

SOP 17-01
Procurement
Standard Operating Procedures
Grow Southwest Indiana Region 11
RWB Approval Date: 08/26/2011
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Purpose

To set forth guidance for the conduct of procurement activities by the Grow Southwest Indiana Workforce Board.

The guiding principles for this policy are to promote free and open competition in all procurement activities and to encourage the involvement of small and minority-owned, local businesses whenever possible. Accordingly, the Board will competitively procure materials, equipment, and property in the open market to the greatest extent feasible. The Board has a commitment to utilizing vendors and subcontractors who have a track record of providing quality goods and/or services. This document also sets forth the expectations for documentation and procurement and contracting action sequences to be followed to ensure uniformity, compliance, and control.

This policy has been developed to be consistent with all Uniform Guidance and Workforce Innovation Opportunity Act. This policy provides a comprehensive approach to the procurement process consistent with the above requirements.

General Policy of Competition

In compliance with Uniform Guidance and the Workforce Innovation Opportunity Act, and in keeping with the Board statement of policy and practices, the following general policy of competition shall apply:

1. Procurement shall be conducted in a manner that provides full and open competition.
2. Unreasonable requirement, unnecessary experience, and excessive bonding shall not be placed on firms or organizations that do business with the Board.
3. Awarding of business to “favorite” or long-standing vendors shall not be practiced unless full and open competition can be demonstrated.
4. Staff shall avoid conflicts of interest and adhere to the Board policy thereof.
5. Procurement shall not unreasonably specify “brand names” when “an equal” will suffice.
6. Sole source procurement will be minimized to the extent possible, if used, will be thoroughly justified.

7. This policy shall not apply to private or unrestricted funds, unless the grantor or the Board so designate.

Definitions

1. Sub-recipient – an entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier sub-recipient) for the use of the funds provided. Distinguishing characteristics of a sub-recipient include such items as:
 - a. Determines who is eligible to receive federal financial assistance
 - b. Has its performance measured against whether the objectives of the federal programs are met
 - c. Has responsibility for programmatic decision-making
 - d. Has responsibility for adherence to applicable federal program compliance requirements
 - e. Uses the federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity
2. Service Provider – any sub-recipient, including a service delivery area or sub-state grantee, which is responsible for the delivery of training and/or supportive services directly to WIOA participants. Awards to service providers may be made by sub-grant, contract, subcontract, or other legal agreement.
3. Vendor – any entity responsible for providing generally required goods or services to be used in the program. These goods or services may be for the recipient's or sub-recipient's own use or for the use of participants in the program. Distinguishing characteristics of a vendor include items such as:
 - a. Providing the good or services to many different purchasers, including purchasers outside the WIOA program
 - b. Operating in a competitive environment

A vendor is not a sub-recipient and does not exhibit the distinguishing characteristics attributable to a sub-recipient as defined above. Any entity directly involved in the delivery of program services not available to the general public, with the exception of an employer providing on-the-job training, shall be considered a sub-recipient rather than a vendor.

Procurement Authority and Responsibility

The procurement of goods, including expendable, non-expendable and real property, and administrative services, including auditing, monitoring and technical assistance, is subject to these procurement policies.

Authority to execute any procurement action must be explicitly delegated by the Board through a Board resolution, Board adopted or approved plan, Board contract with grantor, or Federal, State, or local laws, policies, or regulations.

Procurement action will only be authorized within the limits and procedures of the Board procurement policy contained in this document.

Justification and Approval for Procurement

Documentation of Need – Prior to the acquisition of goods and operational or program service, all purchases over \$25,000 shall require documentation of the need with the sufficient justifications and appropriated approval. The requestor shall document the need for such goods or service in terms of function, benefit, and consistency with service delivery and the justification for the procurement method used.

Availability of Funds – Once the need has been determined, it is the responsibility of the Board Director, in conjunction with the Fiscal Agent, to determine the availability of funds by source, cost category, and budget authority.

Approval for Procurement – The Board approval for procurement action may take the form of documentation from an appropriate authority, a Board Resolution, a board adopted or approved, a specific provision in current contracts or grants, or Federal, State, or local laws, policies, or regulations.

Methods for Procurement

1. Small Purchase – Used for relatively simple, informal purchases of goods or services with an aggregate cost of \$25,000 or less. Every reasonable effort shall be made to obtain price or rate quotations by phone, fax, and/or from prospective vendors' web sites when the costs of goods and/or services are greater than \$2500 but less than \$25,000 in aggregate. Staff will ensure a reasonable level of competition and will solicit quotes from not fewer than three providers. The solicitations will be documented and made a part of the procurement file for review purposes. Documented approval by an appropriate authority or Board Director will be obtained for all procurements prior to purchases.
 - a. Under no circumstances will purchases anticipated to be in excess of \$25,000 be divided to fall within the small purchase limit thereby avoiding competitive bidding requirements.
 - b. Procurements of goods or services which are less than \$2500 may be made under the Sole Source method when appropriate (see Sole Source 2.).

2. Sole Source – Sole source is defined a procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined to be inadequate or nonexistent.
 - a. Sole source procurement will only be used when two or more of the following circumstances exist:
 - 1) The aggregate cost of goods or services is less than \$2500
 - 2) There is demonstrated efficiency or economic advantage
 - 3) There is a prior agreement or approval with the Grantor

- 4) There is only one source of supply for the desired item or employment and training services(s)
 - 5) There is a unique capability of one sub-recipient or vendor, to provide more effective goods or employment and training services(s)
 - 6) The competitive procurement approach has been attempted unsuccessfully
 - 7) There is an emergency which requires an immediate contract for goods/services to prevent loss of property or serious detriment to goals or mission that could not be reasonably foreseen
- b. Non-competitive/sole source procurements also require cost negotiations and a thorough cost/price analysis when the aggregate cost of goods or services is more than \$2500. Files will contain documented evidence that a cost/price analysis has been conducted. Documentation of how determination was made that cost/price is reasonable may be in the form of a memo.
 - c. When a non-competitive procurement of \$100,000 or greater involving funds available through the Indiana Department of Workforce Development (IDWD) occurs, prior approval from the IDWD (as required in IDWD Communication DWD Policy 2007-15) will be requested in writing.

Invitation for Bid (IFB)

The IFB is a formal solicitation based on a fully developed and detailed set of specifications of the goods or services to be provided. The IFB will be a fixed price bid and will be used to purchase standard products that can be sufficiently and precisely described to allow selection of a bidder to be made solely on the basis of lowest price. When the Board determines that the goods or services are to be competitively procured and specifications are sufficiently detailed that Request-For-Proposal conditions do not apply, the Board Director or designee shall prepare an Invitation for Bid.

Request for Proposal (RFP)

When the Board established broad outcomes or performance standards that do not contain detailed specifications for goods or services, the Board will issue request for Proposals (RFP), instead of bids, thus requiring the service providers to “design their own program”. In this case, the Board Director or designee will prepare a RFP. The RFP is a formal solicitation that is based on a problem or need statement, rather than a detailed set of specifications, wherein the Board describes the problem or need, sets general parameters, and requires the offerer or proposer to design, defend, and price the goods or services.

The RFP identifies: project duration, submission of information, detailed description of all services solicited, targeted groups to be served, proposal evaluation criteria, and budget information requirements.

1. Define Specifications – One of the most crucial parts of the RFP is the statement of work which must provide a clear and concise description of the services to be provided. The statement of work will summarize the key features of the proposal in terms of mandatory, optional, and supplemental components as well as program results. It will also include definitions and specification (i.e. units of service, standards, performance goals, objective, activities, etc.) relating to the services to be procured.
2. Advertising/Communication – Offers will be solicited by distributing the RFP to an adequate number of qualified sources to ensure competition (generally from the bidders' inventory). RFPs will be publicized in the appropriate mediums and requests for copies of the RFP will be honored to the maximum extent practicable. Determination of whether or not to hold a bidders conference will depend on the extent of competition, complexity of the RFP material and resources available. Should the decision be made to host a bidder's conference, the date, time, and place will be stated in the RFP.
3. Review/Evaluation – Mechanisms for evaluating the technical proposals, determining responsible bidders, and conducting negotiations with bidders deemed to be in the competitive range will be provided for in the RFP. A proposal review team as determined necessary in the circumstances, will review and rate all proposals which are considered responsive to the solicitation. The rating of each proposal will be accomplished using reasonably objective criteria.

The review criteria may include: financial resource, technical qualifications, experience, organization and facilities, resource to meet the completion schedule, previous performance record, ability to meet performance standards, cost price analysis, and accounting and auditing procedures and accountability.

4. Negotiation – The Board reserves the right, in any procurement transaction, to accept a responsible bid, offer, or proposal on its face value without further discussion or negotiation. The Board also reserves the right to negotiate any bid, offer, or proposal as a condition to award a contract or agreement, and to reject any and all bids, offers, or proposals.
5. Selections and Awards – Awards shall be made to the bidder or offerer whose bid or offer is responsive to the solicitation, is in the best interest of the Board and the bidder/offerer and most advantageous with price, quality, and other factors considered.

The Boards, as part of any service provider selection process, will require that bidders/proposers assure the Board that they are not on a suspension or debarment list. The Board may also require proof of insurance be provided by all bidders/proposers. These certifications may be required elements for proposal submission and proposers not submitting these items may be considered non-responsive and may not be considered for funding. Debarment certifications and proof of insurance may be made part of the contract file.

6. Type of agreement – The type of agreement) i.e. cost reimbursement contract, performance based contract, professional service agreement, non-financial agreement) selected shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. It is the responsibility of the Board Director or designee to determine and document the most cost-effective method of acquisition. Cost plus percentage of cost method will not be used.

Code of Conduct and Conflict of Interest

All individuals involved in any part of the procurement process are subject to the standards in the applicable Uniform Guidance, the IDWD Conflict of Interest Policy, and the Board policies governing general conduct.

Handling Appeals from Non-Selectees

If an award decision is protested or disputed by a non-selectee, the following appeals procedure should be utilized:

1. The non-selectee must provide, in writing, specific rationales for the appeal to the Board Director. If the non-selectee feels that the review team has overlooked information potentially beneficial to the non-selectee's proposal, it should provide this information, in writing, at the same time. Non-selectees will have fourteen (14) days following notification of rejection of their proposal to appeal the decision. The Board Director will review the procurement file and issue a written response within ten (10) working days.
2. An organization appealing a procurement decision must exhaust these local administrative remedies prior to pursuing a protest with the Indiana Department of Workforce Development (IDWD), the Department of Labor, or other applicable entity.

Documenting Procurement Efforts

A procurement file will be created in connection with every procurement action.

Materials should be included in the procurement file which documents that the Board:

1. Provided for free and open competition to the maximum extent possible
2. Contracted with a responsible contractor
3. Negotiated and executed an arms-length agreement
4. Conducted a price/cost analysis in connection with the procurement action
5. Followed proper procedures for engaging in a non-competitive procurement if used
6. Received written approval from IDWD as appropriate
7. Was authorized by the Grow Southwest Indiana Workforce Board to enter into the contract or agreement
8. Conducted a pre-award survey, as appropriate.

Procurement files for goods and services (unrelated to service provision) will be maintained and shall include specifications or written requirements for the product or service, bids or quotes from all interested vendors, and authorization or approval as specified in this policy.

Standard Contract elements and Monitoring

At a minimum, each contract executed by the Board will contain the following elements:

1. Statement of work
2. Period of Performance
3. Audit rights and requirements of the Board
4. Requirements for record retention, access to records, and access to contractor personnel for the purpose of interviews/discussions related to such records
5. Statement permitting termination of the contract for default, cause, or convenience
6. Terms, conditions, and schedules for payment and delivery
7. An identification and signature of authorized representatives
8. Proof of required insurance levels
9. Statement committing the contractor to conduct activities in accordance with applicable laws
10. Contractor assurances concerning equal opportunity for applicants, non-sectarian activities, and anti-lobbying prohibitions
11. Procedures for modifying the contract
12. Notice of WIOA requirements pertaining to patent right, copyrights, and right in date
13. Reporting requirements to the Board

Additional elements will be added to contract as deemed appropriate by the Board to enforce compliance with statutory requirements and to ensure program outcomes or deliverables.

A quarterly desktop review will be conducted on each service provider to review performance progress. On-site compliance monitoring will be conducted annually for all service provider contracts.

Procurement of Property

Procurement of property shall be handled in accordance with IDWD Policy 2007-15, Procurement and Prior Approval Policy for Federally Funded Grantees and IDWD Policy 2007-21, Property Management/Surplus Property Policy, when IDWD funds are used for purchasing property.