



REGION 10 WORKFORCE BOARD

POLICY: PROCUREMENT POLICY

ISSUE DATE: April 1, 2006
EFFECTIVE REV. DATE: May 5, 2020
REVISED DATE: May 5, 2020

Required Action:

Region 10 Workforce Board, Region 10 Contractors and Subcontractors must adhere to the definitions outlined in this policy.

Who:

Region 10 Workforce Board
Region 10 Contractors and Subcontractors

Background:

The Chief Elected Official is the grant recipient of the Workforce Innovation and Opportunity Act (Title I) funds for Region 10. The Region 10 Workforce Board is required to comply and enforce Federal Regulations and DWD policies for the Workforce Service System.

1. Purpose: The purpose of this plan is to set forth guidance on the conduct of procurement activities for the Region 10 Workforce Board, the regional oversight agency for Workforce Investment Activities and WorkOne Employment and Training Services. The guiding principles for this policy are a commitment to the concept of full and open competition in all procurement activities and a commitment to utilizing vendors and subcontractors who have a history of providing quality goods and/or services. The Region 10 Workforce Board is the Administrative Office. The Fiscal Agent is Crowe.

2. Compliance: The Region 10 Workforce Board will adhere to all applicable OMB Uniform Guidance and regulations when procuring employment and training services. These services shall include personal services agreements, participant services, administrative services, and goods (i.e. legal services, accounting, monitoring and consulting).

- Procurements will be conducted in a manner providing full and open competition; and
- The use of sole source procurements will be minimized to the extent practicable.

3. Procedures:

3.1 Procurement authority, responsibility and delegation

The Region 10 Workforce Board or its designee is authorized to procure employment and training services and is responsible for ensuring adherence to the policies guiding procurement

activities. The Region 10 Workforce Board staff is authorized to conduct procurement transactions on behalf of the Board, and the internal audit process and DWD Monitoring entities will monitor the process to ensure accountability. The Region 10 Workforce Board shall have the authority to select sources of award for program services. The Chairperson of the Board shall have the authority to sign all contracts and modifications to contracts and to terminate contracts.

3.2 Conflict of Interest: The Board, being mindful of their roles as stewards of public funding and trust, will abide by the conflict of interest standards as described in the Region 10 Board By-Laws.

3.3 Code of Conduct

The Region 10 Workforce Board staff and subcontractors of the Workforce Service Area will adhere to the following standards of conduct in the performance of all activities connected to the Workforce Innovation and Opportunity Act.

- Staff and Subcontractors or sub-agents will avoid both personal and organizational conflict of interest and the appearance of such conflict of interest in the awarding of financial assistance under the Workforce Innovation and Opportunity Act
- The Region 10 Board staff and Subcontractors, sub-agents shall ensure that no individual in a decision making capacity, including Board members (whether compensated or not) shall engage in an activity, including participation in the selection, award, or administration of a sub-grant or contract supported by **Federal** funds if a conflict of interest, real or apparent would be involved.

Such a conflict would arise when: a) the individual; b) any member of the individual's immediate family; (c) the individual's partner, or; (d) an organization which employs, or is about to employ any of (a-d) has a financial or other interest in the firm or organization selected for an award.

For purpose of these standards, the term "immediate family: will mean wife, husband, daughter, son, mother, father, sister, sister-in-law, brother, brother-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step parent, and step child.

The officers, employees or agents of the agency making the award will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

During procurement of goods and services, the Board employees adhere to the written code of conduct standards that have been established. It is a priority to maintain fairness and objectivity when entering into the procurement process.

3.4 General Policy of Competition: A primary consideration in selecting agencies or organizations to, deliver services within the Region 10 Workforce Service Area shall be the effectiveness of the agency or organization delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants.

WIOA funds provided under the Act will not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources: 1) unless it is demonstrated that alternative services would be more effective or more likely to achieve the

performance goals of the service delivery area, or 2) it is necessary to provide a transition of service providers.

Procurement transactions by the Region 10 Workforce Board will be conducted in a manner providing full and open competition. It is the goal of the Board to maximize competition, ensure fiscal accountability, and prevent fraud and abuse in all programs.

3.5 Review/Analysis of Procurement

The Region 10 Workforce Board shall attempt to avoid purchasing unnecessary or duplicative items. Accordingly, Region 10 Workforce Board or its designee shall determine whether surplus State property is available for the use in the Region 10 service area as feasible and appropriate. Furthermore, when appropriate, an analysis shall be made of rental, lease and purchase alternatives to determine which would be the most economical, cost effective and practical procurement.

3.6 Procurement

Region 10 Workforce Board will follow the OMB Uniform Guidance description of five levels of procurements per CFR 200.320:

- 1) Micro purchases less than \$10,000 may be awarded without soliciting any competitive quotations if the board or board representative considers the cost reasonable.
- 2) Small purchases more than \$10,000, but less than \$250,000 must obtain price or rate quotations from an adequate number of qualified sources. The Region 10 Workforce Board will accept price or rate quotations from three (3) qualified sources.
- 3) Sealed bid purchases may be used for procurements of more than \$250,000 as applicable and appropriate.
- 4) Competitive proposals will be used for procurements of goods and services of more than \$250,000 as applicable and appropriate
- 5) Sole source procurements by the Board will be minimized to the extent practicable. If used, they will be approved by the applicable funding source or justified in writing. Prior approval for sole source purchases will be obtained from DWD in accordance with guidance provided in DWD Policy, and a) when emergency or extenuating circumstances does not permit delay or b) the item purchased requires prior approval per applicable OMB Guidance.

WIOA Training:

3.7. Individual Training Accounts: All training services as defined in WIOA (except for on-the-job training and customized training, instances of insufficient numbers of training providers, and special populations) must be provided through the use of Individual Training Accounts (ITA's).

3.8 Customized Training: Grantees should follow procurement rules of the Uniform Administrative Requirements applicable for their agency when contracting for customized training since small purchase threshold guidelines may apply.

3.9 On-the-Job Training (OJT): Grantees should follow policy outlined in DWD Policy.

3.10 Intensive Services: Intensive Services may include short-term prevocational services per WIOA. Intensive services may be provided by the one-stop delivery system through contracts with service providers, which may include contracts with public, for-profit, or nonprofit service providers approved by the local board. Contracts for these services may be accomplished by competitive procurement or by individual referral agreement.

3.11 Selection of type agreement: It is the Region 10 Workforce Board's preference to enter into only cost-reimbursable agreements.

3.12 Selection of Service Providers: The following format is used in the selection of service providers for the Region 10 Workforce Service Area:

- 1) Identify the Workforce Development needs of the community and services that will be provided in the workforce service area. Program design specifications are developed and approved by the Region 10 Workforce Board.
- 2) Administrative office provides notice of solicitation via legal notice in area newspapers and mailing to various organizations including previous service providers, school corporations, community-based organizations, etc. A bidder list is used for the mailing.
- 3) RFP packages are distributed to all interested parties who request in writing, verbally via phone or electronic media. Packages may include: instructions, performance standard requirements, recruitment guidelines, grievance information, and specific program proposal criteria. Minority, women-owned firms or small businesses will be encouraged to apply. A deadline for submission is established.
- 4) A bidder's conference is conducted, if deemed necessary.
- 5) A review team is selected to review and screen proposals for completeness, accuracy, training relatedness relative to program criteria and perform a price-analysis.
- 6) Contractor procedures are reviewed including, but not limited to, accounting procedures and prior compliance findings.
- 7) Staff distributes proposals, rating sheets, and conflict of interest statements to appropriate review team members.
- 8) The appropriate Board committee and staff review the recommendations from the review team and make final funding recommendations that are presented to the Region 10 Workforce Board. The proposers not selected are notified in writing of the decision.
- 10) Negotiation of contracts may begin with the assistance of the fiscal agent.

Note: Procedures above are performed with guidance from the fiscal agent.

Appropriate educational agencies in the Workforce Service Area will be provided the opportunity to deliver educational services, unless the administrative entity demonstrates that the alternative agencies or organizations would be more effective or would have greater potential to enhance the participants' continued occupational and career growth.

The administrative entity will not fund any occupational skills training programs unless the level of skills provided in the program are in accordance with the guidelines established by the Region 10 Workforce Board (in-demand occupations and included on the approved eligible training provider list, etc.)

Service providers will be procured in a manner consistent with OMB Uniform Guidance and other applicable regulatory requirements. A procurement file will be maintained for review.

3.13 Determination of cost/price reasonableness: Each proposal submitted for consideration will undergo a detailed cost/price analysis to determine reasonableness. The review steps will include the following:

Review computations
Review for completeness of information
Review for proper categorization
Determine the estimating basis
Determine ability to allocate costs within the estimate

Following this review phase, the cost/price analysis determinations will be documented for the following reasons:

- 1) Documentation is required to support ratings (if used in the review process) and to note concerns of the offerors' cost proposals.
- 2) Documentation will be valuable for discussion/negotiation purposes.
- 3) Documentation will guide negotiations where there is need to conduct price and direct cost negotiations with bidders selected for an award.
- 4) Documentation of concerns with cost will be required to support award decisions where price was a factor should an offeror file a protest against the award.
- 5) Documentation can be used during the contract monitoring and administration phase.

The detailed analysis will include analyzing the cost data furnished, estimating assumptions stated in the rationale provided by offerors in reaching amounts proposed. This process will require several technical functions including 1) verifying cost and pricing data submitted and evaluating cost elements in that data; 2) comparing costs proposed by bidders with other data; 3) verifying that the bidders cost submissions are in accordance with applicable contract cost principles. The Board will measure allowable costs using the following standards: 1) necessity; 2) reasonableness; 3) allocability and 4) terms of the contract.

The specific costs that will be reviewed as part of the cost/price analysis are: staff costs, materials, equipment, facilities, communications, insurance, staff travel, other direct or miscellaneous costs, photocopying and printing, staff training, subcontracts, and indirect costs.

3.14 Pre-award determination of contractors/grantee responsibility: (See Exhibit A) This section outlines the Board's pre-award review process and includes checks for fiscal integrity (e.g. certification, debarment and suspension, audit results etc.)

3.15 Contract/Grant standard clauses/provisions: See section VIII Standard Grant Contract Elements.

3.16 Contract/Grant Administration: See Attachment A (Contract Management Procedures).

3.17 Contract/grant specifications (scope of work, budget, etc.): The Region 10 Workforce Board will develop design specifications for Invitations for bids and Request for Proposals.

3.18 Contract/Grant award grievance, disputes and claims process: All contracts with the Board stipulate that the sub-agent will adhere to the grievance procedures of the Region 10 Workforce Board.

3.19 Grievance Procedures: Bidders will be afforded the opportunity to appeal funding recommendations to the Board. Proposers have the right to appeal any action or decision related to contracts and/or grant awards. Appeals will be reviewed and investigated with the Region 10 Workforce Board. The decision of the Board in such situations shall be final. Bidders wishing to make a formal appeal should do so in writing to:

Attention: Chair of the Board
Region 10 Workforce Board
P O Box 6712
New Albany, IN 47150

3.20 Definition of “pattern of failing” when determining employer ineligibility for OJTs:

The Board has established the following guidelines in determining employer ineligibility: 1) employers must hire at least 75% of the individuals placed on contract with their company or organization and be retained for 13 weeks following completion of the training contract. 2) Employers who are awarded two or more training contracts will have their status reviewed on an annual basis. Service providers will be required to submit an annual status report on Quality Training Contract Activity. 3) Employers will not be penalized when participants quit voluntarily, terminated for cause or are released due to unforeseeable changes in business conditions. These instances must be documented.

3.21 Procurement Solicitations Involving Multiple Boards: When the Board enters into a solicitation with one or more Board's, DWD should be contacted prior to solicitation to discuss any compatibility issues with current or future systems that may occur. The Board must be a part of the original group solicitation from the beginning of the procurement, and cannot procure at a later time based upon another entity's competitive solicitation.

3.22 Small Business/Minority Owned Firms/Women's Business Enterprises/Labor

Surplus Area Firms: The Board and Grantees must take all necessary affirmative action steps to utilize small business, minority-owned firms, women's business enterprises, and labor surplus area firms, whenever possible, as required by applicable circulars or rules.

ATTACHMENT A

REGION 10 WORKFORCE BOARD CONTRACT MANAGEMENT PROCEDURES

I. Contract Negotiations (Contracts and Modifications):

- 1) Negotiate and write contract based on proposal, Region 10 Board comments, funding levels and conferences with contractor.
- 2) Review draft contract with comments with Board staff.
- 3) Obtain contract signature.
- 4) Obtain signatures of Board Chair

II. Orientation of new service providers:

- 1) Explain contract requirements, give copies of policy letters.
- 2) Explain financial requirements and reports
- 3) Explain MIS and data reporting reports and timing.
- 4) Explain performance measures/criteria.
- 5) Explain procurement requirements

III. Monitoring:

- 1) Monitor all service providers annually for adherence to policies, contract requirements, file maintenance and evaluate programmatic systems.
- 2) Submit written monitoring reports to service providers outlining corrective actions recommended and identifying areas for programmatic improvements and identifying technical assistance needs.
- 3) Review service provider's responses to reports and report unresolved areas.
- 4) Follow up to see that corrective action has been taken.
- 5) Conduct desk-top reviews of performance information as available, reporting problem areas (i.e. performance metrics, number served, significant segments, etc. as above).
- 6) Review OJT's for adherence with policy.

IV. Performance Review:

- 1) Submit statistical reports to Board
- 2) Prepare performance summaries for review by Board and/or Committee.
- 3) Report quarterly to Board and/or committees on unresolved problems identified in monitoring.

V. Training/Technical Assistance:

- 1) Organize and deliver training sessions for service providers on policies Arrange outside training for service providers, as feasible.
 - 2) Provide individual technical assistance to service providers as requested/needed identified by monitoring
 - 3) Conduct meetings of all service provider managers to discuss policies. Common
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problems, ideas, etc.

VI. Demonstrated Performance: The Regional Workforce Board may conduct a pre-award analysis of potential service providers to determine demonstrated performance. Potential service providers will be considered to meet the demonstrated performance test when they are determined to possess the following:

- 1) Adequate financial resources or ability to obtain them;
- 2) Ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals;
- 3) Satisfactory record of past performance (job training, basic skills, training, or related activities), including demonstrated quality of training; reasonable drop-out rates from past programs; ability to provide or arrange for appropriate supportive services as specified in the Individual Employment Plan, (child care, retention in employment, earning rates of participants)
- 4) Satisfactory record of integrity, business ethics, and fiscal accountability
- 5) Necessary organization, experience, accounting and operational controls; and
- 6) Technical skills to perform the work

VII. Sole source/non-competitive

The Board will strive to minimize sole source procurements to the extent practicable.

Prior approval: The Board and Subcontractors will request prior approval from DWD in accordance with DWD Policy and:

- a) purchase of all services of \$250,000 or greater and item or service is only available from a single source;
- b) emergency or extenuating circumstances does not permit delay or
- c) the item purchased requires prior approval per applicable OMB Circular.

Procurement File: The Board and Subcontractors will establish a procurement file for every procurement action. The procurement file will be housed at the Board office. The file will be maintained up-to-date, and will be readily accessible to monitors, auditors, and others upon request.

Documentation maintained in the procurement file will include materials that ensure:

- 1) procurements have been conducted in a manner providing full and open competition
- 2) sole source procurements were minimized to the extent practicable.
- 3) An appropriate analysis of the reasonableness of cost and prices existed;
- 4) Procurement did not provide excess program income (for non-profit and government entities) or excess profit (for private for-profit entities), and that appropriate factors were utilized in determining whether such income or profit was excessive, such as: a) complexity of the work to be performed; b) risk borne by the contractor and; c) market conditions in the surrounding geographical area.
- 5) Procurements clearly specify deliverables and the basis for payment.

In addition, the Board ensures the following:

- 1) Written procedures have been established for procurement transactions;
- 2) No grantee, contractor, subgrantee, or subcontractor has engaged in any conflict of interest, actual or apparent, in the selection, award, or administration of a contract or grant under the Workforce Innovation Opportunity Act, **other Federal act, or State award**;
- 3) Oversight will be conducted to ensure compliance with the procurement standards; and
- 4) Procurement transactions between units of state or local governments, and any other entities organized principally as the administrative entity for service delivery areas, are conducted on a cost reimbursable basis.

VIII Standard Grant Contract Elements: At a minimum, grant and/or contract agreements negotiated by the Board will contain the following clauses that provide for:

- 1) Compliance with **all Federal and State** regulations (subrecipient contracts only);
- 2) Contracts other than small purchases, administrative, contractual legal remedies in instances where contractors violate or breach contract terms, which shall provide for such sanctions and penalties as may be appropriate;
- 3) Notice of **all Federal and State** requirements pertaining to patent rights;
- 4) Notice of **all Federal and State** requirements pertaining to copyrights and rights in data;
- 5) All contracts in excess of \$10,000 termination for cause and for convenience by the awarding agency, including the manner by which the termination will be effected and the basis for settlement;
- 6) Access by the recipient, the subrecipient, the Dept. of Labor, the Comptroller General of the U.S. or any of their duly authorized representatives to any books, documents, papers, and records (including computer records) of the contractor or subcontractor which are directly pertinent to charges to the program, in order to conduct audits and examinations, and make excerpts, transcripts, and photocopies; this right also includes timely and reasonable access to contractor's and subcontractor's personnel for the purpose of interviews and discussions related to such documents (vendor contracts);
- 7) Notice of awarding agency requirements and regulations pertaining to reporting;
- 8) Audit rights and requirements
- 9) Payment conditions and delivery terms
- 10) Process and authority for contract changes
- 11) Provision against assignment; and
- 12) Assurance of nondiscrimination and equal opportunity.
- 13) Drug Free Workplace language in all contracts having a value greater than \$25,000.00.

IX. On-the-Job Training/Quality Training Contracts: All OJT contracts written by the Board will comply with **all Federal and State** regulations. The OJT contracts will allow for a fair analysis of the reasonableness of proposed costs. Documentation and analysis will consist of the following:

- 1) Training outline of hours of training needed and what training will be provided
- 2) Prevailing wage rate

In addition, OJT contracts will not be written with an employer who had at least two previous OJT contracts and exhibited a pattern of failing to provide OJT participants continued long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees.

The duration of the period of loss of employer eligibility will be for one (1) year from the date of employer ineligibility. Termination of employer eligibility will not result under the following circumstances.

Documentation is provided which supports that OJT participants:

- 1) quit voluntarily
- 2) terminated for cause; or
- 3) are released due to unforeseeable changes in business conditions

X. Limited internships: The Board assures that limited internships will involve assignments in the private-for profit sector, and will be designed to enhance the long-term employability of youth. Contracts will include training outlines which indicate the specific training to be provided to the participant.

XI. Individual referrals for training: The will refer to the IN Training Website when making individual referrals for training.
