



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GENERAL PROGRAM REQUIREMENTS AND IMPLEMENTATION/COMPLIANCE, PENALTIES AND SANCTIONS

FEBRUARY 2021

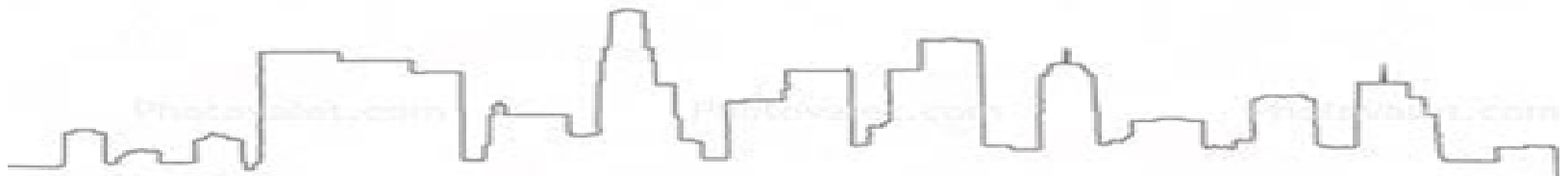




PRESENTERS



- Leandria Campbell, Housing Capital Improvement Specialist, Office of Capital Improvements
- Chris Granger, Housing Capital Improvement Specialist, Office of Capital Improvements

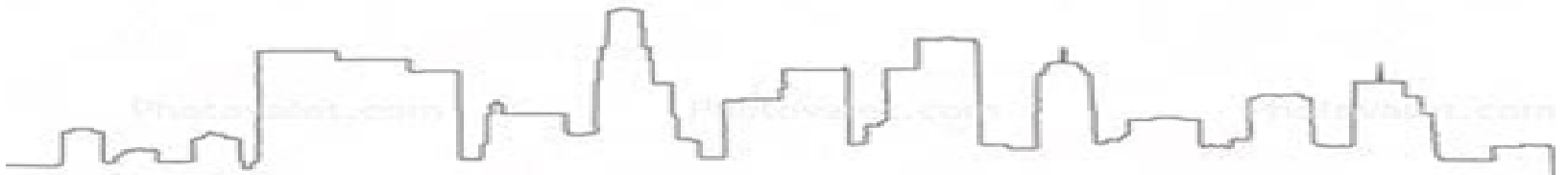




AGENDA



- Environmental Reviews
- Wage Rates
- Procurement and Contract Requirements and Methods
- Force Account Labor
- Compliance, Penalties and Sanctions



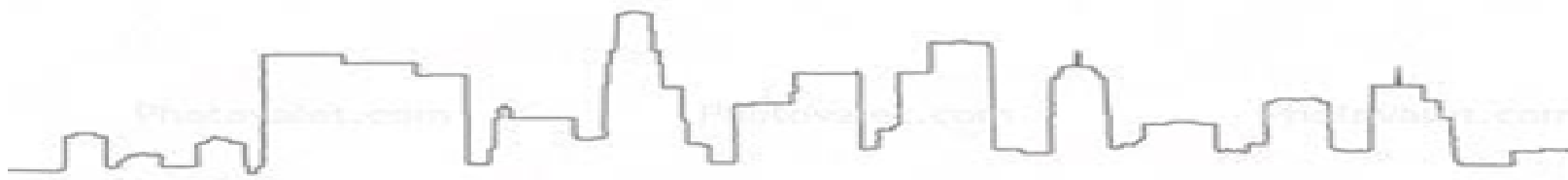


ENVIRONMENTAL REVIEW

PHAs must comply with the environmental review requirements found at 24 CFR parts 50 and 58.

For updated guidance see PIH 2016-22

Note: For environmental review purposes, *maintenance* refers to activities that slow or halt deterioration of a building and do not materially add to its value or adapt it to new uses.





WAGE RATES

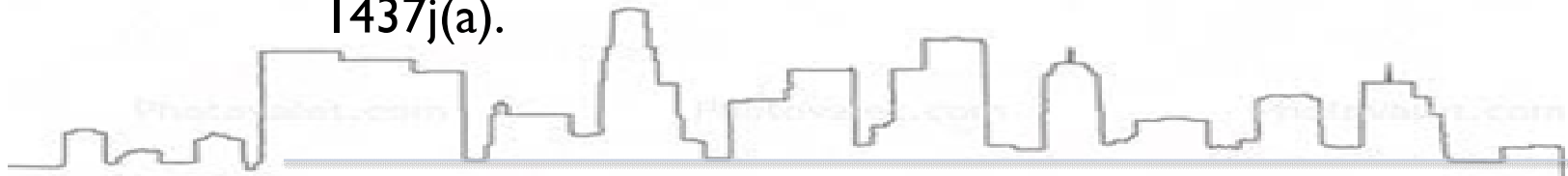


Davis-Bacon wage rates.

For all work or contracts exceeding \$2,000 in connection with development activities or modernization activities (except for nonroutine maintenance work), all laborers and mechanics employed on the construction, alteration, or repair shall be paid not less than the wages prevailing in the locality, as determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3142).

HUD-determined wage rates.

For all operations work and contracts, including routine and nonroutine maintenance work, all laborers and mechanics employed shall be paid not less than the wages prevailing in the locality, as determined or adopted by HUD pursuant to section 12(a) of the 1937 Act, 42 U.S.C. 1437j(a).

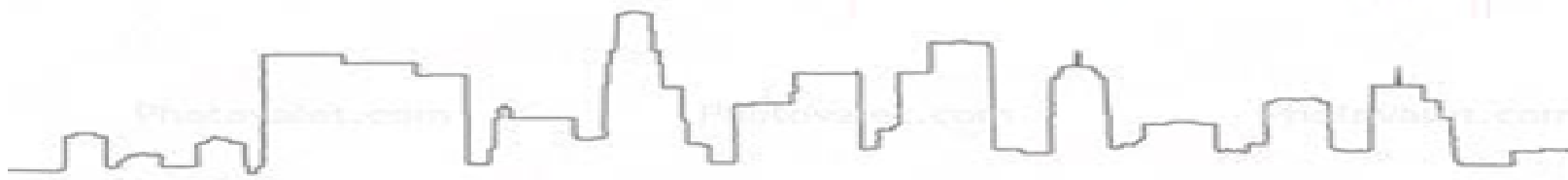




PROCUREMENT AND CONTRACT REQUIREMENTS

Procurement with Capital Funds, PHAs must:

- Comply with 2 CFR 200.317-200.326
- Follow own procurement policies and procedures
- Whenever possible, foster full and open competition
- Perform a cost analysis
 - Independent Cost Estimate (ICE) - 2 CFR Part 200.320

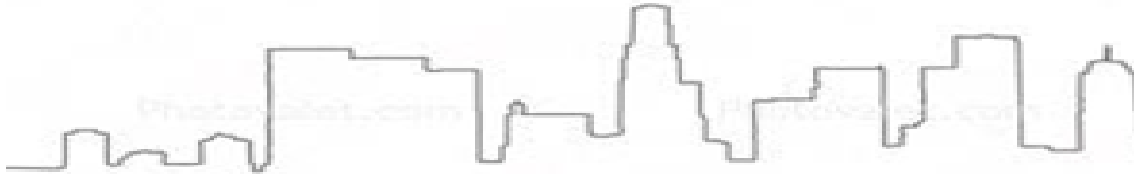




PROCUREMENT AND CONTRACT REQUIREMENTS, CONT.

Independent Cost Estimate (ICE)

- All procurements \$10,000+ (\$2,000 for construction acquisitions subject to Davis-Bacon Act)
 - Prepared before PHA receives bids or proposals
 - PHA benchmark for evaluating price reasonableness
 - Facilitates the selection of the method of procurement
- ICE can be developed by PHA employees, outside parties (e.g., consultants), or both.
 - If an outside party assists in the ICE, the PHA must ensure that organizational conflicts of interest are avoided and the outside party has no competitive advantage
- Price Reasonableness
 - Price analysis – Competitive
 - Cost analysis – Non-competitive





METHODS OF PROCUREMENT

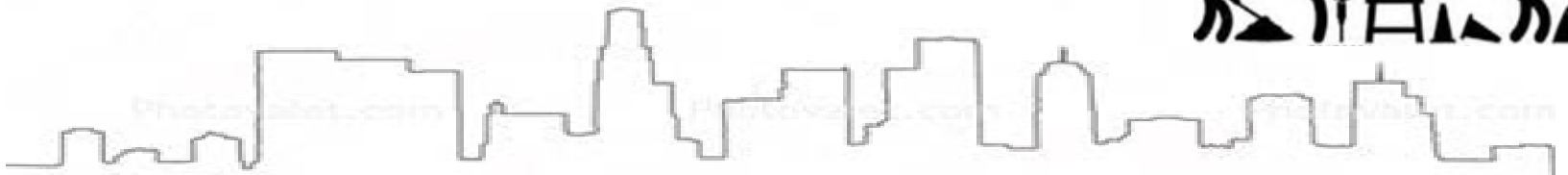
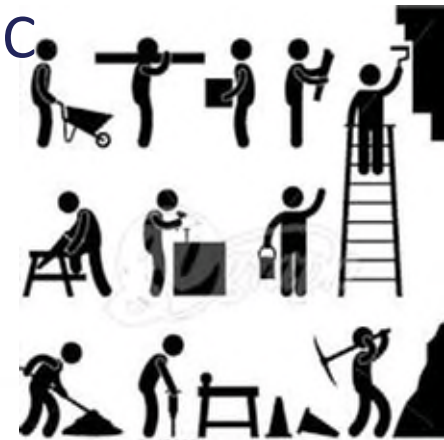


Method	Summary
Micro Purchase	Maximum \$10,000, (\$2,000 for construction) one source permitted
Small Purchase	Maximum \$250,000, typically three quotes.
Sealed Bid	Typically for construction contracts over \$250,000; contract awarded to the lowest bid. "IFB" used when only price is considered
Competitive Procedures	RFP and RFQ procurements
RFP	Used when price and other factors are considered"
RFQ	Used when price is not considered"
Noncompetitive Procedures	Sole source solicitation after competitive process is deemed inadequate.



FORCE ACCOUNT LABOR

- Labor employed directly by PHA (permanent or temporary) to do capital improvements on a PHA property
- PHA uses employees, pursuant to its personnel policy, versus a contractor
- PHA may use force account labor -- **IF** included in the approved PHA 5-Year Action Plan in EPIC

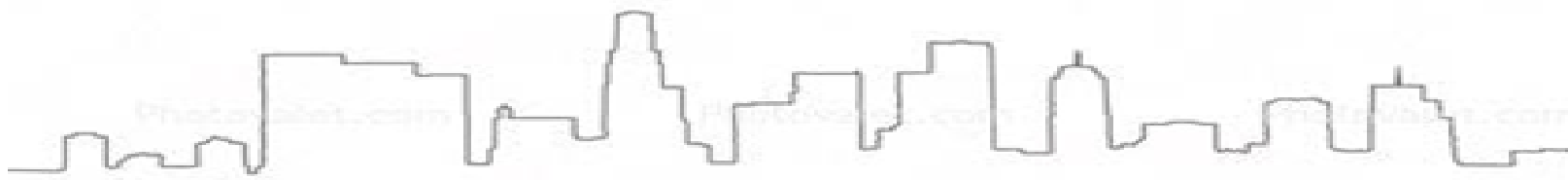
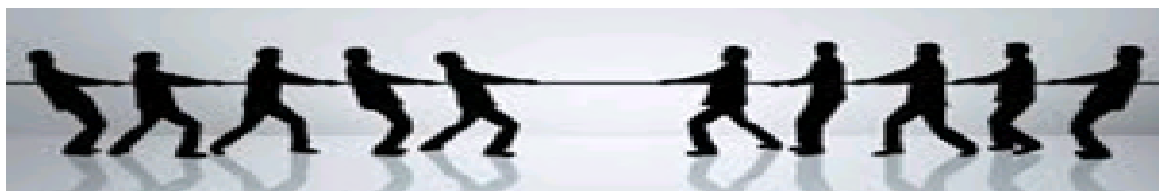




FORCE ACCOUNT LABOR PERSONNEL ISSUES

- **Current PHA employees may be Force Account workers if:**
 - Their regular duties are either suspended or reassigned
 - Maintenance of the properties is not compromised
 - Employees' regular work assignments are not undermined

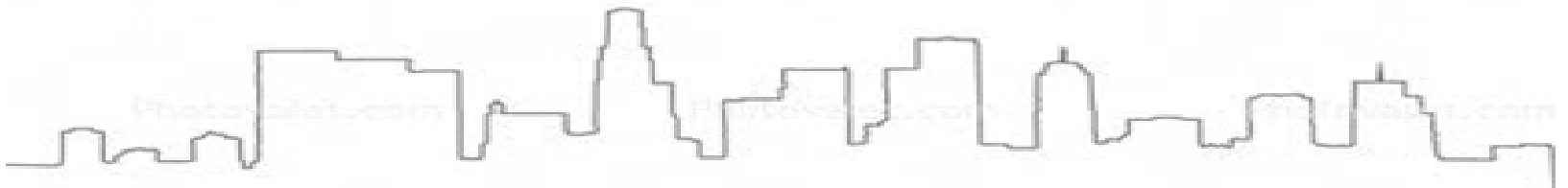
Remember: No hiring may violate any conflict-of-interest policies





COMPLIANCE, PENALTIES, AND SANCTIONS

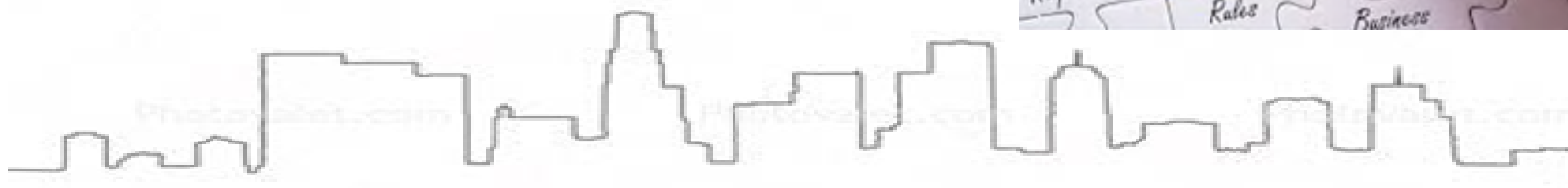
- PHAs, their management entities, instrumentalities and their partners (owner entities and affiliates) must comply with all applicable provisions of the Capital Fund Rule.
- If something in the Annual Capital Fund submission is incorrect or in need of revision, PHAs must revise or correct that information immediately.
- PHAs must comply with 24 CFR 905, Subpart H – Compliance, HUD Review, Penalties and Sanctions





COMPLIANCE, PENALTIES, AND SANCTIONS, CONT.

- Access to **Capital Funds** may be **suspended/denied** if PHAs are non-compliant in any area including:
- Timely certification of IMS/PIC data;
 - Current DUNS number in the System of Award Management (SAM)- an annual update;
 - Submission of Board resolution approving 5-Year Action Plan;
 - Timely submission of required documents;
 - Complete environmental reviews; or
 - Compliance with procurement requirements





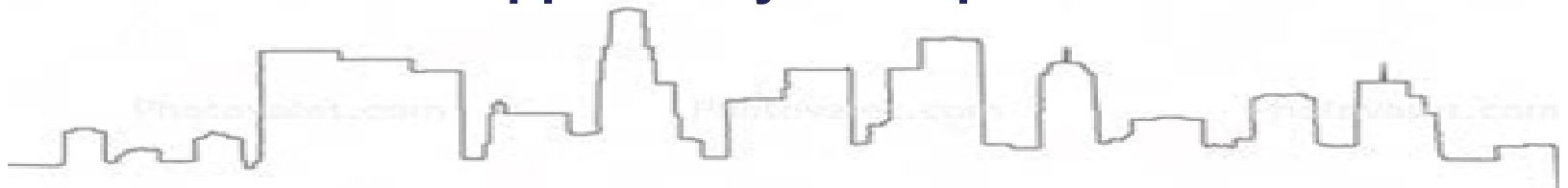
COMPLIANCE, PENALTIES, AND SANCTIONS, CONT.

➤ HUD can take the following actions for non-compliance

- Issue a corrective action order;
- Require reimbursement from non-federal sources;
- Limit, withhold, reduce, recapture, or terminate capital operating fund assistance;
- Issue a limited denial of participation or debar responsible PHA officials;
- Withhold assistance or other legal action per Section 6(j) of the 1937 Act;
- Declare a substantial default of the ACC;
- Take all available actions under 2 CFR 200.338-200.342; and,
- Take other corrective action that HUD deems necessary



HUD will notify the PHA and provide PHA with an opportunity to respond





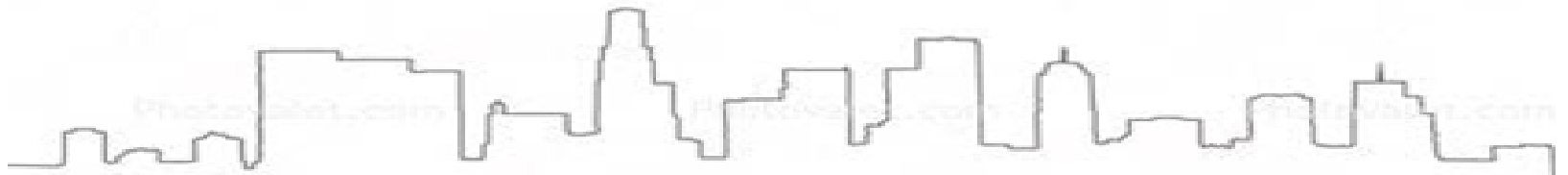
QUESTIONS

For questions or concerns send an email to

PIHOCl@hud.gov

For more information on the Capital Fund General Requirements see Chapter 6 and Compliance, Penalties and Sanctions see Chapter 12 of the Capital Fund Guidebook:

<https://www.hud.gov/sites/documents/CAPITALFUNDGUIDEBOOKFINAL.PDF>



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