



NOTICE AND AGENDA

November 18, 2015

REGULAR MEETING OF THE MINNEAPOLIS PUBLIC HOUSING AUTHORITY IN AND FOR THE CITY OF MINNEAPOLIS WILL BE HELD AT 1:30 P.M. AT 1001 WASHINGTON AVENUE NORTH, MINNEAPOLIS, MINNESOTA

The Tenant Advisory Committee will meet at 12:00 Noon, same date and place

Commissioners: **F. Clayton Tyler, Chair**
 Charles T. Lutz, Vice Chair
 Daisy Nguyen, Secretary
 Tom DeAngelo, Commissioners
 Cara Letofsky, Commissioner
 Dorothy Robinson, Commissioner
 Hon. James Rosenbaum, Commissioner

GENERAL:

- Roll Call
- Approval of Agenda
- Minutes of Regular Meeting of September 23, 2015

TENANT ADVISORY COMMITTEE – TAC Chairperson Comments

DISCUSSION:

1. Write-Off of Delinquent Accounts for Former Public Housing Tenants (Carol Kubic, General Counsel)
2. Procurement Policy Revisions (Betsy Grossman, Director of Procurement and Bob Boyd, Director of Policy & Special Initiatives)

RECEIVE AND FILE:

- Monthly Performance Report for September 2015 (Cora McCorvey, Executive Director / CEO)
- Monthly Performance Report for October 2015 (Cora McCorvey, Executive Director / CEO)



PUBLIC HEARING:

RAD Conversion Heritage Park

Next Regular Meeting:

**Wednesday, December 16, 2015 - 1:30p.m.
1001 Washington Avenue North
Minneapolis, MN 55401**

Notice: *A portion of this meeting may be closed to the public pursuant to Minnesota Statutes
Section 13D.03 or 13D.05.*



**MINUTES OF A REGULAR MEETING OF THE
MINNEAPOLIS PUBLIC HOUSING AUTHORITY
IN AND FOR THE CITY OF MINNEAPOLIS
September 23, 2015**

The Minneapolis Public Housing Authority in and for the City of Minneapolis met in a regularly scheduled meeting at 1:30 P.M. on September 23, 2015, at 1001 Washington Avenue North, Minneapolis, Minnesota, the date, time, and place established for the holding of such meeting.

Roll Call:

The Chair called the meeting to order, the following members of the Board being present:

F. Clayton Tyler	Chair
Charles T. Lutz	Vice Chair
Daisy Nguyen	Secretary
Cara Letofsky	Commissioner
Hon. James Rosenbaum	Commissioner

The following members of the Board were absent:

Tom DeAngelo	Commissioner
Dorothy Robinson	Commissioner

The following others were also present:

Cora McCorvey	Executive Director / CEO
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The Chair declared the presence of a quorum.

Approval of Agenda:

Commissioner Lutz moved approval of the proposed agenda. The motion was seconded by Commissioner Letofsky. Upon a voice vote, the Chair declared the motion carried.

Approval of Minutes:

The Minutes of the Regular Meeting of August 26, 2015, were presented for approval. Commissioner Lutz moved the minutes be accepted as presented. The motion was seconded by Commissioner Rosenbaum. Upon a voice vote, the Chair declared the motion carried.



Item No. 1: MPHA 2016 Moving To Work (MTW) Plan and Changes to the MPHA Statement of Policies and Section 8 Administrative Plan

After a brief presentation by staff and discussion, Commissioner Lutz moved approval of the recommendation set forth in the Report along with the corresponding Resolution which was attached thereto. Commissioner Nguyen seconded the motion. Upon a roll call vote, Five Commissioners voted "aye" (Commissioners Letofsky, Lutz, Nguyen, Rosenbaum and Tyler), and no Commissioners voted "nay". The Chair declared the motion carried. [See Document No. 2015-29]

Receive and File Items:

The following item was received and filed by the Board:

- The Monthly Performance Report for August 2015. [See Document No. 2015-30]

Adjournment:

There being no further business to come before the meeting, and upon a motion duly made and seconded, the meeting was adjourned at 1:55 p.m.

Secretary of the Board of Commissioners

Date These Minutes Approved



November 18, 2015

Agenda Item 1

REPORT TO THE COMMISSIONERS

FROM: Cora McCorvey, Executive Director / CEO

SUBJECT: Write-Off of Delinquent Accounts for Former Public Housing Tenants

Previous Directives: HUD requires MPHA to write off delinquent accounts of former public housing tenants. The Board of Commissioners approved the last write-off of such delinquent accounts on December 17, 2014.

Resident Council Review / Recommendations: This matter will be discussed with the Tenant Advisory Committee (TAC) immediately prior to the Board's November 18, 2015 meeting.

Budget Impact: Conforms to the 2015 budget.

Affirmative Action Compliance: Not Applicable.

Procurement Review: Not Applicable.

RECOMMENDATION: It is recommended that the Board of Commissioners authorize the Executive Director or her designee to declare the amounts specified in this Report uncollectible and to write off the uncollected amounts as a loss.

Every year MPHA writes off uncollectible amounts from former tenants' accounts. This write-off is permitted by federal regulation, favorably affects MPHA's Tenant Accounts Receivable PHAS score, and is a generally accepted accounting practice. MPHA takes action to collect monthly rent, retroactive rent, sales and service charges and court and services fees incurred in prosecuting eviction actions for cause and non-payment of rent.

When MPHA suspects tenant fraud, MPHA submits retroactive rents in excess of \$5,000 to the HUD Office of the Inspector General (OIG) for investigation. MPHA also uses the Minnesota Department of Revenue's Revenue Recapture Program to collect the amounts written off. In the fiscal year, through October 23, 2015, MPHA collected \$78,848.20 through the Revenue Recapture Program.

From January through September 2015, MPHA received over \$14 million in monthly rent, which is 100.18% of the monthly rent charged.

This write-off includes \$136,466.32 in sales and service charges and court and service fees for 221 former tenants and \$59,586.25 in retroactive rents for 24 tenants who vacated mainly after September 1, 2014 and before September 1, 2015. Compared to 2014, the number of tenants is a



decrease for sales and service charges and is the same for retroactive rent and a decrease in the amount for sales and service charges and an increase in the amount for retroactive rent.

This write-off also includes \$63,212.86 in dwelling rent for 201 tenants who vacated mainly in 2014. Compared to 2013, this is an increase in the number of tenants and the write-off per tenant. As HUD requires, rent for the current fiscal year 2015 is not included in the write-off.

The total write-off amount will not exceed \$259,265.43 and may be lower after a final review of accounts and additional payment postings. The total write-off is about \$13,000 more than in 2014.

This Report was prepared by Carol Kubic, MPHA General Counsel. For further information, please contact Ms. Kubic at (612) 342-1443 or ckubic@mplspha.org.



November 18, 2015

Agenda Item 2

REPORT TO THE COMMISSIONERS

FROM: Cora McCorvey, Executive Director / CEO

SUBJECT: Procurement Policy Revisions

Previous Directives: The Board of Commissioners approved the MPHA Statement of Procurement Policy on August 24, 2005 which was amended January 22, 2014. On January 28, 2015, the Board approved minor changes in the Policy's "micro" and "small purchase" definitions to reflect changes permitted under the conversion of HUD procurement regulations from 24 C.F.R. § 85.36 to 2 C.F.R. § 200.

Resident Council Review/Recommendation: This matter will be discussed with the Tenant Advisory Board (TAC) immediately prior to the Board's November 18, 2015 meeting.

Budget Impact: This action does not have an impact on the MPHA budget.

Affirmative Action Compliance: Not Applicable.

Procurement Review: This recommendation has been reviewed and approved by the Agency's Director of Procurement.

RECOMMENDATION: It is recommended that the Board of Commissioners adopt the Procurement Policy recommended herein and authorize the Executive Director or her designee to implement the new Policy on the date of adoption.

As of January 1, 2015, Federal requirements governing public housing authority procurement activities moved from 24 C.F.R. § 85.36 to 2 C.F.R. § 200. HUD requires public housing authorities to revise their procurement policies to reflect procurement under § 200 by December 31, 2015. The attached comparison identifies the differences between § 85.36 and § 200. While there are not many substantial differences between the regulatory requirements of § 85.36 and § 200, staff recommends that MPHA's Procurement Policy be revised and updated not only to reflect the technical conversion to 2 C.F.R. § 200 but to better clarify HUD's guidance related to procurement activities.

MPHA has retained a nationally recognized procurement consultant who has expertise in HUD procurement requirements to assist the Agency with updating its procurement policies and procedures to meet HUD procurement standards. He has also provided MPHA with a draft procurement policy which staff has reviewed and recommends.

The following is a link to the recommended policy:

<http://www.mphaonline.org/wp-content/uploads/2015/11/MPHA-Procurement-Policy-11-15.pdf>

This Report was prepared by Elizabeth Grossman, MPHA's Director of Procurement, and Bob Boyd, MPHA's Director of Policy and Special Initiatives. For additional information, please contact Ms. Grossman at 612-342-1489 or egrossman@mplspha.org.

<p>24 CFR PART 85 Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments - Subpart 36 - "Procurement"</p> <p>Procurement.</p> <p>(a) States.</p> <p>(b) Procurement standards.</p> <p>(c) Competition.</p> <p>(d) Methods of procurement to be followed.</p> <p>(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.</p> <p>(f) Contract cost and price.</p> <p>(g) Awarding agency review.</p> <p>(h) Bonding requirements.</p> <p>(i) Contract provisions.</p> <p>(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.</p> <p>(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section. (2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.</p>	<p>2 CFR : Grants and Agreements - Subtitle A; Chapter II Office Of Management And Budget Guidance; PART 200—Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards</p> <p>Procurement Standards</p> <p>§200.317 Procurements by states.</p> <p>§200.318 General procurement standards.</p> <p>§200.319 Competition.</p> <p>§200.320 Methods of procurement to be followed.</p> <p>§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.</p> <p>§200.322 Procurement of recovered materials.</p> <p>§200.323 Contract cost and price.</p> <p>§200.324 Federal awarding agency or pass-through entity review.</p> <p>§200.325 Bonding requirements.</p> <p>§200.326 Contract provisions.</p> <p>§200.317 Procurements by states. When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered <i>materials</i> and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including sub-recipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.</p> <p>§200.318 General procurement standards. (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section. (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.</p>
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(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i)** The employee, officer or agent,
- (ii)** Any member of his immediate family,
- (iii)** His or her partner, or
- (iv)** An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when **the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.** The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(c)(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-

<p>common goods and services.</p> <p>(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.</p> <p>(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.</p> <p>(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.</p> <p>(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.</p> <p>(10) Grantees and subgrantees will use time and material type contracts only—</p> <p>(i) After a determination that no other contract is suitable, and</p> <p>(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.</p>	<p>Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.</p> <p>(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.</p> <p>(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.</p> <p>(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.</p> <p>(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.</p> <p>(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:</p> <p>(i) The actual cost of materials; and</p> <p>(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.</p> <p>(j)(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.</p>
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(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have **protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:**(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and **(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.**

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of § 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i)** Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii)** Requiring unnecessary experience and excessive bonding,
- (iii)** Noncompetitive pricing practices between firms or between affiliated companies,
- (iv)** Noncompetitive awards to consultants that are on retainer contracts,
- (v)** Organizational conflicts of interest,
- (vi)** Specifying only a *brand name* product instead of allowing *an equal* product to be offered and describing the performance of other relevant requirements of the procurement, and

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, **protests, disputes, and claims.** These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. **In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.** Some of the situations considered to be restrictive of competition include but are not limited to:

- (1)** Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2)** Requiring unnecessary experience and excessive bonding;
- (3)** Noncompetitive pricing practices between firms or between affiliated companies;
- (4)** Noncompetitive contracts to consultants that are on retainer contracts;
- (5)** Organizational conflicts of interest;
- (6)** Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

<p>(vii) Any arbitrary action in the procurement process.</p> <p>(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.</p> <p>(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:</p> <p>(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those 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 <i>brand name or equal</i> description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and</p> <p>(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</p> <p>(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.</p>	<p>(7) Any arbitrary action in the procurement process.</p> <p>(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.</p> <p>(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:</p> <p>(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those 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 equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and</p> <p>(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</p> <p>(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.</p>
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(d) Methods of procurement to be followed.

(1) Procurement by *small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). 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 the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in § 85.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A)** A complete, adequate, and realistic specification or purchase description is available;
- (B)** Two or more responsible bidders are willing and able to compete effectively and for the business; and
- (C)** The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A)** The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
- (B)** The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). 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 the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i)** A complete, adequate, and realistic specification or purchase description is available;
- (ii)** Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii)** The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i)** The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
- (ii)** The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (C) The awarding agency authorizes noncompetitive proposals; or
- (D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

(1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action **in excess of the Simplified Acquisition Threshold** including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent

(f) Contract cost and price.

(1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. **A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.**

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of sub-contracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs

incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see § 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review.

(1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the

that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the

awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.*

The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment

Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment

as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions.

A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) 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. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in *Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards*.

APPENDIX II TO PART 200—Contract Provisions For Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-

(4) Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders

	<p>12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.</p> <p>(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.</p> <p>(K) See § 200.322 <i>Procurement of recovered materials</i>.</p>
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Cora McCorvey, Executive Director / CEO

Performance Report for September 2015

Board of Commissioners Meeting -

November 18, 2015

THIS MONTH'S REPORT

- Asset Management Project (AMP Reports)
- Procurement
- Rent Collections
- Facilities and Development
- Finance
- Housing Choice Voucher Program
- Policy & Special Initiatives

**ASSET MANAGEMENT PROJECT (AMP) REPORT
(UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY)
HEADQUARTERS: 2709 ESSEX ST. SE
SEPTEMBER 2015**

**Glendale AMP 1 –
Total Units 184**

- Units Leased: 2
- Average Turnover: 24
 - Down Time: 2
 - Days Make Ready: 20
 - Days for Re-rental: 3
- Total Work Orders
 - 0 emergency work order completed in 24 hours – 100%
 - 219 non emergency work orders completed – 94%

◦ **Occupancy Level: 98%**

**Scattered Sites AMP 2 –
Total Units 736**

- Units Leased: 6
- Average Turnover: 30
 - Down Time: 1
 - Days Make Ready: 21
 - Days for Re-rental: 8
- Total Work Orders
 - 3 emergency work orders completed in 24 hours – 100%
 - 576 non emergency work orders completed – 84%

◦ **Occupancy Level: 98%**

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) SEPTEMBER 2015

North AMP 3 –

Headquarters: 315 Lowry
Total Units 1296

Units Leased: 16

Average Turnover: 25

- Days Down Time: 4
- Days Make Ready: 8
- Days for Re-rental: 13
- Total Work Orders
 - 3 emergency work orders completed in 24 hours – 100%
 - 712 non emergency work orders completed – 83%

○ Occupancy Level: 99%

Northeast AMP 4 –

Headquarters: 1815
Central – Total Units 944

Units Leased: 12

Average Turnover: 18

- Days Down Time: 3
- Days Make Ready: 6
- Days for Re-rental: 9
- Total Work Orders
 - 4 emergency work orders completed in 24 hours – 100%
 - 430 non emergency work orders completed – 93%

○ Occupancy Level: 99%

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) SEPTEMBER 2015

Hiawatha AMP 5 – Headquarters: 2123 – 16th – Total Units 886

- Units Leased: 13
- Average Turnover: 59
 - Days Down Time: 6
 - Days Make Ready: 9
 - Days for Re-rental: 44
- Total Work Orders
 - 8 emergency work orders completed in 24 hours – 100%
 - 298 non emergency 96%

◦ Occupancy Level: 99%

Cedar AMP 6 – Headquarters: 1611 So. 6th – Total Units 895

- Units Leased: 6
- Average Turnover: 20
 - Days Down Time: 3
 - Days Make Ready: 9
 - Days for Re-rental: 7
- Total Work Orders
 - 10 emergency work orders completed in 24 hours – 100%
 - 425 non emergency 88%

◦ Occupancy Level: 99%

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) SEPTEMBER 2015

Horn AMP 7 – Headquarters: 3121 Pillsbury – Total Units 937

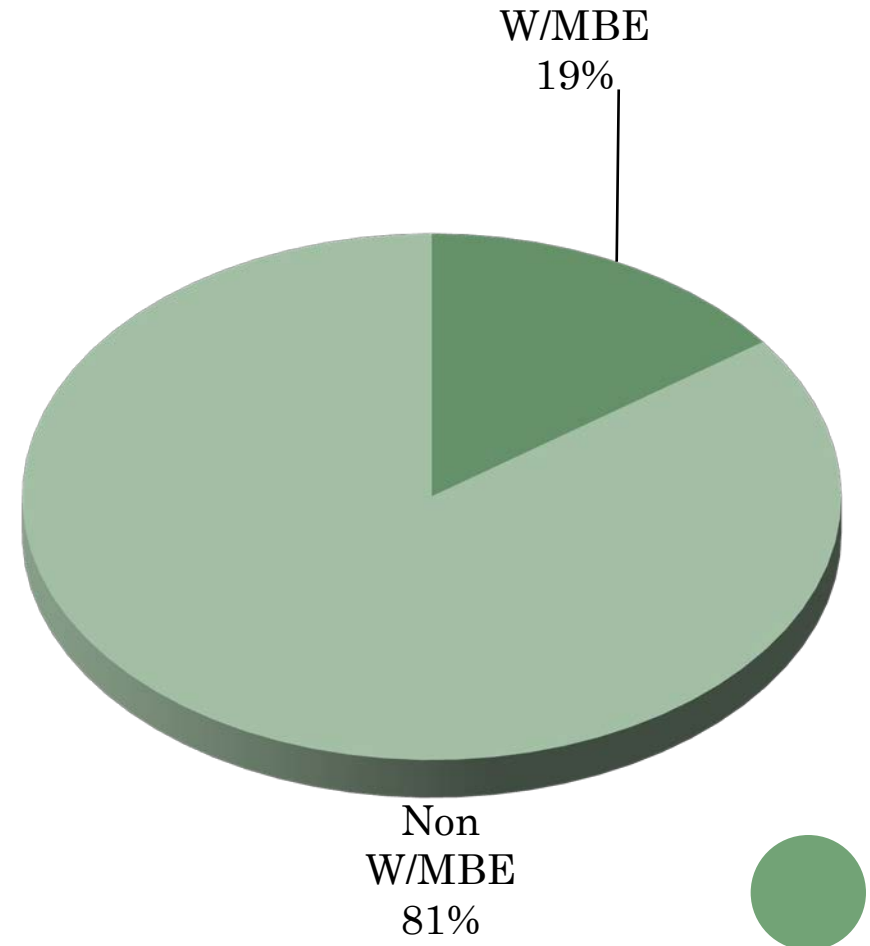
- Units Leased: 5
- Average Turnover: 14
 - Days Down Time: 2
 - Days Make Ready: 1
 - Days for Re-rental: 12
- Total Work Orders
 - 6 emergency work orders completed in 24 hours – 100%
 - 495 non emergency work orders completed 75%
- Occupancy Level: 100%

PROCUREMENT MPHA CONTRACTING ACTIVITY

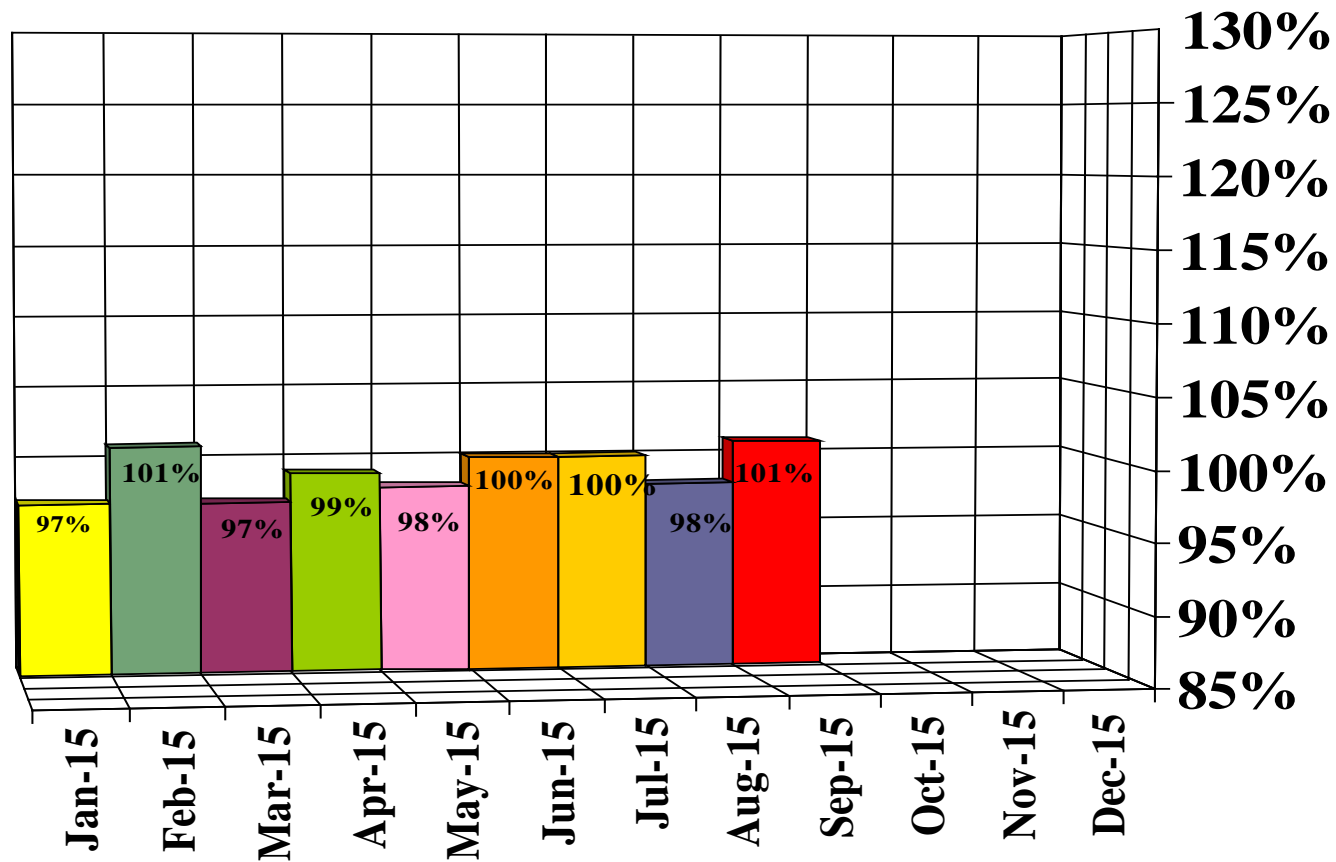
September 2015

W/MBE & Section 3 Participation Report

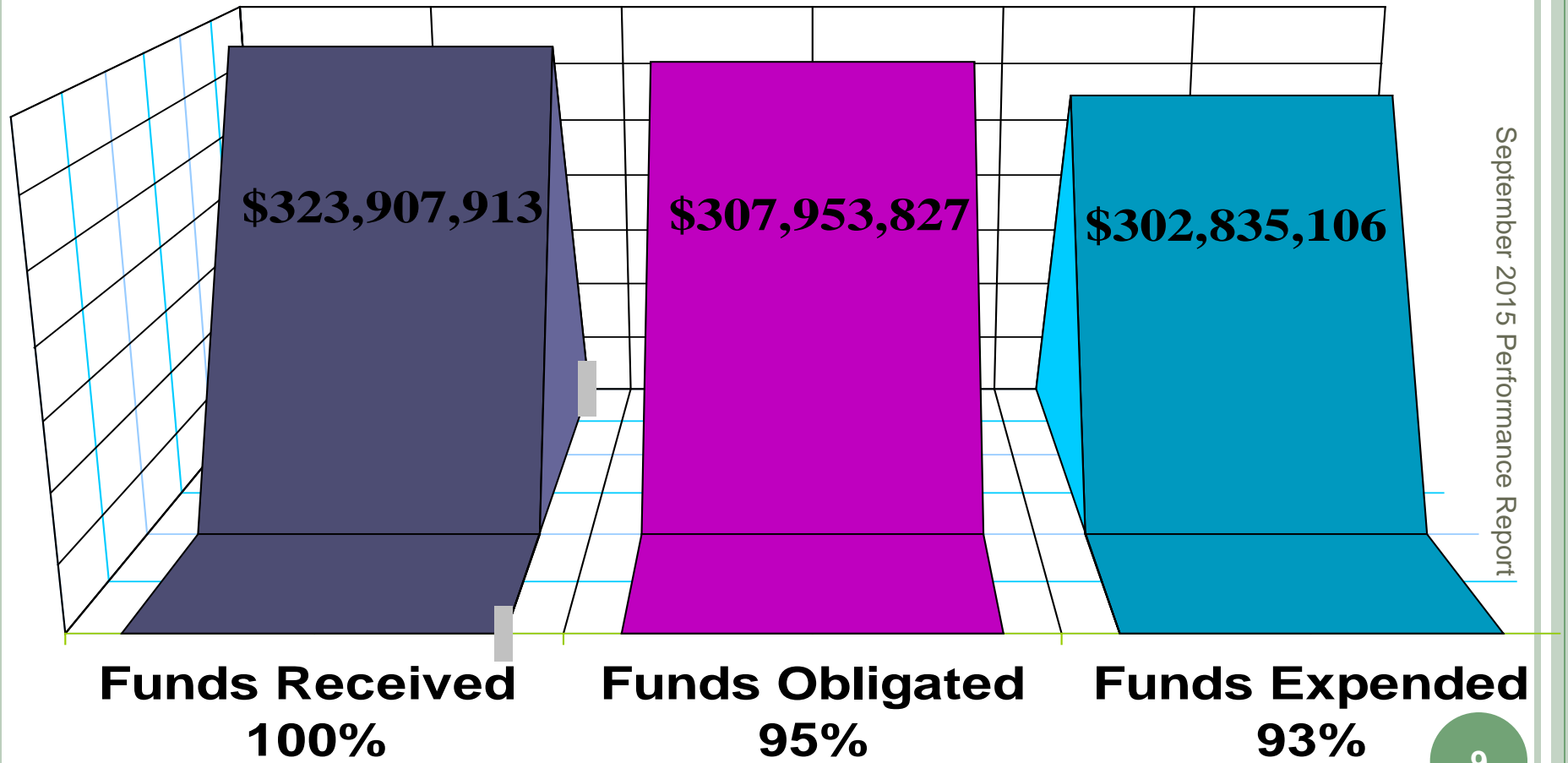
Section 3 Goal = 10% of Construction Contract Dollars
Construction Contracts Payments = \$4,980,469
Section 3 Contracts Payments = \$329,531
Section 3 Contract Participation = 7%



RENT COLLECTIONS



FACILITIES & DEVELOPMENT CAPITAL FUND PROGRAM OBLIGATION & EXPENDITURE REPORT



This period through September 30, 2015

FINANCE

- ❑ The Public Housing Operating and Central Office Cost Center financial results through September are within Board approved limits. Pending any unforeseen issues at this point, spending is expected to remain within the approved use of reserves.
- ❑ Congress passed a short-term Continuing Resolution to fund federal programs through December 11, 2015 at FY 2015 spending levels. Since the full fiscal year spending level will likely not be decided until close to December 11th, MPHA's FY16 budgets will again be based on funding assumptions.
- ❑ Commissioners should have received from the State Auditor, MPHA's FY14 audited financial statements and management and compliance letter. MPHA received an unmodified opinion on the financial statements, the best opinion possible. The audit also indicated no material weaknesses or significant deficiencies on internal controls over financial reporting or compliance over major federal programs.



HEATING CONTROLS CONVERSION

1717 Washington Street NE

PROJECT DETAILS

1717 Washington St. N.E. was one of the few remaining highrises with pneumatic (pressurized air) heating controls. Individual heating system controls were replaced with Direct Digital Controls (DDCs) in 182 apartments and various terminal equipment throughout the building. Pneumatic to DDC conversion is a key component of MPHA's overall energy savings strategy in our highrise buildings. DDCs allow for remote monitoring, control, and diagnosis of HVAC system problems, as well as HVAC systems integration for operational efficiencies.

Project Timeframe: June – September 2015

Project Cost: \$540,000

PNEUMATIC TO DDC CONVERSION

Before – Pneumatic control with air line



After – DDC control with new thermostat control, balancing and isolation valves



HOUSING CHOICE VOUCHER PROGRAM

MPHA Housing Choice Voucher Program Report to Board of Commissioners September 2015							
MTW Funded Units (Excludes VASH, FUP, & Mod Rehab)	MTW Units Leased (Excludes VASH FUP & Mod) In September	Average Number of Vouchers Leased to Year to Date	% Variance of units Leased to Funded	# of Participants Moving and Searching In September	# of New Applicants Issued and Searching In September	# of New Applicant Admissions In September	# of Participant Move Lease ups In September
4,407	4,504	4,566	102%	90	58	48	46
# of Applicant Annual Reexams Completed In September	2014 Fiscal Year (Jan - Dec)						
	HAP Budget Authority (12 months)			\$36,913,032 2015 FY Funding			
	HAP funded to date			\$27,391,599 9th month of 2015			
	HAP spent to date			\$27,171,714			
471	Variance			99% of HAP spent to funded		\$698	\$666
# of Owners at Owner Workshop In September	# of HQS Inspections Completed In September	% of Units that Failed HQS In September	# of Failed Units in Abatement for Noncompliance In September	Total HAP Amount Recouped (Abatement) In September	# of HAP Contracts Canceled for HQS Noncompliance In September	# of Family Sufficiency (FSS) Participants Enrolled In September	% FSS Participants contributing to Escrow Accts In September
3	645	27%	12	\$18,314	1	35	17%
# of Mobility Vouchers in Intake or Out Searching	# of Mobility Vouchers Leased To date	Total # of Port out Families Billed for In September	Total # Port in Families Administered In September	Amount Collected from Repayment Agreements In September	FY Total to date Collected from Repayment Agreements	# of Applicants Remaining On Waitlist	# Participants EOP'd (End of Participation) In September
6	20	110	381	\$3,293	\$51,379	**5894	30
4407 is MPHA's MTW Authorized HCV Unit Baseline for FY 2015. Units leased will fluctuate each month but by close of Fiscal Year, the average number of families served for year should be 4407. NOTE: VASH (225 Vouchers for Homeless Veterans) FUP (100 Family Unification Vouchers) and Moderate Rehabilitation (274 units) are not included in the 4407 baseline; they are ineligible for MTW. EOPs exclude Project Based Voucher Participants. * Includes All Reinspections **Beginning 2015, Waitlist is being periodically purged NOTE July's report of 5325 only included paper WL applicants and not online.							

POLICY & SPECIAL INITIATIVES

Policy

- **Worked with City of Minneapolis-Section 8 Ordinance**
- **Represented Agency at Heading Home Hennepin Meetings 9-9 & 9-24**

POLICY & SPECIAL INITIATIVES

Special Initiatives

➤ Development:

❖ Heritage Park

- Continued Implementation Steps for MPHA's RAD Conversion for Heritage Park
- MPHA Annual Unit Inspections for Heritage Park Completed

❖ Glendale

- Continued Work with Executive Administration and Facilities and Development to Identify Strategies for Broader Consideration of Options for Development Activities at Glendale
- Attended and Presented at Glendale Community Meeting 9-17-15
- Continued Participation on Internal MPHA Glendale Committee (Thursdays)
- RFP for Financial Development Consultant

POLICY & SPECIAL INITIATIVES

Special Initiatives

Development:

- ❖ Urban Gardens – Minneapolis Urban League
 - MPHA Executive Director and PSI Director Met with MUL President to Discuss Transfer of Urban Gardens to MPHA
- ❖ Other
 - Heading Home Hennepin Pipeline Meeting for Increasing Development of Families Out Of Shelter Housing Affordable to Very Low Income Families

POLICY & SPECIAL INITIATIVES

Special Initiatives

❖ Lease To Own (LTO):

- Waiting List for Lease To Own Remains Open
- 2 LTO Pre-Applications are Under Review
- 2 LTO Applications are Under Review in Leasing
- 17 Units Are Occupied – Three remain Vacant
- Staff Continue Discussion with Non-profit, PRG to Discuss Process for the Sale of the Sumnerfield Townhomes and Mortgage Readiness Reviews. PRG Will Prepare a Proposal for MPHA Consideration to Assist Lease To Own Resident through Mortgage Process
- Staff Continues to Work with Management Company on Home Owner Association Issues
- Staff Working with Participants on Savings and Mortgage Readiness Issues

POLICY & SPECIAL INITIATIVES

Special Initiatives

MHOP:

- PSI Staff Continues to Work with Management Companies Providing Training, and Working to Get All Re-exams Up to Date

POLICY & SPECIAL INITIATIVES

Website Contacts

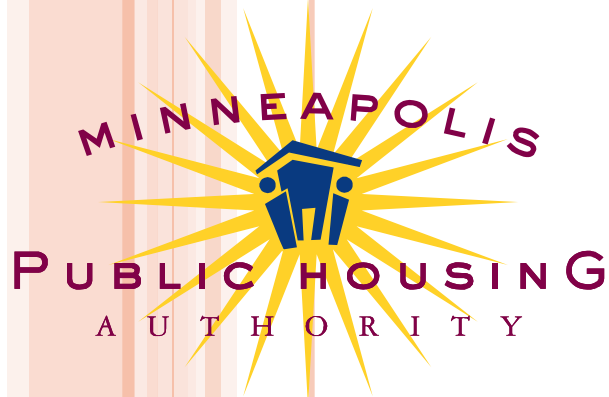
- MPHA Received and Responded to 102 Website Contacts Requesting Assistance with Housing in September.

MPHA'S WEBSITE

You can now view information about the Minneapolis Public Housing Authority on our Website.



www.mphaonline.org



Cora McCorvey, Executive Director / CEO

Performance Report for October 2015

*Board of Commissioners Meeting -
November 18, 2015*

THIS MONTH'S REPORT

- Asset Management Project (AMP Reports)
- Procurement
- Rent Collections
- Facilities and Development
- Finance
- Housing Choice Voucher Program
- Policy & Special Initiatives

**ASSET MANAGEMENT PROJECT (AMP) REPORT
(UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY)
HEADQUARTERS: 2709 ESSEX ST. SE
OCTOBER 2015**

**Glendale AMP 1 –
Total Units 184**

- Units Leased: 3
- Average Turnover: 38
 - Down Time: 3
 - Days Make Ready: 21
 - Days for Re-rental: 15
- Total Work Orders
 - 0 emergency work order completed in 24 hours – 100%
 - 145 non emergency work orders completed – 99%

◦ **Occupancy Level: 99%**

**Scattered Sites AMP 2 –
Total Units 736**

- Units Leased: 11
Average Turnover: 40
- Down Time: 3
 - Days Make Ready: 22
 - Days for Re-rental: 15
- Total Work Orders
- 12 emergency work orders completed in 24 hours – 100%
 - 584 non emergency work orders completed – 87%

◦ **Occupancy Level: 99%**

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) OCTOBER 2015

North AMP 3 –

Headquarters: 315 Lowry
Total Units 1296

Units Leased: 22

Average Turnover: 32

- Days Down Time: 5
- Days Make Ready: 17
- Days for Re-rental: 9
- Total Work Orders
 - 1 emergency work orders completed in 24 hours – 100%
 - 685 non emergency work orders completed – 70%

○ Occupancy Level: 99%

Northeast AMP 4 –

Headquarters: 1815
Central – Total Units 944

Units Leased: 9

Average Turnover: 17

- Days Down Time: 4
- Days Make Ready: 5
- Days for Re-rental: 7
- Total Work Orders
 - 11 emergency work orders completed in 24 hours – 100%
 - 719 non emergency work orders completed – 76%

○ Occupancy Level: 99%

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) OCTOBER 2015

Hiawatha AMP 5 – Headquarters: 2123 – 16th – Total Units 886

- Units Leased: 9
- Average Turnover: 47
 - Days Down Time: 2
 - Days Make Ready: 18
 - Days for Re-rental: 27
- Total Work Orders
 - 8 emergency work orders completed in 24 hours – 100%
 - 544 non emergency 86%

◦ Occupancy Level: 99%

Cedar AMP 6 – Headquarters: 1611 So. 6th – Total Units 895

- Units Leased: 10
- Average Turnover: 20
 - Days Down Time: 2
 - Days Make Ready: 13
 - Days for Re-rental: 5
- Total Work Orders
 - 8 emergency work orders completed in 24 hours – 100%
 - 418 non emergency 89%

◦ Occupancy Level: 100%

ASSET MANAGEMENT PROJECT (AMP) REPORT (UNITS LEASED/TURNAROUND/WORK ORDERS/OCCUPANCY) OCTOBER 2015

Horn AMP 7 – Headquarters: 3121 Pillsbury – Total Units 937

- Units Leased: 29
- Average Turnover: 2
 - Days Down Time: 0
 - Days Make Ready: 1
 - Days for Re-rental: 1
- Total Work Orders
 - 6 emergency work orders completed in 24 hours – 100%
 - 440 non emergency work orders completed 86%
- Occupancy Level: 100%

PROCUREMENT MPHA CONTRACTING ACTIVITY

October 2015

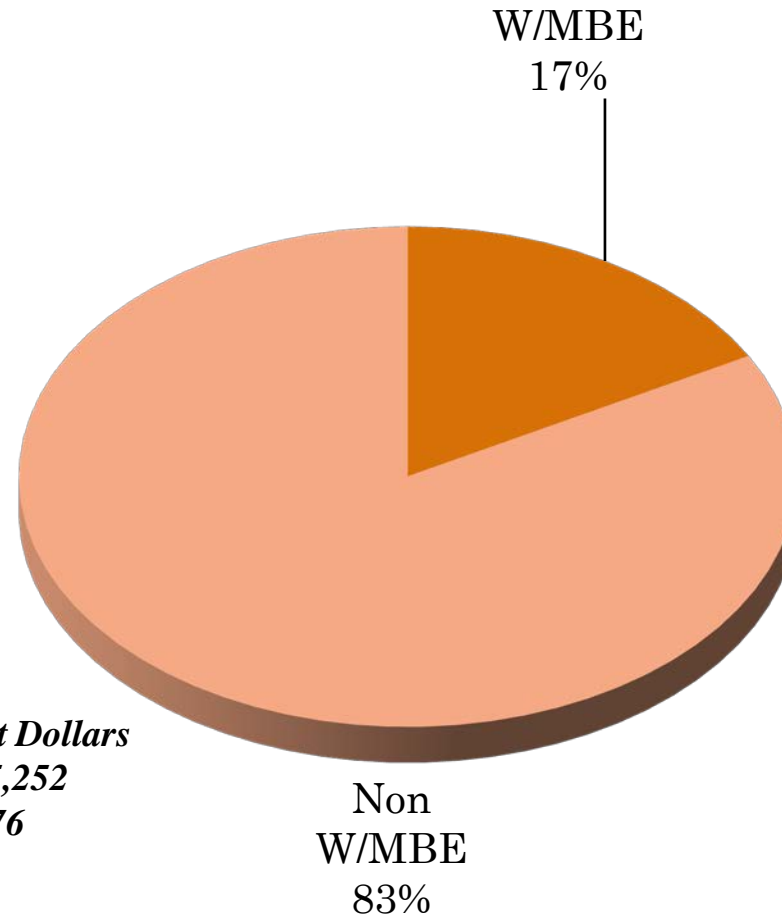
W/MBE & Section 3 Participation Report

Section 3 Goal = 10% of Construction Contract Dollars

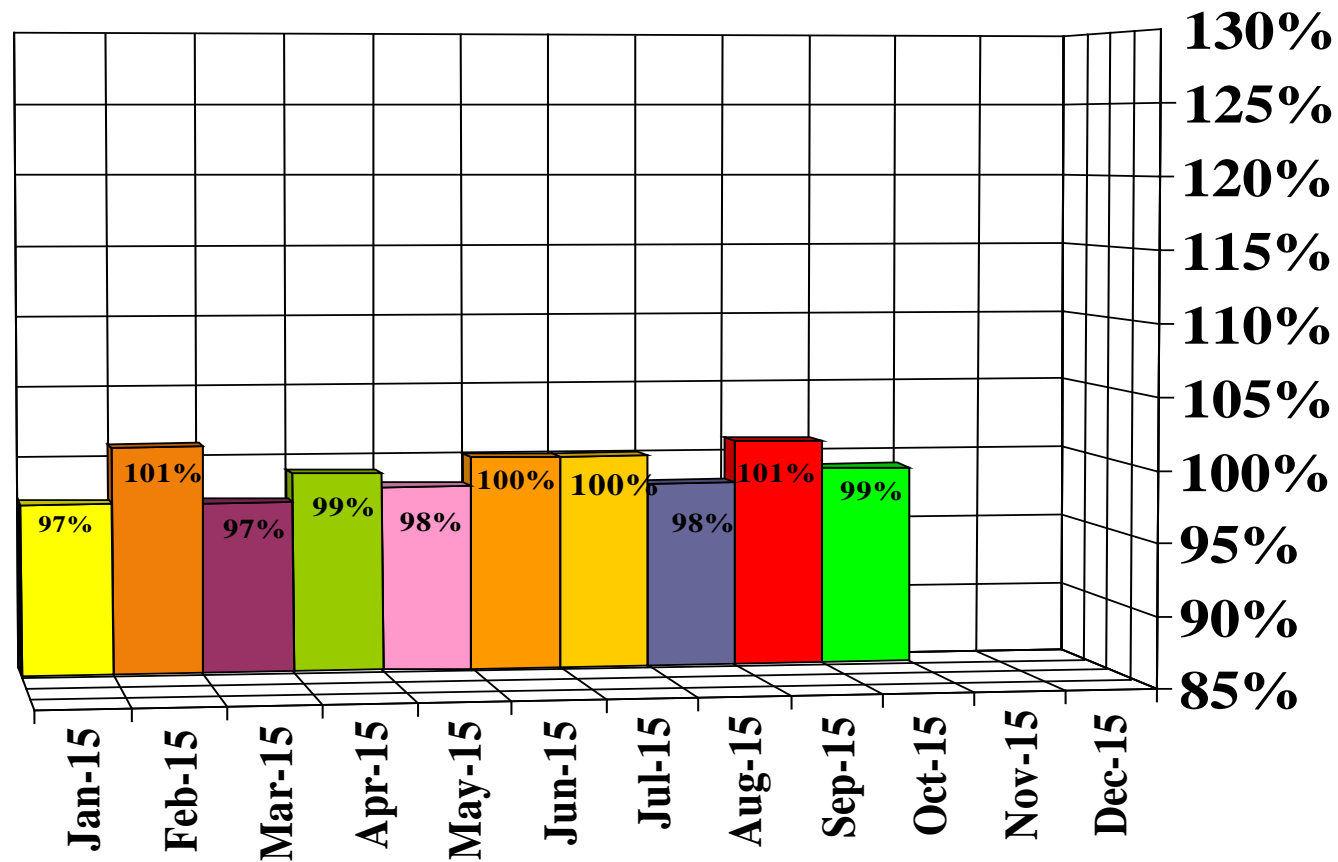
Construction Contracts Payments = \$6,205,252

Section 3 Contracts Payments = \$221,176

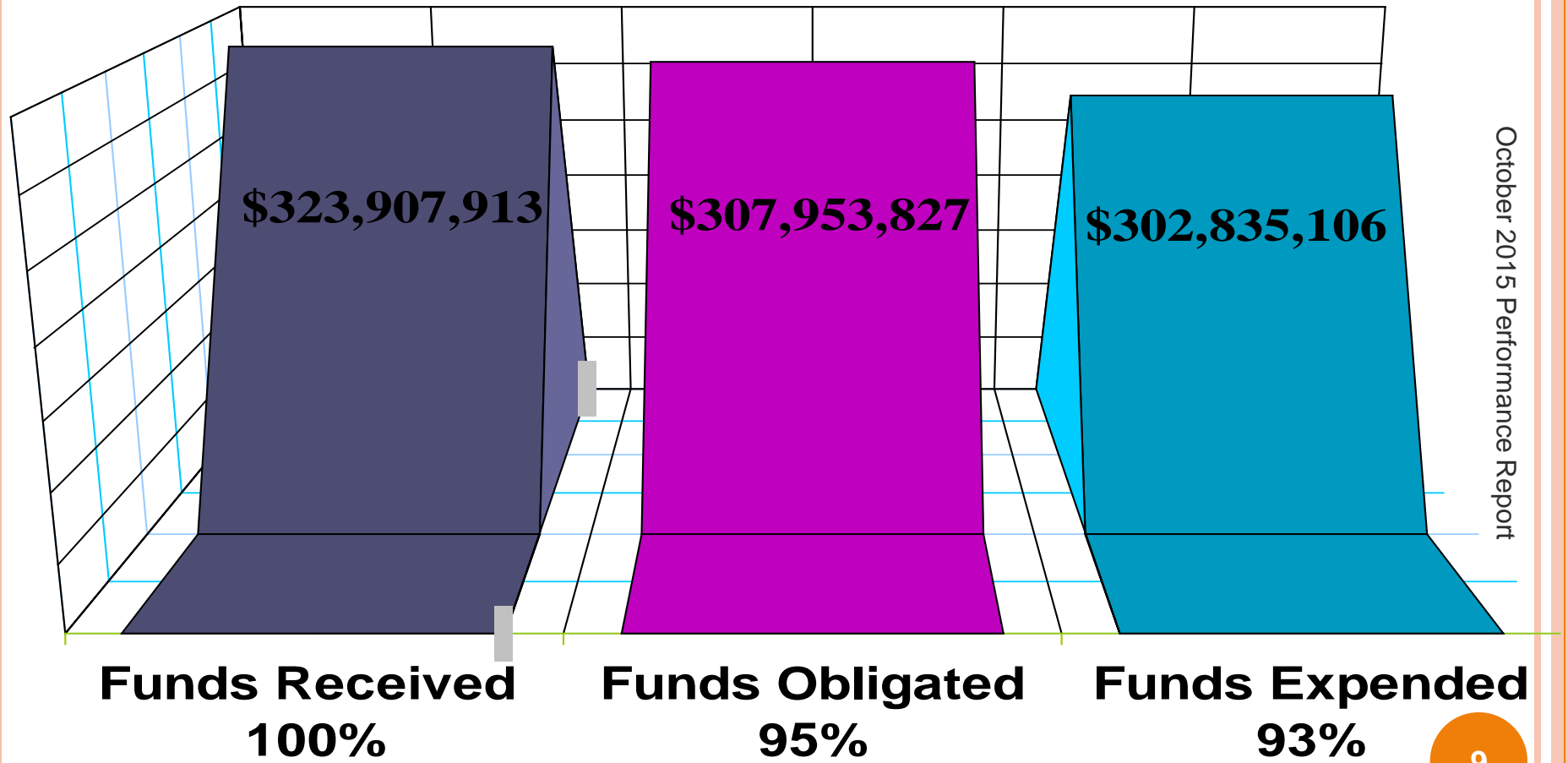
Section 3 Contract Participation = 6%



RENT COLLECTIONS



FACILITIES & DEVELOPMENT CAPITAL FUND PROGRAM OBLIGATION & EXPENDITURE REPORT



This period through September 30, 2015

As of November 9, 2015 the October General Ledger has not yet Closed.

FINANCE

- The Public Housing Operating Budget and the Central Office Cost Center Budget are both projected to finish 2015 within the approved budgeted reserve amounts.
- Congress has passed spending caps for 2016 and 2017 and appropriation committees are working on drafting a 2016 omnibus appropriations bill with the intent of passing a budget before the current resolution expires on December 11th. MPHA cannot wait for the bill to pass before preparing the 2016 budgets so funding assumptions will be made in the budgets presented to the Board in December.

HOUSING CHOICE VOUCHER PROGRAM

MPHA Housing Choice Voucher Program Report to Board of Commissioners October 2015

MTW Funded Units (Excludes VASH, FUP, & Mod Rehab)	MTW Units Leased (Excludes VASH FUP & Mod) In October	Average Number of Vouchers Leased to Year to Date	% Variance of units Leased to Funded	# of Participants Moving and Searching In October	# of New Applicants Issued and Searching In October	# of New Applicant Admissions In October	# of Participant Move Lease ups In October
4,407	4,483	4,558	102%	87	0	7	29
# of Applicant Annual Reexams Completed In October	2015 Fiscal Year (Jan - Dec)		\$36,913,032 2015 FY Funding			MTW Funded Per Unit Cost (PUC) Of Voucher	Actual Per Unit Cost (PUC) Of Voucher In October
	HAP Budget Authority (12 months)						
	\$30,435,110 10th month of 2015						
	\$30,190,202						
338	Variance		99% of HAP spent to funded			\$698	\$665
# of Owners at Owner Workshop In October	# of HQS Inspections Completed In October	% of Units that Failed HQS In October	# of Failed Units in Abatement for Noncompliance In October	Total HAP Amount Recouped (Abatement) In October	# of HAP Contracts Canceled for HQS Noncompliance In October	# of Family Sufficiency (FSS) Participants Enrolled In October	% FSS Participants contributing to Escrow Accts In October
N/A	637	28%	7	\$4,328	0	33	10%
# of Mobility Vouchers in Intake or Out Searching	# of Mobility Vouchers Leased To date	Total # of Port out Families Billed for In October	Total # Port in Families Administered In October	Amount Collected from Repayment Agreements In October	FY Total <u>to date</u> Collected from Repayment Agreements	# of Applicants Remaining On Waitlist	# Participants EOP'd (End of Participation) In October
6	25	112	402	\$3,265	\$51,379	**5174	17

4407 is MPHA's MTW Authorized HCV Unit Baseline for FY2015. Units leased will fluctuate each month but by close of Fiscal Year, the average number of families served for year should be 4407.

NOTE: VASH (225 Vouchers for Homeless Veterans) FUP (100 Family Unification Vouchers) and Moderate Rehabilitation (274 units) are not included in the 4407 baseline; they are ineligible for MTW.

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SIGNE BURCKHARDT MANOR

Exterior Façade Restoration

PROJECT SCOPE & BUDGET

2533 First Avenue South is a 7-story memory care/assisted living facility built in 1966. This structure had deteriorated window lintels and flashing, as well as general masonry deterioration. To ensure structural integrity and a water-tight building, \$350K in improvements were implemented:

- Replacement and/or repair of window lintels, and window lintel flashing
- Sealant replacement
- Spot tuckpointing and replacement of damaged brick

STRUCTURAL REPAIRS

DETERIORATED WINDOW LINTELS



New lintel installation



POLICY & SPECIAL INITIATIVES

Policy

➤ **Moving to Work (MTW):**

- Submitted 2016 MTW Plan to HUD
- Participated in Two National MTW Calls with MTW Agencies Regarding HUD MTW Extension Negotiations
- Participate in National HUD Conference Call and Proposed MTW Extension Agreement Issues
- Worked with Facilities and Development to Draft 2015 MTW Plan Amendment for Conversion of Heritage Park to HUD Rental Assistance Demonstration (RAD) Program

POLICY & SPECIAL INITIATIVES

Policy

➤ **Procurement:**

- Led Agency Response to Press Inquiries about MPHA's Procurement Policies and Application to MPHA Contractor
- Coordinated with Finance Department on Procurement Training and Review of Policies and Practices with National Consultant

POLICY & SPECIAL INITIATIVES

Special Initiatives

➤ Development:

❖ Heritage Park

- Continued Implementation Steps for MPHA's RAD Conversion for Heritage Park
- MPHA Is Coordinating with Leasing Department and Heritage Park Management on Transfer Opportunities for Heritage Park Public Housing Residents Who Are Overhoused and Eligible for MPHA Highrise Units

❖ Glendale

- Continued Work with Executive Administration and Facilities and Development to Identify Strategies for Broader Consideration of Options for Development Activities at Glendale
- Attended and Presented at Glendale Community Meeting 10-08-15
- Continued Participation on Internal MPHA Glendale Committee (Thursdays)
- Continued RFP Efforts to Identify Financial Development Consultant

POLICY & SPECIAL INITIATIVES

Special Initiatives

➤ Development:

❖ Urban Gardens – Minneapolis Urban League

- Worked with Facilities and Development to Conduct a Comprehensive Review of Urban Gardens for Possible Transfer to MPHA

❖ Other Development

- Participated in Extreme Affordability Conference at University of Minnesota with Goal of Creating Strategies for Development of Affordable Housing at Costs that Would Enable Units to be Developed at Costs to be Affordable to Very Low Income Families with Focus on MPHA's Faircloth Authority

POLICY & SPECIAL INITIATIVES

Special Initiatives

➤ Lease To Own (LTO):

- Waiting List for Lease To Own Remains Open
- 2 New LTO Pre-Applications are Under Reviewed
- 1 LTO Applications Under Review in Leasing
- 17 Units are Occupied – Three remain Vacant
- Staff Continued Discussions with Non-profit, PRG to Discuss Process for the Sale of the Sumnerfield Townhomes and Mortgage Readiness Reviews. PRG Prepared a Proposal for MPHA Consideration to Assist Lease To Own Resident through Mortgage Process – MPHA Procurement Department Will Make Determination on how these services must be Procured
- Staff Continues to Work with Management Company on Home Owner Association Issues
- Staff Continues Working with Participants on Savings and Mortgage Readiness Issues

POLICY & SPECIAL INITIATIVES

Special Initiatives

➤ MHOP:

- PSI Staff Continues to Work with Management Companies Providing Training, and Working to Get All Re-exams Up to Date

POLICY & SPECIAL INITIATIVES

Website Contacts

- MPHA Received and Responded to 85 Website Contacts Requesting Assistance with Housing in October.

MPHA'S WEBSITE

You can now view information about the Minneapolis Public Housing Authority on our Website.



www.mphaonline.org