“**Board Chair**” means the Chair of the Board of Directors or, in his or her absence, the Vice Chair of the Board of Directors.

“**Director**” means a voting or non-voting member of the Board of Directors, including the Board Chair and Vice Chair of the Board of Directors.

“**Disaster Protocol**” as referenced in the Lease Agreement between the City of Houston and HFC and amendments thereto, the policies and guidelines established for HFC’s procurement, selection of contractors, contracts and contract administration related to City of Houston owned properties managed by HFC for repairs, renovations or replacements damaged or destroyed, in whole or in part, resulting from the occurrence of a federally-declared disaster emergency event.

“**Diversity Program**” means the program implemented by HFC to promote the growth and development of small, minority and women-owned business enterprises and historically-underutilized businesses by providing opportunities to participate in its procurement and service contracts.

“**Evaluation Team**” means the individuals selected by the President & CEO, based on the recommendations of the Purchasing Agent and the General Counsel, to assist HFC in reviewing responses to a Solicitation in accordance with this Manual.

“**Invitation to Bid**” or “**ITB**” means the Solicitation for a competitive bid being offered by HFC.

“**President & CEO**” means the highest-ranking executive officer responsible for managing day-to-day operations and providing strategic leadership for the company by working with the Board and other management to establish long-range goals, strategies, plans and policies.

“Procurement Committee” means the members selected by the Board Chair to assist the Board of Directors in setting policy and procedures related to procurement at HFC.

“Purchasing Division” refers to the HFC organizational unit tasked with conducting HFC’s procurement with transparency while maximizing competition, seeking best value and increasing opportunities for small, minority and women-owned business enterprises while meeting the needs of its internal customers.

“Purchasing Agent” means the individual who leads the Purchasing Division and is responsible for the additional duties provided in this Manual.

“Request for Proposal” or **“RFP”** means any document(s), whether attached or incorporated by reference, used for soliciting proposals by the competitive sealed proposal procurement method.

“Request for Qualifications” or **“RFQ”** is the competitive sealed procurement method that requests details about the qualifications of a professional whose services must be obtained in compliance with the Professional Services Procurement Act and for other professionals if HFC chooses to use the RFQ process.

“Solicitation” as used herein refers to any procurement request from HFC, whether formal bid, RFP, or RFQ or otherwise.

“Substantial Interest” shall have such meaning as defined in Section 3.7 A of this Manual.

“Summary of Procurement” is a presentation, form, or collection of documents used to inform a committee or the Board of Directors of a proposed procurement requiring their consideration or approval. The summary will contain a description of the procurement process, term, amount of funds to be used, procurement method utilized, evaluation process, and small business/diversity participation.

“Vendor” means a person or entity that has entered into a contract with HFC, or a person or entity that seeks to enter into a contract with HFC, by submitting a bid, proposal, or response to HFC.

3. PROCUREMENT STANDARDS

3.1 Commitment to Transparency and Integrity

HFC seeks to ensure that all of its Solicitations foster full and transparent competition, seek quality and best value, maintain integrity and accountability, and promote the goal of creating opportunities. Every effort will be utilized to develop and implement planning, procedures and practices that promote these commitments to transparency and integrity.

3.2 Non-discrimination in Procurement Operations

Discrimination based on religion, sex, race, color, ethnic or national origin, sexual orientation, gender identity, age, or disability will not be tolerated, and all aspects of HFC procurement must operate in a non-discriminatory manner. This mandate requires that employees and Vendors operate in a manner that provides and (in good faith) promotes equal opportunity

without regard to any protected status and in conformity with all applicable laws prohibiting discrimination.

3.3 Commitment to Opportunity, Diversity and Small Business

HFC is dedicated to promoting the growth and development of small, minority, women-owned business enterprises, and historically-underutilized businesses by providing opportunities to participate in its procurement and service contracts. In support of this commitment, HFC has established its [Diversity Program](#) to ensure the maximum practicable inclusion of diverse Vendors able to provide quality goods and services at competitive rates in all areas of HFC operations.

The [Diversity Program](#) is designed to create opportunities, while requiring competitiveness and quality of work, by means of contract-specific goals requiring Vendors to use good faith efforts to include diverse Vendors.

The Purchasing Division will report procurement diversity participation to the Board of Directors as part of the Summary of Procurement, or as directed by the Board Chair.

3.4 Use of Available Procurement Options

HFC may employ any and all procurement methods recognized by state law and permitted for governmental entities, including, but not limited to, Chapter 252 and Chapter 271 of the Texas Local Government Code, Chapter 431 of the Texas Transportation Code, and Sections 2254 and 2269 of the Texas Government Code.

In determining which procurement method to utilize, HFC will evaluate specific needs, the time required for the procurement, and the necessary staffing requirements. HFC seeks to utilize procurement methods that further enhance its policy goals, including diversity participation, so long as these policy goals and their implementation are in accordance with state and federal law.

3.5 Codes of Conduct

HFC has adopted a Code of Business Conduct and Ethics to govern the conduct of Directors and employees and requires that all Directors and employees be familiar with and abide by the requirements of such code.

To promote ethical conduct by Vendors, HFC has adopted a Code of Conduct for Vendors that requires that all Vendors be familiar with and abide by the requirements of such code.

3.6 Payment to Vendors

HFC strives to maintain a positive relationship with its Vendors. Where determined to be practical and in the best interests of HFC by the President & CEO, HFC will include contractual clauses providing for alternative payment methods, such as electronic funds transfer, to provide timely, efficient payment of invoices.

3.7 Conflicts of Interest and Disclosure Requirements

Integrity and impartiality in procurement requires that conflicts of interest involving Directors or employees must be disclosed and avoided to the fullest extent possible. When a conflict of interest exists (or would appear to a reasonable person to potentially exist), full

disclosure by the Director or employee is required. Conflicts of interest exist when a private interest interferes (or would appear to a reasonable person to potentially interfere) in any way with the interests of HFC.

Conflicts of interest can arise in numerous situations, resulting from gifts, relationships, business ownership interests, instances of Substantial Interests, or various other circumstances. HFC will closely evaluate the specific facts regarding every procurement in an effort to avoid conflicts of interests. Directors, employees and Vendors are required to take certain actions on their own initiative so as to avoid or prevent the emergence or appearance of a conflict of interest. The following are situations that require affirmative action by participants in the procurement process.

A. Substantial Interest

No Director or employee who exercises discretion in the procurement process shall participate in, evaluate, recommend or vote on any matter being considered by HFC to which he or she has a Substantial Interest (as defined below) in any business entity being considered.

The term “Substantial Interest” shall have the meaning defined in Texas Local Government Code 171, as may be amended from time to time. As of the effective date of this Manual, a person has a “Substantial Interest” in a business entity or real property in the following situations:

- The person owns at least ten percent of the voting stock or shares of the business entity; or either ten percent or \$15,000 of the fair market value of the business entity;
- Funds received by the person from the business entity exceed ten percent of the person’s gross income for the previous year; or
- The person has legal or equitable ownership in real property that is \$2,500 or more.

If a Director has a Substantial Interest, then such member shall promptly recuse himself or herself from participation or voting on the matter and file with HFC an affidavit of Substantial Interest in a form approved by the General Counsel.

If an employee who exercises discretion in the procurement process has a Substantial Interest, or if a family member (see Section 3.7.D below) of an employee who exercises discretion in the procurement process has a Substantial Interest, then the employee must immediately notify the President & CEO or the General Counsel. Once an actual or potential conflict of interest involving an HFC employee or their family member has been disclosed, such employee may not participate with or be involved in the procurement matter without, the expressed approval of the President & CEO.

B. Gifts/Relationship Conflicts and Disclosure

Gifts from Vendors or business relationships with Vendors can give rise to the need for public disclosure. HFC discourages gifts to its Directors or employees. Pursuant to Texas Local Government Code 176, any gift(s) to a Director or employee involved in a procurement transaction in excess of \$100 during the preceding 12-month period must be disclosed by the Director/employee and also by the Vendor who gave the gift(s). Additionally, any employment or other business relationship with a Director or employee that results in taxable income or

investment income in excess of \$2,500 during the preceding 12-month period must be disclosed by both the Director/employee and by the Vendor.

The General Counsel shall be directly involved in the impartial evaluation of all matters related to actual or potential conflicts of interest and shall review facts, analyze legal issues and advise HFC on all questions related to resolving actual or potential conflicts of interest.

C. Prohibited Conduct

The following are examples of prohibited conduct that Directors and employees must not engage in, unless specifically approved by the President & CEO in writing after full disclosure of all relevant facts to the President & CEO and the General Counsel (in the case of an employee other than the President & CEO), or the Board Chair (in the case of a Director or the President & CEO) in writing after full disclosure of all relevant facts to the Board Chair:

- Taking opportunities that properly belong to HFC or are discovered through the use of HFC property, information or position;
- Using HFC property, information or position for personal monetary gain;
- Competing with HFC during the time that he or she is a Director or employee;
- Engaging in any activity that results or may result in a conflict with the proper performance of duties or responsibilities or that might adversely affect his or her independent judgment;
- Maintaining an undisclosed ownership interest in any supplier, contractor, subcontractor, competitor, customer or other entity with which HFC does business;
- Disclosing confidential information related to a procurement while the procurement process is ongoing;
- Acquiring any property HFC has is considering purchasing;
- Maintaining ownership or acquiring any property utilizing confidential information obtained through HFC or in the course of performing duties for HFC; or
- Appropriating or diverting to others any business opportunity that he or she knows or could reasonably have anticipated that would of material interest to HFC.

HFC requires affirmative steps by Directors and employees to identify and disclose potential and actual conflicts of interest. Directors shall report potential or actual conflicts to the Board Chair. Employees shall report to the General Counsel. The General Counsel must disclose potential or actual conflicts of interest to the President & CEO and Board Chair.

In the event any potential or actual conflict of interest exists with respect to any matter to be voted on or otherwise considered by the Board of Directors or any committee thereof, the General Counsel, President & CEO, or Board Chair must first brief the appropriate Directors on all relevant facts of such potential or actual conflict of interest.

D. Application to Family Members

For purposes of this Manual, the requirements and prohibitions related to conflicts of interest, gifts, and relationships that apply to Directors and employees also apply to their immediate family (i.e., spouse, domestic partner, children, parents, siblings, mothers and father-in-laws, sons and daughters-in-law, brothers and sisters in-law, and anyone who shares their home).

3.8 Waiver of Conflict

HFC will examine the facts and circumstances surrounding every conflict or potential conflict of interest. In doing so, HFC will review the specific facts in light of the applicable law, use common sense and good judgment, and exercise sound discretion. In resolving conflicts, HFC strives to ensure that no Vendor has an unfair competitive advantage. In situations where HFC determines that it is in its best interests, a conflict of interest may be waived to meet the interests of HFC so long as the waiver is not in violation of the law. The President & CEO or the Board Chair has the authority to waive any conflict or potential conflict involving an employee. The waiver of conflicts involving the President & CEO must be done by the Board of Directors, unless authority to waive conflicts is or has been delegated to the Board Chair. Any other conflicts or potential conflicts of interest involving Vendors must be disclosed to the Board of Directors prior to any decision relating to the award of a contract with that Vendor.

3.9 Reporting Misconduct

HFC encourages Directors, employees and Vendors to report any conduct that may be illegal, unethical, wasteful, fraudulent, or otherwise constitutes misconduct. Reports may be made directly to the General Counsel; Directors and employees may also report their concerns using the HFC Employee Hotline at 713.853.8888. Retaliation against any person who reports a concern to HFC in good faith regarding illegal or unethical conduct will not be tolerated. Making a report knowing it is false or otherwise in bad faith is unacceptable.

3.10 Restrictions on Communications

HFC regularly imposes material restrictions in its procurements while a Solicitation is being considered. Vendors are solely responsible for observation and compliance with such restrictions. When used, this is a period of time when prospective Vendors (including their representatives and persons acting on their behalf) are prohibited from contacting Directors or employees, except as specifically allowed in the Solicitation (e.g., at a pre-submittal meeting).

3.11 Delegation of Authority

The Board of Directors has delegated to the President & CEO the authority to execute contracts and otherwise approve procurements for matters less than \$250,000. Procurements of \$250,000 or more must be presented to the Board of Directors for consideration and approval. For each procurement, a written contract, in a form reviewed and approved by the General Counsel, is required.

HFC disavows and will not enter into any contract, modification, change order, contract price adjustment or other commitment unless it is made in writing, in a form approved by the

General Counsel, and executed, if required, by the President & CEO or his or her authorized designee.

Any employee who signs a contract, modification, change order, contract price adjustment, or other commitment in a form other than approved by the General Counsel, or otherwise obligates HFC without authority delegated by the President & CEO is subject to disciplinary action, up to and including termination. If an unauthorized purchase is made for the personal benefit of the employee, then such employee may be obligated for the expense, without limiting any other right or remedy of HFC.

3.12 Role and Responsibilities of Purchasing Division

HFC has established a Purchasing Division to help provide the timely delivery of quality goods, appropriate materials and services at a competitive price in accordance with this Manual and applicable law. The Purchasing Division is tasked with conducting procurements with transparency while maximizing competition, seeking best value and increasing opportunities for diversity businesses while meeting the needs of HFC.

The Purchasing Division will work directly with the General Counsel to ensure the goals of this Manual are accomplished. All Purchasing Division personnel and any other employees involved in the procurement process are required to be familiar with and understand this Manual, HFC policies, and applicable laws relating to procurement. Any deviations, variations or failure to follow the Manual must be reported immediately to the General Counsel.

The Purchasing Division shall have the following specific responsibilities:

- Conducting and supporting procurement of goods and services in the manner required in this Manual;
- Providing an efficient purchasing process for departments to utilize, including guidelines, purchasing options, small business/diversity information, and procedures for requisitions;
- Monitoring compliance with procurement rules and requirements during each Solicitation;
- Expediting the delivery of urgently needed goods and services when required;
- Periodically corresponding or meeting with departments to gather information to help improve the procurement process;
- Working directly with Vendors as needed to conduct procurements;
- Regularly reporting to the President & CEO on various procurement matters;
- Preparing reports requested by the Board Chair on various procurement matters;
- Securing and maintaining in strict confidence all bids, proposals, statements of qualification, scoring matrixes, and bid tabulations throughout the selection and evaluation process;

- Ensuring that procurements are supported by a requisition form, written directive, or other documentation regarding the proposed purchase, its utilization, method of procurement, and small business/diversity efforts, if any;
- As requested by the Board Chair or Procurement Committee, reporting to the Board of Directors on specific procurement matters; and
- As requested by the President & CEO, evaluating the controls and procedures regarding spending at all levels to ensure integrity, efficiency and honest dealing by employees.

3.13 Use of Board Committees in Procurement Process

The Board of Directors may establish, in accordance with the HFC Bylaws, one or more committees of Directors to help set policy, make recommendations and assist the Board of Directors in various ways.

The Board Chair may, at his or her discretion, subject to the HFC Bylaws, form committees, task forces, subcommittees or joint committees to address any aspect of HFC business, including the assignments to committees related to procurement, and give direct assignments to each committee.

3.14 Board of Directors – Final Decisions

Notwithstanding the delegation of authority to the President & CEO for spending under \$250,000, the Board of Directors may consider and act on any matter at its discretion by retracting or modifying any aspect of such delegation of authority at any time.

3.15 Summary of Procurement for Board Review

To ensure that Directors are fully aware of proposed expenditures before their approval, the Purchasing Division shall prepare and distribute a Summary of Procurement for each item for which it is requesting approval from the Board of Directors. The Summary of Procurement form will be distributed to the appropriate committee, if any, and the Board of Directors before consideration.

4. GENERAL PROCEDURES FOR INITIATING A PROCUREMENT

The Purchasing Agent will, subject to review and approval by the General Counsel, create the appropriate forms, procedures and guidelines for handling purchases less than \$50,000 so long as they are consistent with this Manual and applicable law. For purchases reasonably anticipated to equal \$50,000 or more, HFC shall employ the procedures described herein to ensure uniformity and fairness in approach. Any deviations from such threshold amounts must be approved by the President & CEO (if under \$250,000) or the Board of Directors (if over \$250,000).

4.1 Departmental Requests Under \$50,000

The Purchasing Agent, under the guidance of the General Counsel, will determine which procurement method to utilize for any procurement under \$50,000, while seeking best value for HFC. The Purchasing Agent may require the requesting department to submit a requisition form or similar documentation to support and justify the procurement. All documentation shall be reviewed and approved by the Purchasing Agent before conducting a Solicitation or issuing a

purchase order. Any fraudulent or improper use of procurement documents may subject an employee to disciplinary action, up to and including termination.

Requests for quotes may be used by HFC for purchases expected to cost between \$3,000 and \$50,000, and may be required by the Purchasing Agent. Requisitions with a total value under \$3,000 require at least one quote/bid. Where possible, requisitions with a total value over \$3,000, but under \$50,000, require the Purchasing Agent to attempt to find at least three bids.

4.2 Procurements Over \$50,000 – Initial Steps

A. Select a Procurement Method

The General Counsel will determine which procurement method to utilize for any procurement over \$50,000. Selecting the appropriate procurement method is dependent on an array of factors, including price, timing, legal requirements, and business opportunities.

B. Identify Small Business/Diversity Opportunities

Commitment to diversity opportunities requires that, early in the procurement process, efforts be made to consider the extent of divisible opportunities for small business and diversity participation, so as to appropriately establish contractual goals based on good faith efforts.

The Purchasing Agent will communicate regularly with departments and consider upcoming procurements with the mission of determining the appropriate contract goals for diversity participation in accordance with the [Diversity Program](#). Each contract goal must be based on the subcontracting opportunity, availability of diversity businesses, and their capacity.

5. GENERAL METHODS AND REQUIREMENTS FOR PROCUREMENTS

5.1 Request for Proposals

A Request for Proposal allows HFC to consider a variety of factors in addition to price. Factors for evaluation may include, but are not limited to, the following:

- Experience/reputation;
- Quality of goods or services;
- Price;
- Impact on use of small businesses and diversity entities;
- Safety record;
- Proposed personnel;
- Financial capability; and
- Other relevant factors.

Prior to the publishing of an RFP, weights will be assigned to each factor used in the evaluation.

5.2 Formal Competitive Bid Procedures

When competitive sealed bids are used as the procurement method, HFC will utilize a formal bid process in accordance with applicable law. Detailed specifications, committed funding and an estimated cost are required before issuing an Invitation to Bid.

5.3 Request for Qualifications

A Request for Qualifications allows HFC to evaluate the qualifications of certain professionals (e.g., architects and engineers) whose services must be obtained in compliance with applicable law, and other professionals, if HFC chooses to use the RFQ process.

5.4 Interlocal Agreements and Purchasing Cooperatives

HFC may join or contract with other governmental entities to receive or supply goods and services as part of a purchasing cooperative. The Purchasing Agent shall ensure that each purchasing cooperative or interlocal agreement includes established terms and conditions sufficient to protect the best interests of HFC, and may supplement such terms and conditions as directed by the General Counsel. Any procurement through a purchasing cooperative or interlocal agreement in excess of \$250,000 must be approved by the Board of Directors.

5.5 Compromise and Settlement Agreements

At the direction of the President & CEO or Board Chair, the General Counsel will negotiate and execute compromise and settlement agreements.

All compromise and settlement agreements must be approved by the President & CEO, and any compromise and settlement agreement over \$250,000 must also be approved by the Board of Directors.

5.6 Public Posting, Advertisements and Announcements

HFC recognizes the need for publicity and advertisement of procurement opportunities. The Purchasing Agent will ensure publicity of procurements. All RFPs, RFQs, and ITBs, if estimated in good faith by the Purchasing Agent to exceed \$250,000, must be advertised in accordance with Texas law and, to the extent practicable, advertised or communicated:

- For one-to-two weeks in the Houston Business Journal and two or more diverse community newspapers;
- On the HFC website;
- In a notice to all Directors, City of Houston Council members, small business associations, local chambers of commerce and known diversity contractors; and
- In a notice to HFC's list of previous Vendors with relevant skills, services, or goods.

5.7 Pre-Submittal Conference

HFC may conduct a pre-submittal or pre-proposal conference before submission of responses to Solicitations to further explain or clarify a Solicitation and respond to questions from

Vendors. Attendance at a pre-submittal conference is not mandatory. At the conference, HFC will review significant points in the Solicitation.

If modifications or amendments are made to a Solicitation, then the Purchasing Agent must ensure proper publication and notice of these changes. It is the responsibility of each Vendor to monitor the HFC website for such Solicitation changes and modify their response accordingly.

5.8 Bid Bonds

Vendors seeking to be awarded a contract may be required to post a bid bond. If a bond is required, then HFC will include the requirement in the Solicitation.

5.9 Affirmation of No Conflicts and Confidentiality by Evaluation Team

Evaluation Team members are prohibited from participating in any way with the review or consideration of a procurement if a conflict of interest exists (or would appear to a reasonable person to potentially exist). Evaluation Team members shall disclose and discuss any actual or potential conflict of interest (including those that would appear to a reasonable person to be a potential conflict of interest) directly with the General Counsel prior to participating in the review or consideration of a procurement.

If the Solicitation is over \$50,000, then each member of an Evaluation Team shall execute a No Conflict and Confidentiality Statement before participating in the selection process in a form approved by the General Counsel.

5.10 Delegated Authority to Purchasing Agent and the General Counsel

The Board of Directors delegates to the General Counsel and the Purchasing Agent the authority to create rules and procedures and to use forms, documents, exhibits or other instruments required for each Solicitation. The Purchasing Agent shall, however, consult with the General Counsel on any forms, documents or exhibits necessary for bids or proposals.

6. SUBMISSION OF BIDS/PROPOSALS

6.1 Timelines of Submission

Bids and proposals must be submitted in accordance with the requirements set forth in the Solicitation. Any bid or proposal which arrives at HFC offices after the time set forth in the Solicitation will be rejected, unless the delay is caused internally by the mishandling of mail delivery.

6.2 Amendment and Withdrawal of Bids/Proposals

Any bid or proposal may be amended or withdrawn by any method authorized by the Solicitation prior to the deadline for submission. To be effective, any notice of the amendment or withdrawal must be actually received by the Purchasing Agent in the manner designated in the Solicitation.

6.3 Mistakes and Minor Irregularities

A minor informality or irregularity is one that is merely a matter of form and not of substance. It can also pertain to an immaterial defect in a bid/proposal or a variation of a

bid/proposal from the exact Solicitation requirements that could be corrected or waived without being prejudicial to other Vendors. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired. The Purchasing Agent, after consultation with the General Counsel, may either allow the Vendor an opportunity to cure any deficiency resulting from a minor informality or irregularity, or waive the deficiency if it is in the best interest of HFC.

There is no authority to permit correction of a submittal that is non-responsive.

6.4 Responsiveness of Submittal

For a bid, proposal or statement of qualifications to be responsive, it must substantially comply with the requirements and specifications set out in the Solicitation. The Purchasing Agent will conduct a pre-award review to determine that the potential winning Vendor has offered a responsive bid. If an Evaluation Team is used in considering the submitted bids, then the Evaluation Team may make the determination of “responsible Vendor,” but such confirmation or failure to confirm must be reviewed and acknowledged by the Purchasing Agent. The Purchasing Agent must notify the Vendor that its submittal has been determined as non-responsive.

6.5 Right to Reject Responses and Waive Formalities

HFC reserves the right to accept or reject any and all responses and waive formalities to best serve the interests of HFC. Moreover, in case of ambiguity or lack of clarity in any response, HFC reserves the right to consider the most advantageous interpretation of, or to reject, the response.

6.6 Postponement or Cancellation of Bid/Proposal Opening

The Purchasing Agent may postpone, delay, or extend a Solicitation opening by means of a letter of clarification. Any Solicitation issued by HFC may be cancelled by the Purchasing Agent if it is determined that such cancellation is the best interest of HFC, subject to prior approval by the General Counsel. In such a situation, all aspects of the Solicitation are cancelled.

6.7 Tie Bids

If two or more Vendors submit the lowest and best bid, then the Purchasing Agent shall draw lots to determine the winning Vendor in the presence of at least two witnesses. The Purchasing Agent shall provide a written statement to the General Counsel describing how the tie was broken.

7. EVALUATION PROCESS FOR BIDS/PROPOSALS

7.1 Competitive Bids Over \$50,000

The Purchasing Agent shall publicly open competitive bids over \$50,000.00 at the designated time, date and place specified in the Solicitation. At least one witness must be present. The Purchasing Agent shall read aloud the name of each Vendor, the amount bid and other information deemed appropriate by the Purchasing Agent, if any.

7.2 Evaluation of Competitive Sealed Bids, Requests for Proposals and Requests for Qualifications

Before any Solicitation is issued, an evaluation method will be assigned. For all Solicitations, other than competitive bids, where the value of the agreement is anticipated to be in excess of \$250,000, an Evaluation Team will be made part of the process. If the amount of the potential contract is less than \$1,000,000, then the composition of the Evaluation Team may be limited to employees at the discretion of the President & CEO. For all procurements reasonably anticipated to be in excess of \$1,000,000, HFC will make reasonable efforts under the specific circumstances of the procurement to utilize an Evaluation Team including both employees and non-employees. The Evaluation Team should bring together as much knowledge as possible to ensure the best response to the Solicitation is selected.

Experience or expertise in the following areas should be considered when putting together an Evaluation Team: Operational knowledge, financial analysis, technical expertise, diversity awareness, administrative support, and industry experience.

Evaluation Team members must be able to commit the required time, be free of actual and potential conflicts of interests, and able to maintain the confidentiality of the process. Evaluation Team members may be disqualified for failing to adhere to any of these requirements.

A pre-defined scoring matrix developed by the Purchasing Agent will be used by the Evaluation Team. This scoring matrix will be explained and demonstrated to the Evaluation Team by the Purchasing Agent prior to the team considering any proposals. All scoring and voting documents from the Evaluation Team will be properly secured and maintained by the Purchasing Agent. Any irregularity or impropriety in the evaluation process must be reported immediately to the General Counsel or the President & CEO.

The Evaluation Team may use either the numerical or the consensus/narrative method of scoring proposals. The decision as to which one to use will be made by the Purchasing Agent in conjunction with the General Counsel; provided, however, that any procurement in excess of \$2.5 million dollars must utilize the numerical method for evaluation.

A. Numerical Scoring Method

The numerical scoring method quantifies rather than qualifies the evaluations, wherein the RFP/RFQ has determined in advance the maximum number of points for each criterion. Individually, every voting Evaluation Team member assigns points to each criterion for the proposal or qualification evaluated. Using this method, team member scoring should be done by written vote and in secret. Secrecy in the individual scoring is paramount and the Purchasing Agent shall conduct the process so as to prevent sharing of individual scoring before the tabulations. If any Evaluation Team member enters a score in any category greater than the maximum score allowed for the category, then that score will automatically be adjusted to reflect the maximum amount allowed for the category. If there is any appearance of impropriety in the scoring process, then the General Counsel will be asked to review the scoring process.

B. Consensus/Narrative Method

The consensus/narrative method is a process wherein the Evaluation Team as a whole arrives at a common understanding as to the ranking of offers. It may involve numerical scoring or a narrative appraisals of the significant strengths, weaknesses and risks of each proposal or qualification. An adjectival approval (such as poor, fair, excellent, or most important, very important, important) may be used. The committee confirms the consensus by vote and in writing.

7.3 Local Preference Program

The Purchasing Agent may, with the approval of the General Counsel, include a provision in a Solicitation requiring approval by the Board of Directors allowing for a limited preference for a Vendor whose principal place of business is located in Houston if the Purchasing Agent determines and certifies in writing that a local preference is in the best interests of HFC. HFC may award up to five percent of available points to, or accept an amount bid or proposed by, a local Vendor under this Section in accordance with the provisions of the Solicitation only if the local Vendor has offered a price in its bid or proposal that is no more than five percent greater than the lowest bid or proposed price received, and the lowest price bid or proposed was submitted by a Vendor whose principal place of business is outside of Houston, as certified by the Purchasing Agent.

Nothing in this Section creates, gives or recognizes an interest or right of any kind for any Vendor prior to the award of a contract or guarantees that any local preference whatsoever will be given.

8. PROCEDURES FOR CONSTRUCTION SERVICES CONTRACTS (OVER \$50,000)

HFC is authorized under Chapter 2269 of the Texas Government Code to use any one of the following types of construction delivery methods:

- Competitive sealed bids;
- Competitive sealed proposals;
- Construction manager agent;
- Construction manager-at-risk;
- Design-build; and
- Job order contract.

8.1 Best Value Determination

Before advertising for a construction services contract, HFC must determine which method above provides the best value to HFC. Where best value may be utilized in the process, the following criteria may be considered for evaluation with a weight assigned to each:

- Price;

- Experience and reputation;
- Quality of goods or services;
- Impact on the ability to comply with rules relating to historically underutilized businesses;
- Safety record;
- Proposed personnel;
- Whether the Vendor’s financial capability is appropriate to the size and scope of the project; and
- Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(If the competitive sealed bid process is used, then the foregoing selection criteria can only be used to determine whether the contractor is a responsible Vendor, as the award can only be made to the lowest responsible Vendor.)

If any delivery method other than competitive sealed bid is used, then the respondents will be graded based on the selection criteria set out in the Solicitation, and the award will be made to the respondent who provides the “best value” to HFC for the project. The award does not have to be made based on the lowest price. The Evaluation Team will rank the respondents based on their scores on the selection criteria, and negotiations will begin with the highest-ranked respondent. If successful negotiations cannot be reached, then HFC has the right to cease negotiations and begin negotiations with the next highest-ranked respondent.

8.2 Use of Design-Build

The design-build model requires the selection of a design-build firm using a combination of technical, cost proposal and special consideration to the role of and use of engineers. Prior to utilizing the design-build method, the Board of Directors must affirmatively authorize its use based on a preliminary determination of best value made by the Purchasing Agent.

8.3 Job Order Contracts

HFC may use job order contracts for construction projects, such as building repairs, rehabilitation, or alterations, when the work is of a recurring nature (e.g., re-carpeting, re-roofing, or re-painting interiors or exteriors or other minor projects), but the delivery times are indefinite. It cannot be used for civil engineering projects or large construction projects, such as the construction of a building.

- If a job order contract or an order requires professional services, those services must be provided in accordance with the manner provided by law.
- To select the job order contractor, the RFP shall set out the selection criteria, and may require a proposal for unit prices.
- An Evaluation Team shall evaluate and rank the contractors.

- HFC may select more than one contractor in connection with each RFP.

HFC will issue work orders for job order projects with prices set out in the R.S. Means Facilities Construction Cost Data unit price book. No single job order issued under a job order contract shall exceed \$350,000.

9. PROCEDURES FOR PROFESSIONAL SERVICES CONTRACTS

Certain professional services (including, by way of example, accounting, architecture, surveying, and engineering) must be procured pursuant to the provisions of Chapter 2254 of the Texas Government Code utilizing the RFQ process.

Vendors are evaluated initially on the published criteria to determine the most qualified; subsequently, HFC will solicit pricing from the highest-ranked Vendor.

10. PROCEDURES FOR OTHER PROFESSIONAL SERVICES CONTRACTS

For other professional services not identified in Chapter 2254 of the Texas Government Code, HFC has broad legal latitude and may use any available procurement method to get the best value. RFPs and RFQs are customarily employed to retain these professional services. The procedures described herein will apply to each particular procurement method utilized for retaining professional services.

10.1 Best and Final Offer

HFC is authorized to employ various forms of negotiation with a Vendor after a determination has been made regarding the Vendor's potential to give "best value" to HFC. The use of "best and final offer" as a technique for negotiations is permitted to further HFC's objective to obtain the "best value" for HFC.

11. POST-SELECTION ACTIVITIES

The General Counsel shall negotiate and finalize procurement contracts. The Purchasing Agent shall monitor the administration of contracts, unless otherwise designated in the contract or assigned by the President & CEO, by ensuring that all parties fulfill their contractual obligations as well as maintaining proper records of the contract and its administration.

11.1 Contract Performance

Each Vendor should expect regular and customary inquiries from HFC regarding contract performance. These inquiries may include the following:

- Timely execution of core contract responsibilities;
- Costs and expenses consistent with the identified costs for contract;
- Quality of the work and product presented to HFC;
- Satisfaction of the contract goals for small business and diversity participation;
- Compliance with prevailing wage requirements;

- Safety procedures and completion;
- Compliance with specific contract obligations and/or contract promises made by Vendor;
- Timely payment to subcontractors; and
- Adherence to governmental rules and regulations

The objective of the performance review is to confirm contract compliance. HFC (through its Purchasing Agent or person designated by the President & CEO) will record clear failures by Vendor to meet any core contract obligations as listed above and efforts to afford opportunities for the Vendor to satisfy those obligations. Any such clear failures will be reported to the President & CEO, Procurement Committee and Board Chair. The General Counsel, along with the Purchasing Agent, will maintain copies of any contract evaluations recording clear failures to perform.

11.2 Change Orders and Contract Modifications

Any material change to the contract cost/fee, scope of work, duration or any other element of the contract will necessitate a written contract change order signed by the President & CEO (each a “Change Order”). The form and content of all Change Orders must be approved in advance by the General Counsel.

Change Orders are permissible only if the change is considered within the scope of work of the original contract and does not constitute a significant change from the original purpose of the work. For competitively bid contracts and construction contracts, if a significant change in scope or purpose of work results from the change, HFC must issue a new Solicitation.

No Change Order may be made without proper authorization. A Change Order under \$250,000 must be authorized by the President & CEO, unless the Change Order would cause the total contract value to exceed \$250,000. All Change Orders over \$250,000 (and any Change Order causing the total contract value to exceed \$250,000) must be approved by the Board of Directors unless otherwise delegated. The General Counsel must advise on the legal aspects of all Change Orders regardless of amount.

11.3 Small Business/Diversity Compliance

Small business and diversity participation is central to procurement at HFC. The [Diversity Program](#) requires full participation by our Vendors, and HFC will closely monitor compliance. Failure to use good faith efforts to meet a diversity goal or disregard of other contractual terms related to diversity participation may constitute grounds for contract termination.

11.4 Early Contract Termination

HFC expects full and complete performance from each of its Vendors. Failure to meet any of the major contract terms may constitute grounds for early termination. Where appropriate and subject to negotiation, material contracts with Vendors will include provisions for termination “for cause” and termination “for convenience.” The General Counsel is delegated the authority to terminate a contract if HFC is so authorized by contract, the Board Chair or the President & CEO, and if all contract requirements applicable to termination are followed. Any early termination of a

contract valued in excess of \$250,000 must be reported to the Board Chair and appropriate committee, if any.

11.5 Contract Term Renewals

A contract term may be renewed or extended consistent with the terms and conditions thereof by either the President & CEO or the General Counsel.

Any desired contract renewal or extension not allowed under the terms and conditions of the original contract shall be treated as a new procurement and must be conducted in accordance with the provisions of this Manual. However, in cases of emergency or material hardship, the President & CEO may, with approval of the Board Chair, continue a contract for a limited period of time so as to prevent the hardship or negate the ill effects of the emergency or material hardship.

12. EMERGENCY PROCUREMENTS

An emergency is a condition that creates a threat to an employee, property or operations, or to public health, welfare or safety, arising from natural forces (e.g., fire, wind, flood, storm, earthquake, epidemic or other natural disaster); riot, unlawful assembly or mob violence; or hostile acts of a public enemy. Emergency also means any condition that requires immediate action to protect life or property or to correct a condition that places continuity of essential operations by HFC in material peril.

As a guiding principle, the Purchasing Agent will not treat the following situations or conditions as an emergency:

- Depleted supplies due to poor planning or management;
- Broken or damaged equipment or vehicles caused by not following scheduled maintenance; or
- Purchasing of items through standard purchasing procedures which will not disrupt services, will not significantly increase the cost of HFC operations, and will not stop work in progress.

The Purchasing Agent will forward the emergency procurement request to the President & CEO. The President & CEO, alone, may declare the existence of an emergency, approve the request and waive the requirements set forth in this Manual. For emergency procurements equal to or greater than \$250,000, the President & CEO shall promptly report the existence of and approval of the request to the Board Chair. The President & CEO shall report such items deemed an emergency and over \$250,000 to the Board of Directors at its next regularly scheduled meeting.

For emergency construction projects limited in scope (e.g., a broken window), the Purchasing Agent shall ascertain whether the same type of construction requested is currently and readily available under a Job Order Contract. If a contract for the items or services is already in place, then the Purchasing Agent will contact the appropriate Vendor to fulfill the request. If the item or service is not covered by the Job Order Contract, then the Purchasing Agent shall take immediate action to resolve the emergency condition, using good faith efforts to select sources.

13. SOLE SOURCE JUSTIFICATIONS

HFC seeks to promote competition to get best value by requiring bids for prospective Vendors whenever possible; however, HFC may purchase equipment, supplies, materials or services through non-competitive negotiation (sole source) when the award of a contract is not feasible under any of the other described procurement methods in this Manual.

Sole source purchases are purchases of goods or services that are available from only one source (e.g., an item for which competition is precluded because of the existence of a patent, copyright, or monopoly; a film, manuscript, or book; a utility service, including electricity, gas, or water; or a captive replacement part or component for equipment).

Procurement without competition is authorized under the limited conditions stated above and subject to written justification documenting the conditions which preclude the use of a competitive process. Negotiation should be attempted before agreeing to a sole source purchase because the lack of competition may lead a vendor to charge unreasonably high prices. The requesting department should provide a sole source letter to the Purchasing Agent that details a list of requirements relating to delivery, quality, performance, and other relevant conditions and do everything possible to strengthen the bargaining position of HFC.

Sole source purchases under \$50,000 must be approved by the Purchasing Agent. Sole source purchases from \$50,000 to \$250,000 must be approved by the President & CEO. Sole source purchases over \$250,000 will be presented to the Board of Directors.

14. SOLICITATION PROTESTS

To preserve and protect the integrity of its procurement process, HFC will allow and consider material, timely, good-faith protests submitted by a Vendor in accordance with the requirements of this Section in connection with a Solicitation expected to result in a contract, as determined by HFC, valued in excess of \$250,000. To the limited extent a protest is allowed after the submission deadline set forth in a subject Solicitation, only a Vendor who has submitted a bid, proposal or statement of qualifications is qualified to protest a matter involving the Solicitation. Except as allowed under this Section, all other protests of any kind or type, including, but not limited to, Solicitation content, terms and conditions, selection criteria and related evaluations, and manner of selection shall be disregarded.

14.1 Timeline for Filing Protests

Any protest relating to the form, terms and conditions, selection criteria, specifications, exhibits, or any other material Solicitation content must be filed by the Vendor with the Purchasing Agent no later than five business days prior to the submission deadline set forth in the Solicitation.

If the protest consists of a dispute regarding the Vendor recommended by the Evaluation Team, or otherwise relates to the alleged misapplication of selection criteria set forth in a Solicitation, then the Purchasing Agent must receive the protest after the submission deadline, but at least three business days prior to consideration of a contract resulting from the Solicitation by an HFC committee or Board of Directors, whichever is earlier.

14.2 Written Protest Submission Requirements

To be considered by HFC, each Vendor protest must include, at a minimum, all of the following information:

- The name, address and contact information of the Vendor, with sufficient information to establish that a bona fide Vendor is the person or entity filing the protest;
- The full title of the Solicitation;
- Material grounds for the protest, including the provisions of the Solicitation and the applicable law or regulation that serves as the basis for the protest;
- A statement of the specific relief requested by the Vendor;
- Reference to and attachment of any pertinent documents or sources relied upon by the protestor that the protesting party wishes to have HFC consider; and
- An affidavit attached to support any factual allegations stated in the submission.

The Purchasing Agent will notify the Vendor promptly to acknowledge receipt of a protest.

14.3 Protest Procedures

Protests relating to the form, terms and conditions, selection criteria, specifications, exhibits, or other Solicitation content made by a Vendor in accordance with the requirements of this Section will be reviewed and resolved by the Purchasing Agent and the General Counsel, or their respective designees.

Any protest consisting of a selection dispute or relating to the alleged misapplication of selection criteria set forth in a Solicitation will be resolved in a manner approved by the President & CEO, after consulting with the Board Chair and the General Counsel, in the best interests of HFC.

15. PROCUREMENT PLAN

During January of each year, the Purchasing Agent will prepare and publish a procurement plan for HFC covering the upcoming 18-month period. The procurement plan shall be communicated annually to the Board of Directors and each appropriate committee and published on the HFC website.

16. MISCELLANEOUS

16.1 Federal Funding Requirements

If HFC engages in a procurement utilizing federal funds or that has applicable federal regulations, then HFC will adhere to policies and procedures required by federal law and regulation.

16.2 Disaster Protocol for Repairs.

In the event a federally-declared disaster that requires repair, renovation or replacement of City of Houston facilities leased or managed by HFC, procurements for disaster related repair, renovation or replacement will be subject to Disaster Protocols as outlined in the Lease Agreement between the City of Houston and HFC and any amendments thereto.

16.3 Prevailing Wage

HFC will require payment of a prevailing wage rate on construction projects in accordance with Chapter 2258 of the Texas Local Government Code. Vendors on construction projects are required to adhere to all contract provisions regarding payment and reporting of a prevailing wage rate.

16.4 Procurement Training

The President & CEO may direct the Purchasing Agent to conduct annual training regarding the requirements and expectations for procurement. Training sessions should review and examine the basic tenants of procurement at HFC, this Manual, the [Diversity Program](#), the Code of Business Conduct and Ethics, and any recent developments or changes in procurement law.

16.5 Procurement Evaluation

HFC strives to continuously improve its mechanisms and procedures for procurement. In that regard, the Board of Directors will periodically review various aspects of procurement at HFC to ensure compliance and support best practices.