



TACOMA HOUSING AUTHORITY

RESOLUTION 2019-09-25 (2)

Date: September 25, 2019
To: THA Board of Commissioners
From: Michael Mirra
Executive Director
Re: Emergency Procurement Update to Procurement Policy

This resolution would amend Tacoma Housing Authority's (THA) Procurement Policy, Policy No. PCI-01, to (1) authorize the Director of Administrative Services to authorize procurements in emergency situations consistent with THA policy and (2) provide additional guidance regarding the definition of an "emergency."

Background

THA's procurement processes are governed by state and federal law, and THA's Procurement Policy. State and federal law allows THA to dispense with its normal procurement rules when, because of emergency, following those rules is not possible.

RCW 39.04.280(1) permits waiver of competitive bidding requirements in emergency situations. RCW 39.04.280(3) defines "emergency" to mean "unforeseen circumstances beyond the control of the municipality that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken."

RCW 39.04.280(2)(b) provides:

If an emergency exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract.

THA's Procurement Policy provides that the Executive Director "or other person designated by THA" may declare an emergency and waive competitive bidding requirements:

“7.10 Exceptions to Competitive Procurement

THA need not use the competitive procurement procedures set forth in section 7 in some limited circumstances as follows:

7.10.1 Emergency Procurements.

(a) **Application**

In the event of an Emergency, THA is not required to follow competitive bidding requirements for public works, personal services, architectural and engineering services, and purchases. Other requirements under other laws may apply.

(b) **Definition**

“Emergency” means unforeseen circumstances beyond the control of THA that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(c) **Written Findings**

If an emergency exists, the Executive Director or other person designated by THA to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of THA to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by THA and duly entered of record no later than two weeks following the award of the contract in accordance with Section 8.0.”

We propose the following changes to the policy:

- First, the Director of Administrative Services should be added as a person authorized to declare an emergency and waive competitive bidding requirements.
- Second, the policy sets out the state law definition of “emergency,” but should be clarified to provide examples. An “emergency” includes not only natural disasters, but may also include fires, substantial water damage and methamphetamine contamination.

The justification for the above changes is directly related to the performance of THA’s essential function to provide housing. Vacancies greater than 90 days impact compliance including the financial loss of tax credits. Rehabilitation of units after fires, water damage and methamphetamine contamination typically take 90-180 days if non-emergency procurement policies are used. These units are offline and unavailable to clients and impedes THA’s essential function to provide housing.

Recommendation

Approve Resolution 2019-09-25 (2) authorizing THA's Executive Director to update THA's Procurement Policy.



TACOMA HOUSING AUTHORITY

RESOLUTION 2019-09-25 (2) (Emergency Procurement Update to Procurement Policy)

A **RESOLUTION** of the Board of Commissioners of the Housing Authority of the City of Tacoma

WHEREAS, RCW 39.04.280 permits a waiver of competitive bidding in an emergency situation, and 2 C.F.R. § 200.320 permits procurement by noncompetitive proposals in the event of an emergency; and

WHEREAS, THA's procurement policy, section 7.10, permits the Executive Director or other person designated by THA to declare an emergency and waive competitive bidding; and

WHEREAS, RCW 39.04.280(2)(b) permits "the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation"; and

WHEREAS, THA believes it is appropriate to authorize the Director of Administrative Services, in addition to the Executive Director, to declare an emergency and waive competitive bidding requirements in the event a qualifying emergency exists; and


WHEREAS, Qualifying emergencies under state law may include natural disasters, fires, substantial water damage and methamphetamine contamination; and

WHEREAS, THA believes it is appropriate to amend its Procurement Policy to incorporate these changes and provide this additional guidance to staff; now, therefore, be it

Resolved by the Board of Commissioners of the Housing Authority of the City of Tacoma, Washington as follows:

The Executive Director is authorized to (1) update THA's Procurement Policy to authorize the Director of Administrative Services to declare an emergency and waive competitive bidding requirements in the event a qualifying emergency exists, and (2) provide additional guidance on the definition of an "emergency."

Approved: September 25, 2019



Derek Young, Chair