

U. S. Department of Housing and Urban Development

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ATTACHMENT 9

APR 08 2004

Ms. Tina Vaughn
Executive Director, Housing Authority
of the Town of Chapel Hill
317 Caldwell Street Extension
Chapel Hill, NC 27516

Ms. Vaughn:

We reviewed all documents submitted by the Housing Authority of the Town of Chapel Hill (CHHA) pertaining to the procurement of comprehensive rehabilitation work at the Airport Gardens public housing neighborhood. We reviewed the documents as a result of a protest filed by Hairston Enterprise, one of the bidders. Hairston Enterprise contends they were the lowest bidder on the project; however, Carl Garris & Sons, Inc., who was the next lowest bidder, was deemed the successful bidder.

After reviewing all documents, this office has determined that CHHA violated procurement standards at Title 24 Code of Federal Regulations (CFR) 85.36(c)(3)(I) which states; "Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations incorporate a clear and accurate description of the technical requirement for the material, product, or service to be procured."

On page 2, Item #4 of The Instruction to Bidders (ITB), issued by CHHA, stated; "The work would consist of the interior and exterior to public housing dwelling units. Eight (8) dwelling units are included in the Base Bid and an additional eighteen (18) dwelling units and community space in alternate bids. Work will generally include but not be limited to window replacement, exterior and interior door replacement, vinyl siding, floor covering replacement, painting, kitchen cabinet replacement, bath tub wall surrounds, water heater replacement, furnace replacement, electrical panel replacement and light fixture replacement. Site rehabilitation work will include but not be limited to concrete paving, landscaping and seeding."

Based on the above description, as well as all other factors considered in selection of the bidder, Hairston Enterprise was the lowest bidder with a bid of \$1,313,833 for the base bid and all alternates and Carl Garris and Sons, Inc. was the next lowest bidder with a bid of \$1,369,500 for the base bid and all alternates. CHHA did not state in the ITB that they would award the contract based on the base bid and Alternate 2, which included eight (8) dwelling units and an additional ten (10) units. In order for CHHA to have a valid reason for selecting Carl Garris and Sons, Inc., this information should have been included in the ITB.

20

The key to a successful procurement is to inform all potential bidders in clear language the facts on which the Public Housing Agency (PHA) plans to award the contract. It is the decision of this office that CHHA was not clear on how the alternates would be applied to the selection process for the comprehensive rehabilitation work at the Airport Gardens public housing neighborhood. Additionally, the Chapel Hill Town Council's letter, dated February 18, 2004 to Hairston Enterprise's attorney, addressing the intention of negotiating the remaining alternates, outlined in the solicitation did not reflect a definitive resolution showing that CHHA would be compliant with 24 CFR 85.36(d)(4)(i), i.e.: "Procurement by non-competitive proposals may be used only when the award of a contract is infeasible under all purchase procedures, sealed bids or competitive proposals" and if one of the circumstances stated in the CFR applies.

We strongly suggest that CHHA reject all bids for this project and re-bid the procurement. If you have any questions, please contact Chris Boozer, Procurement Liaison, at 336-547-4000, ext. 2106 (voice) or 547-4128 (TTY).

Sincerely,



for

Arnoes H. Sheppard
 Director, Asset Management Division
 Office of Public Housing