

## **Procurement Methods – 2 CFR 200.320**

**Region VI Workforce Development Board (Region VI WDB) shall use one of the following methods of procurement, as appropriate for each type of procurement.**

### **Procurements of goods, services, and property:**

1.1 Procurements of *\$5000 or less (Micro-purchases)* will be procured at the discretion of the Executive Director and Staff. {2 CFR 200.320 (a) (1)} All costs, regardless of thresholds, must be necessary for the program, of a reasonable cost, and allocable to the program charged {2 CFR 200.403}

1.2 Procurements for Small Purchases (*Simplified Acquisitions*). Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, equipment \* or other property that cost from *\$5001 to \$20,000* in the aggregate. If small purchase procurements are used, price or rate quotations will be obtained from at least three qualified sources, when possible. If there are not 3 qualified sources, a letter documenting an explanation of the circumstances will be attached in the file on that procurement. All verbal bids must be documented and recorded for public comment. Screen prints from internet sites in which the commodity or service is for sale and can be purchased directly can substitute a verbal bid. The lowest bid meeting specifications must be awarded. All procurements under this section will be approved by vote of the Region VI WDB and LEO boards. {2 CFR 200.320 (a)(2)}

*\* Per WIOA Grant Agreement terms with WorkForce West Virginia, LWDB's must obtain prior approval from the Purchasing Division for the purchase and/or lease of any equipment with a per unit acquisition cost of \$5,000 or more, and a useful life of more than one year.*

1.3 Procurement by *Sealed Bids (formal advertising- Request for Quote (RFQ))*. For procurements of *\$20,001 or more*, "bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price." {2 CFR 200.320 (b)(1)}. West Virginia state rules require a minimum of three vendors proposals to meet the requirements for competition.\*\* Screen prints from internet sites are not acceptable as a valid bid for this threshold. "Any or all bids may be rejected if there is a sound documented reason." {2 CFR 200.320 (b)(1)(ii)(E)}. All procurements under this section will be approved by vote of the Region VI WDB and LEO boards.

*\*\* 2 CFR 200.320 requires that proposals are solicited from an adequate number of qualified sources. West Virginia state rules require a minimum of three vendor proposals to meet the requirements of competition. Therefore, if Region VI WDB only receives one bid, the rule is not satisfied. The exception for noncompetitive procurement in 200.320 (c)(5) is only available after Region VI WDB solicits an*

*adequate number of qualified sources. (See 1.6 Procurement by Non-Competitive Proposals) If the WDB only receives one bid, they cannot move forward unless they document that they have contacted multiple sources and the vendor declined.*

**Procurements for Programmatic activities:**

- 1.4 Procurement by *Competitive Proposals* (A method in which either a fixed price or cost reimbursement type contract is awarded) shall be used for programs or services if the following conditions are present:
  - a. The nature of the item or service needed precludes developing a specification or a purchase description so precise that all interested parties have an identical understanding of the requirement;
  - b. Three or more responsible suppliers are willing and able to compete effectively for the award
- 1.5 Procurements by *Competitive Proposals* for programs for the Region VI WDB shall be secured by: {2 CFR 200.320 (b)(2)}
  - a. Soliciting offers by distributing Requests for Proposals (RFPs) to an adequate number of qualified sources to ensure competition and by publicizing the RFP and honoring requests for copies of the RFP to the maximum extent practicable; West Virginia state rules require a minimum of three vendors proposals to meet the requirements for competition.\*\*
  - b. Ensuring that the RFP identifies all significant evaluation factors, including cost, or price, and the relative importance of each;
  - c. Providing technical evaluation of proposals received and determinations of responsible offerors for the purposes of holding written or oral discussions; for conducting negotiations with offerors deemed to be in the competitive range (offerors whose proposals, when evaluated, are believed to have a reasonable chance of being selected for award); and for selecting the contractor; and
  - d. Awarding a fixed-price or cost reimbursement award to the responsible bidder or whose proposal will be most advantageous to the Region VI WDB, price and other factors considered; and notify unsuccessful offerors of the award.
- 1.6 Procurement by *Non-Competitive Proposals*. {2 CFR 200.320 (c)} Procurement occurs through solicitation of a proposal from only one source, the funding of an unsolicited proposal, or when, after solicitation of a number of sources, (which may include advertising for a letter of Request for Interest (RFI) to provide

services in order to determine if an RFP is needed), competition is determined inadequate. The use of sole source procurements shall be minimized to the extent possible, but in every case the use of sole source procurements shall be justified and documented. If this method is used, the following requirements apply:

- a. The award is not feasible under any of the other procurement processes mentioned herein and one of the following circumstances applies:
  - The item or service is available only from a single source;
  - The public exigency or emergency need for the item or service does not permit a delay resulting from competitive selection
  - After solicitation of a number of sources, competition is determined inadequate.
- b. A cost analysis is required. This entails verification of the proposed cost data and evaluation of the specific elements of costs and profits, including comparison with the agency's prior independent price estimate. Profit must be separately negotiated in the award, and cost plus a percentage of cost agreements are not allowable.

1.7 Transactions between units of government.

All procurement contracts and other transactions between Region VI WDB and units of the state or local governments must be conducted only on a reimbursement basis. No provision for profit is allowed.

**Standard Contract Terms**

- 1.8 The standard term for awarding an initial contract is one year to be renewed for three successive one-year periods. However, all procurement transactions, including renewals, must still meet procurement requirements in 2 CFR 200.318-327.

**Conflict of Interest**

- 1.9 No Board Member, officer, employee or agent of the Region VI WDB shall:
- a. Cast a vote on the provision of service under the Region VI WDB by that member, by any member of his or her family, or by any organization of which that member or any member of his or her family is an officer, owner, or employee, or
  - b. Vote on any matter which would provide direct financial benefit to that member, or

- c. Participate in the award or administration of any grant or contract that is funded through the Region VI WDB, where he or she knows that any of the following has a financial interest in the person or organization that will receive or has received that grant or contract: 1) the officer, employee, or agent; 2) any family member of the officer, employee, or agent; 3) any partner of the officer, employee, or agent or 4) any person or organization that employ, or is about to employ, any person described in 1), 2), or 3).
  - d. Neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, although the Region VI WDB may have a policy that allows for unsolicited items of nominal value. However, the Region VI WDB must define the term “nominal” in its policy.
- 1.10 No Preclusion – Board Members shall not be precluded from conducting business with a partnership, firm or company with which one or more member is associated, provided that any business relationship is established and maintained on an arm’s length basis and meets any otherwise legal requirements relating to conflicts.
  - 1.11 Disclosure Requirements – If, during the course of a meeting of the Board, a member is aware that he or she has or may have an actual potential conflict of interest in the matter under discussion, the Board members shall immediately disclose the material facts about his or her interest in the matter to the Board, if not already known to the Board.
  - 1.12 Procedure Determining the Existence of a Conflict – In the event that the Board concludes that a conflict exists, the President or the majority of disinterested members present may appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement which presents the conflict. Alternatively, the Board may approve the transaction or arrangement which is the subject matter of the conflict by an affirmative vote of the majority of the members of disinterested members present, provided that they have determined 1) that the transaction or arrangement is in the Board’s best interest and for its’ own benefit and 2) that it is fair and reasonable to the Board.
  - 1.13 Violation of Policy – Any Board member or employee who violates its’ conflict of interest policy shall be subject to the disciplinary action by the Chair or the Board, up to and including termination of employment, if applicable, or removal from the Board or the committee thereof of the member.
  - 1.14 In accordance with 2 CFR 200.113, the Region VI WDB must promptly disclose whenever, in connection with the federal award, it has credible evidence of the commission of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations. The disclosure must be made in writing to the federal agency, the agency’s Office of Inspector General, and WorkForce West Virginia.

## **Contract Award Provisions**

- 1.15 *Award Provisions:* Each recipient and sub recipient agreement shall:
- a. Clearly specify deliverables and basis for payment;
  - b. In the case of awards to sub recipients, contain clauses that provide for compliance with the Workforce Innovation and Opportunity Act (WIOA) and attendant Federal Regulation;
  - c. Contain assurance of nondiscrimination and equal opportunity as required under WIOA Section 188.
  - d. Federal Awards Information Sheet
  - e. Contain all documentation required in the grant request for proposal packet.

## **Recordkeeping**

- 1.16 A procurement history file should contain the following:
- a. Sources contacted
  - b. Public notice of solicitation
  - c. All proposals/bids received
  - d. Rating of those proposals
  - e. Rationale for the method of procurement
  - f. Selection of agreement or contract type
  - g. Selection of rejection of proposals/bids
  - h. Appeals and disputes, if any
  - i. The basis for the contract price

Region VI WDB must retain all federal award records for at least three years from the date of submission of its final financial report (2 CFR 200.334)