

HOUSING AUTHORITY OF NEW ORLEANS

CONTRACTOR EXCLUSION AND DUE PROCESS HEARING POLICY FOR NONRESPONSIBLE AND/OR EXCLUDED CONTRACTORS

To revise HANO Procurement Policy, Section 7 – Contracts, 7.1 Eligibility to Contract with HANO

Section 7 – Contracts

7.1 Eligibility to Contract with HANO

7.1.1 Determination of Contract Responsibility

The Department of Contracts and Compliance shall perform due diligence verifications prior to award of any contract or purchase order exceeding the small purchase threshold, to document contractor responsibility and ensure that awards are made only to contractors possessing the ability to perform successfully under the terms and conditions of a proposed contract. Consideration will be given to such matters as contractor integrity, business judgment, compliance with public policy, record of past performance, financial and technical resources, and any other factors which could be reasonably related to being relevant to successful performance.

In addition, the Department of Contracts and Compliance shall ensure, prior to award of a contract, that the proposed business has not been debarred, or otherwise declared ineligible for award, by an applicable regulatory agency. The following non-exclusive sources shall be reviewed when required:

- a) U.S. General Services Administration's "List of Parties Excluded From Federal Procurement and Non-procurement Programs"
- b) U.S. Department of Housing and Urban Development's "Limited Denial of Participation" List
- c) Office of State Purchasing (OSP) Quasi Agencies Notification List

7.1.2 Contractor Exclusion

This section applies to exclusion of a sole proprietor or any bidding entity if any individual partner, incorporator, director, manager, officer, organizer, or member, who has at least 10% ownership in the bidding entity, for consideration for award of contracts, in accordance with LA R.S. 38:2227 for the following crimes:

1. A conviction of or plea of guilty or no contest to the following state crimes or equivalent federal crimes shall permanently bar any person or the bidding entity from bidding on public projects:
 - (a) Public bribery
 - (b) Corrupt Influencing
 - (c) Extortion
 - (d) Money laundering
2. A conviction of or plea of guilty or no contest to the following state crimes or equivalent federal crimes shall bar any person or the bidding entity from bidding on public projects for a period of five years from the date of conviction or from the date of the entrance of the plea of guilty or no contest:
 - (a) Theft

- (b) Identity theft
- (c) Theft of a business record
- (d) False accounting
- (e) Issuing worthless checks
- (f) Bank fraud
- (g) Forgery
- (h) Contractors; misapplication of payments
- (i) Malfeasance in office

The five-year prohibition shall apply only if the crime was committed during the solicitation or execution of a contract or bid awarded pursuant to the provisions of LA R.S. Title 38, Chapter 10 – Public Contracts.

HANO shall not be required to perform criminal background checks on contractors, vendors, or subcontractors. Each bidder shall be required to attest that he has not been convicted of, or has not entered a plea of guilty or nolo contendere to any of the crimes or equivalent crimes listed in the preceding paragraph. It shall be the responsibility of any person, company, or entity making an allegation of false attestation to present prima facie proof to HANO supporting their claim. If evidence is submitted substantiating that a false attestation has been made and the project must be re-advertised or the contract cancelled, the awarded entity making the false attestation shall be responsible to HANO for the costs of rebidding, additional costs due to increased costs of bids and any and all delay costs due to the rebid or cancellation of the contract.

Should HANO uncover information about a bidding entity that would be cause for debarment, suspension, exclusion, or determination of ineligibility for award of a contract, it shall report and submit supporting documentation to the applicable regulatory agency.

7.1.3 Notice of Proposed Disqualification

The following sections shall only apply to procurements done in accordance with Louisiana Public Bid Law as promulgated in R. S. 38:2211 and 38:2212 et. seq.

In the event that a bidder is determined to be ineligible to contract with HANO due to exclusion or HANO's determination that a bidder is not responsible, HANO shall send the bidder a formal written notice that HANO is proposing disqualification of the bidder from competing for the contract. This notice must be sent prior to the award of the contract.

The notice shall state specific reasons for the proposed disqualification. The notice shall also inform the bidder of its right to an informal hearing at which time the bidder will be afforded the opportunity to refute the reasons for the proposed disqualification. The due process hearing shall be scheduled within five (5) business days from the date of the notice. A copy of the notice shall be sent to the bidder by fax, email, regular mail, and by certified mail return receipt requested.

7.1.4 Due Process Hearing

An informal hearing shall be held with the bidder proposed for disqualification and HANO official(s) to give the bidder an opportunity to respond to the charges against the bidder. This hearing does not include the right to call witnesses or cross-examine the persons who initiated the charge(s) of irresponsibility and/or exclusion.

Within five (5) business days after the hearing, but prior to awarding the contract, HANO shall give the bidder formal written notice of the agency's decision. If HANO upholds its decision to disqualify the bidder for the contract, the decision notice shall list the specific reasons upon which the disqualification is based. A copy of the due process hearing decision notice shall be sent to the bidder by fax, email, regular mail, and by certified mail return receipt requested.

HANO shall preserve the records including any written notices, communications, supporting documentation, informal due process hearing decisions, and any other records in connection with a disqualification for at least 1 year from the date of final decision.