



Southwest Georgia Workforce Development Board (WDB)
State Policy/Procedure Name: 2.2 Procurement & Contracting
LWDA Policy/Procedure #: WIOA-2017-14 Procurement
Effective Date: February 28, 2017
Rescinds Policy #13 – Procurement dated July 1, 2013
Rescinds Policy #14 – Procurement & Contracting dated July 1, 2015
Revision Date: March 9, 2017
Revision: November 29, 2017 (Revisions to F. and K. ii.)

PURPOSE

To ensure the purchase of goods and services is conducted in an open manner resulting in competitive pricing, proper management and oversight controls to ensure fiscal accountability, efficiency, prevent waste, fraud and abuse and avoid acquisition of unnecessary or duplicative items.

POLICY

Local Workforce Development Area's (LWDAs) may procure equipment, supplies and services under the grant award agreement. Items expensed to the grant award must be reasonable and serve the primary objective of the agreement. All procurement transactions must follow the federal regulations found at 2 C.F.R § 200.320.

The purchase or construction of facilities or buildings is unallowable under the WIOA, except for certain circumstances requiring prior written approval from the federal awarding agency.

LWDAs are authorized to make purchases of equipment, supplies and services as described below. LWDAs are responsible for ensuring the vendors selected are not debarred or suspended by checking the information on the following federal government website: <https://www.sam.gov/portal/SAM/##11>.

A. BIDDERS LIST

The LWDA will maintain a current bidders' list based on the requests of agencies, including small, minority and female owned businesses, labor surplus suppliers, and local education agencies and community-based organizations.

B. SMALL PURCHASE

1. Micro-Purchases – \$3,000 and under. All LWDAs are authorized to make purchases via micro-purchase. To the extent practicable, the LWDA must distribute micro-purchases



equitably among all qualified suppliers. If the price is considered to be reasonable, then no competitive quotations are required. A purchase requisition or purchase order is required for micro-purchases. Purchases of any budgeted item up to \$500 may be approved on a purchase order by the Executive Director and purchase orders over \$500 must be approved by the Executive Director and City Manager.

2. Small Purchases – under \$150,000. All LWDA's may purchase items with a value of less than \$150,000 (the Federal Simplified Acquisition Threshold.) Small purchase procurements require at least three (3) written price or rate quotations from an adequate number of qualified sources. The written quotes will be attached to the purchase order or included in the procurement file for the purchase as appropriate. If the lowest-price item is not purchased, a written justification will be included in the procurement file. Purchase orders for small purchases must be approved by the Executive Director and City Manager. Adequate documentation of all obtained quotations must be maintained and available for review by either the State Workforce Development Division (WFD) or the federal awarding agency.

For all purchases that exceed an LWDA's simplified acquisition threshold, cost-price analysis of similar goods or services must be conducted prior to solicitation.

WFD requires LWDA's to submit for prior written approval all purchases where the unit price is \$5,000 or greater and the useful life of the proposed purchase is more than one calendar year. LWDA's should provide narrative explaining the need for the purchase, documentation to illustrate that all local, state, and federal procurement regulations were met, and copies of all quotes and supporting documentation considered in selecting a vendor. Additional information may be required if the unit price is \$50,000 or more. This information may be found in WIG GA-15-004. WFD will review all requests and provide a written determination within 30 days of receiving all documentation necessary to support the request for approval.

3. For all purchases that exceed the established simplified acquisition threshold, competitive procurement should be conducted, either through sealed bids or requests for proposal.

4. Noncompetitive Proposals: Sole source procurement may be awarded only if one of the following criteria are met:

- a. The good/service is only available from one source.
- b. After solicitation from a number of sources, competition is determined inadequate. This is typically met through insufficient bid responses.
- c. Through a formal request, WFD authorizes a noncompetitive proposal.



- d. Public emergency will not allow a delay resulting from the competitive procurement process. If an LWDA plans to use the public emergency criteria, WFD must be notified in advance.

C. BIDS AND FORMAL REQUESTS FOR PROPOSALS

Purchases above \$150,000 shall be publicly advertised and a formal request for bids, proposals, or quotations shall be issued. Where the goods or services are for the purpose of implementing grant activities, and not for the day-to-day operations of the agency, the decision to let an RFP or a bid along with the elements of that RFP/bid shall be presented to the WDB for their approval.

Potential bidders must not be precluded from qualifying during the solicitation process.

1. Previous proposers as well as entities, which have asked to be included on the LWDA proposer/bid list for various types of goods and services, shall be notified that the LWDA is seeking service providers.
2. Legal notices will be posted on the LWDA website and shall appear in at least one newspaper, of general circulation for three (3) consecutive days whenever a formal bid/proposal is released. Potential bidders will be given at least ten (10) working days to respond to the advertisement, if time permits.
3. The LWDA will accept proposals based upon the terms and conditions of the RFP.
4. Proposals/bids submitted are received by LWDA staff and stamped with date and time of receipt.
5. Proposal/bid evaluation criteria are published with the RFP or bid. The rating criteria include, but are not limited to, the following elements:
 - i. Proposer's financial capability. Proposer's books and records are kept in accordance with generally accepted accounting principles.
 - j. Reasonableness of the costs.
 - k. Proposer's ability to meet performance goals.
 - l. Proposer's record of performance in the delivery of goods or services.
 - m. Proposer's experience.
6. The LWDA may conduct pre-award surveys where indicated.
7. RFP's and bids shall be reviewed by staff for responsiveness. Non-responsive proposers are notified in accordance with the RFP or bid.
8. WDB reserves the right to reject any and all proposals in whole or in part, to waive any informalities or irregularities in the proposals received, and to accept any proposal that is deemed most favorable to WDB at the time and under the conditions stipulated in the specifications of the request.
9. The LWDA Executive Director shall assemble review committees to rate and rank proposals and bids. Generally, review committees consist of board members and/or LWDA staff. They may, on occasion, consist of members of the community with a special applicable expertise.



10. Recommendations from the review committees are submitted to the LWDA governing board, which make the final selection and approval determinations.
 11. The WDB will authorize staff to enter into negotiations with those contractors approved to be funded and renegotiate contract Work Statement Narrative and Budget for those contractors approved for option year renewals. Staff will ensure reasonableness of costs. The staff may negotiate contracts as directed by the WDB and may approve contract amounts or modifications of up to 25% above the WDB-approved level of funding. Any amount above that level will have to be approved by the WDB Executive Committee.
 12. Proposals found to be in the competitive range but which are not selected for funding and unsolicited proposals found to be in the competitive range will be placed on a contingency list. The contingency list will expire with the Program Year. The WDB may choose at any time to fund a proposal on the contingency list. The main criteria for selection will be availability of funds and service need as determined by the WDB.
- D. Regardless of the amount of the purchase or the type of procurement a “no-bid” shall be considered a bid for the purpose of receiving bids, proposals and quotes. “No bids” must be in writing on company letterhead or submitted electronically by email.
- E. Purchases made based upon a procurement made by another unit of local government, or a public entity established by law, such as other LWDA's, will not require further procurement actions because these bodies are subject to the same or similar procurement requirements. When making a purchase based upon such a procurement, a copy of the procurement should be attached to the purchase requisition or the procurement file for that item as appropriate. If the item was a sole-source procurement, the LWDA may not rely on the procurement unless it meets the non-competitive sole source requirements. The LWDA may use this method provided the body has followed the same or similar procurement guidelines and can provide appropriate backup documentation.
- F. The LWDA staff initiating purchases will seek out any available discounts, credits and consideration shall be given to the cost efficiency of lease/rental versus purchase of equipment or supplies to determine the most economical and practical procurement (Uniform Guidance Section 200.323).
- G. Cost Price Analysis
A cost or price analysis shall be performed in connection with every procurement above \$150,000 including contract modifications. Cost comparisons and cost and price analysis are for the purpose of ensuring that:
- i. Public funds are spent economically and the cost is reasonable.



- j. The funds expended are appropriate in relation to the need for the service.
 - k. Providers funded present the best services at the most favorable prices.
- Cost comparisons and cost and price analysis, including pre-bid estimates utilized for RFP's, shall be documented in writing for procurements over \$150,000. Pre-bid estimates may be obtained by examining previous LWDA purchases of the same or similar items, as well as advertised costs of goods and services.
- H. When it is impractical/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 requirements of procurement. The specific features of named brand which must be met must be clearly stated and identify all requirements to be fulfilled.
 - I. The LWDA encourages the utilization of small businesses, minority-owned firms, labor surplus area firms, and women's business enterprises whenever possible.
 - J. When possible, the LWDA may enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services and may use federal excess and surplus property in lieu of purchasing new equipment and property.
 - K. Contract Development
Upon the WDB approval for funding of a bid or renewal of an option year contract, the LWDA will be responsible for ensuring that contacts comply with the following requirements:
 - i. Contracts with Service Providers will be negotiated face-to-face.
 - ii. For Vendors, a minimum of two references must verify Vendor capability, or a track record in successfully providing related goods/services with WorkSource Southwest Georgia or general public must be documented. All references and verification shall be documented in a memo to the procurement file.
 - iii. Prior to contracting, Service Providers must provide proof of registration with the Georgia Secretary of State (if a corporation), proof that all Federal and State taxes are current, proof of licensure in the city or county in which it is conducting business, proof that all State of Georgia unemployment insurance wage reports and taxes are current, and proof of sufficient fidelity bonding.
 - iv. The LWDA reserves the right to waive the fidelity bond requirement only in situation where service providers do not handle WIOA funds.
 - v. For first-time Service Providers, verification of at least two references with which the potential Service Provider has conducted business is required. All requested proposal information would be verified if necessary, whether by phone, mail, or



other means. If necessary, clarifying information may be requested of the potential Service Provider. All references and verification shall be documented in a memo to the procurement file.

- vi. Costs agreed to must be reasonable. For contracts whose period of contract is more than one year, renewals must be review for reasonableness of cost in relation to services to be provided. All costs must be allowable, allocable under WIOA cost categories, appropriate and necessary.
- vii. The cost analysis must include a line item budget, and at least one confirming method to determine reasonableness. Determination is based on a verified market price or quote, comparable past offers, comparable current offers, risk adjustment analysis, independent agency estimate, or historical price estimate.
- viii. The Service Provider must be found to be financially capable to operate the program. New Service Providers must be found to have adequate technical and financial capabilities through a pre-award survey.
- ix. The Service Provider must certify that it is not on any list of debarred or suspended contractors.
- x. Contracts may be cost-reimbursable (with or without a fixed fee), fixed-unit price/performance-based, or hybrid as directed by the WDB.
- xi. Audit

Governmental, Public and Private-Not-For-Profit Entities Requirement to Audit

Subrecipient shall provide for the conduct of an external audit of the program funded by this Agreement and any amendments hereto if total aggregate expenditures of federal funds received from any source total seven hundred fifty thousand dollars (\$750,000.00) or more in any fiscal year. The audit shall be conducted in accordance with the provisions of the Single Audit Act Amendments of 1996 and in compliance with State of Georgia requirements, and 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In determining the federal awards expended in its fiscal year, Subrecipient shall consider all sources of federal awards. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR 200.

Audits shall cover the entire recipient organization for the organization's fiscal year. Compliance findings related to contracts with City of Colquitt shall be based on the contract requirements, including any rules, regulations, or statutes referenced in the contract. The financial statements shall disclose whether or not the matching requirement was met if a match was required. All questioned costs and liabilities shall be fully disclosed in the audit report with reference to the City of Colquitt contract involved.



Commercial Entities Requirement to Audit

Commercial organizations receiving in excess of seven hundred fifty thousand dollars (\$750,000.00) a year in the aggregate of federal grant funds, whether from City of Colquitt or other funding sources, shall conduct a program specific independent financial and compliance audit in accordance with GAAS, or an organization wide audit conducted in accordance with 2 CFR 200 that includes the federal funds received and the program conducted, within its scope.

Reimbursement for Audit Expense

Subrecipient agrees that although funds might be allocated in their budgets for audit expense, they will not seek reimbursement from City of Colquitt for the costs of any audit in whole or in part, for any fiscal year in which their expenditure of federal funds regardless of the source of receipt of those federal funds does not exceed seven hundred fifty thousand dollars (\$750,000.00).

Period of Performance

Audits must be conducted, completed, and submitted within thirty (30) days of the receipt of the Audit Report following termination of this Agreement or within nine (9) months after the end of the audit period which ever comes sooner. Failure to submit an Audit Report, as required, may result in the withholding of payments due Service Provider under this or any other Agreement in place with City of Colquitt.

- xii. Profit is an allowable expense in contracts with for-profit organizations. However, excess profit will not be permitted. With a cost-reimbursement/fixed fee contract, the fixed fee is to be negotiated as paid at the completion of the contract, after full and satisfactory performance and must not involve a cost-plus-a-percentage-of-cost contract. If profit is included in the price of a fixed-price contract, profit must be negotiated as a separate element when there is no price competition. The following criteria shall be given consideration to establish a fair and reasonable profit:
 - a. Complexity of the work to be performed.
 - b. Risk borne by the contractor,
 - c. Contractor's investment,
 - d. Amount of subcontracting,
 - e. Quality of the contractor's record of past performance,
 - f. Industry profit rates in the surrounding geographical area for similar work,
 - g. Market conditions in the surrounding geographical area.
- xiii. Contracts will be negotiated prior to the beginning of the performance time.
- xiv. In accordance with the WDB/City of Colquitt, where deficiencies in service provider financial management controls and procedures are identified, deficiencies must be fully corrected before execution of another contract with the provider/vendor, including any modification to increase funding and/or expand the scope of services.



xv. **Conditions for Renewal of Option Year Contract**
The option for renewal of an Option Year Contract may be exercised only if the contractor meets the conditions for renewal outlined in the contract boilerplate. The fact that the contractor meets the conditions for renewal outlined in the contract boilerplate does not entitle the contractor to renewal of the contract. The WDB/City of Colquitt reserves the right to examine other factors such as compliance with the terms of the contract; compliance with statutory and regulatory requirements shown in the applicable laws and regulations section of the contract; and management efficiency and quality of training. The WDB/City of Colquitt may also choose not to exercise its option to renew the contract if funding or regulatory changes make it impractical to do so.

xvi. **Procedures for Renewal of Option Year Contract**
In order to exercise its option to renew an option year contract, the LWDA will notify the contractor in writing approximately sixty (60) days before the end date of the contract of its intent to renew the contract. The contract modification to renew the contract will be executed by no later than the end date of the existing contract, or the option to renew will expire unless the parties agree in writing to extend the option. If, however, there is a failure to reach an agreement during the renegotiation process, either party may withdraw its offer for renewal of the contract through written notification to the other party.

L. Appeal or Protest

Appeals by proposing organizations denied funding are limited to procedural appeals only; such appeals shall be based solely on allegations of irregularities in the solicitation and awards procedure and not on the relative merit of offers submitted. If a proposing organization believes it has been harmed by a violation or misapplication of procedure or regulation of the WIOA, it has the right to file a grievance. This grievance should be filed in accordance with the written procedures established by the WDB/City of Colquitt and may be obtained by contacting the WDB Executive Director.

M. CONFLICTS OF INTEREST AND CODE OF CONDUCT [Ref State Policy 1.7.3]

The State Workforce Development Board (SWDB) has implemented a Conflict of Interest and Code of Conduct Policy existing at Ga. R. and Reg. 159-2-1-.06, which applies to all SWDB, LEO and LWDB Board Members and any individuals serving on any councils or standing committees created under any of the aforementioned boards. This Conflict of Interest and Code of Conduct Policy sets forth general guidelines regarding Board Member conduct and the processes by which conflicts of interest must be addressed including requiring an impacted Board member to recuse him or herself from any interested vote and refraining from participating in any discourse on the impacted topic.



Conflicts of Interest can also arise with respect to Local Area Directors and their staff within a Local Workforce Development Area. While Local Area Directors and staff do not participate in formal Board votes, they nonetheless make decisions regarding the use of WIOA funds and the provision of WIOA services. Therefore, Local Area Directors and their staff have a duty to avoid Conflicts of Interest and take appropriate steps when an actual or perceived Conflict of Interest arises. As required by O.C.G.A. § 50-7-91(a)(2), Local Area Directors shall also be required to sign a Conflict of Interest Provision which will be circulated by WFD.

The following section sets the general requirements for Local Area Directors and their staff members. Specifically, Local Area Directors and their staff shall not:

- (1) use WIOA funds or services to provide a direct or indirect financial benefit to the Local Area Director or staff member or to any of their immediate relatives;
- (2) directly or indirectly accept or solicit any gratuities, favors, or anything involving more than de minimis monetary value from any person with whom the Local Area Director or staff interacts in his or her capacity as a recipient of federal funds. This section includes, without limitation, any potential or actual supplier, contractor, subcontractor, grant recipient or other service provider;
- (3) participate in the selection, award or administration of a procurement supported by federal funds in any case where the Local Area Director or staff is aware that any immediate relative, business partner, or any organization that employs or is about to employ any of those persons, has any financial or material interest in any organization that may be considered for an award of federal funds;
- (4) advocate for or cause the advancement, appointment, employment, promotion, or transfer of an immediate relative to any office or position administering or handling federal funds under Public Law 113-128, including without limitation, any potential or actual supplier, contractor, subcontractor, grant recipient or other service provider; or
- (5) take any action determined to constitute a Conflict of Interest.

If a staff member experiences an actual or potential Conflict of Interest, the impacted staff member shall notify his or her Local Area Director and not undertake any action on the topic or issue involving the Conflict of Interest. Instead, the impacted staff member shall allow the Local Area Director to address and resolve the actual or potential Conflict of Interest, if possible. If a Local Area Director experiences an actual or potential Conflict of Interest, the Local Area Director shall take the following steps:

- a. notify the Local Workforce Development Board Chair and the official who signs as the Fiscal Agent for the administrative entity of the actual or potential Conflict as soon as possible;
- b. remove him or herself from the topic or issue involving the Conflict of Interest; and



c. not take any action on the impacted topic or issue until the Conflict of Interest has been resolved. The Conflict of Interest may be resolved by having an independent third-party, such as the Local Workforce Development Board Chair or Chief Local Elected Officer, review the actual or apparent Conflict of Interest, and issue a written report or stating indicating that it is permissible to proceed with the impacted topic or issue.

N. Procurement File

Adequate records of the procurement process will be maintained. These will include the RFP, a copy of the public notification, list of bidders to which notices were mailed a list of all entities that received an RFP. Questions and Answer issuances, log sheet for receipt of proposals, minutes of meetings pertaining to the procurement, rating sheets, synopses, memoranda, spread sheets, and any additional document which details the rational for the method of procurement, selection of contract type, and selection or rejection of contractors.

For proposals that are funded, a contract file will be maintained that will include at a minimum an original signed contract and original signed modifications as well as the proposal, official memo of negotiations, and line item cost analysis.

The working papers detailing the contract negotiation process will also be maintained for each contract. These working papers will contain information showing the basis for the contract terms, and will include notes of all staff involved in the contract negotiations. A copy of any submitted grievance and resolution of such.

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