

IV. PROCUREMENT

The Workforce Development Board of Western Missouri, Inc., (WDB) will provide and perform services in accordance with the procurement guidelines outlined under the [Uniform Guidance, 2 CFR part 200.317-200.326] , and all revisions thereto, which by this reference are incorporated hereto and made a part thereof, as if fully rewritten. A deviation from the guidance is identified under Paragraph D., where the purchasing limit for a formal advertised competitive bid purchase has been reduced from \$150,000 to **\$25,000** the Division of Workforce Development recognized limit for formal competitive bid purchases.

WDB, the Contracting Agency, assures that it and its sub-recipients will comply with the Buy American Notice Requirement. In the case of any equipment or product with a value of twenty-five thousand (\$25,000) or more which is purchased with financial assistance provided using funds available under the Workforce Investment and Opportunities Act, entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products, as required by the Buy American Act (41 USC 10a et seq.). See Missouri Office of Administration – Division 40 – Purchasing and Materials Management – 1CSR 40-1.050.

The following internal guidelines will be adhered to for all single item purchases, unit purchases, or one-time purchases from a single supplier. Procurements shall be conducted in a manner which provides and encourages full and open competition consistent with the standards provided in section 200.319 of 2 CFR 200. Each step within the procurement process shall be fully documented and shall support the purchasing decision. WDB's procedures will avoid acquisition of unnecessary or duplicative items.

- A. Purchases shall not be separated or broken down into several smaller purchases to avoid procurement procedures.
- B. Micro-purchases (purchases of \$500 - \$3,000): Secure two (2) telephone or electronic bids for these purchases. WDB will distribute micro-purchases equitably among qualified suppliers when pricing and delivery methods are reasonably equal.
- C. Small Purchases (purchases of \$3001 - \$150,000): Secure three (3) telephone or electronic bids for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (as of publication of 2 CFR Part 200, the Simplified Acquisition Threshold is \$150,000). It is generally used when conditions are not appropriate for the use of sealed bids. Small Purchases of \$25,000 or more must have prior Board approval.
- D. Competitive Sealed Bid Proposals (of \$25,000 and above): Formal Advertised Competitive Bid-Purchase of \$25,000.00 or more; but can be less if the nature of the purchase (space, auditor, subcontractors, including Youth program subcontractors, etc.) warrants a competitive bid-purchase. (DWD limit is \$25,000. Uniform Guidance limit is \$150,000.)

Procurements of this nature require the following guidelines:

1. Board Approval
Sealed Bid Proposal Purchases/Contracts of \$25,000 or more must have prior Board approval.
2. Advertisement/Notification:
To foster competitive procurement in accordance with WIOA guidelines, the WDB maintains a list of potential bidders who receive the Notice of Request for Proposal either by mail or via electronic means. That list is updated periodically as the WDB becomes aware of new/different organizations that might have an interest in providing services. The Notice of Request for Proposal is posted on WDB's website, (skillupmissouri.org).
3. Number of Proposals Required:
The formal advertised competitive bid process does not have a minimum number of proposals required, but every reasonable effort will be made to solicit more than one bid response. Should only one bid be received or deemed responsive, a reasonableness of cost and price analysis must be completed as referenced in the Uniform Guidance, Part 200.320 (c)

E. Request for Proposal (RFP) or Request for Bid (RFB) Preparation

- a. *The RFP indicates what is to be accomplished and requests from the bidder how it is to be accomplished and at what cost. A list of those who received the RFP must be maintained and filed in the permanent file as part of the documentation afterward. The RFP must contain the proposal submission requirements and the proposal evaluation method. Bid selection and award is based on the evaluation criteria. Contractor selection must be documented in writing.*
- b. *An RFB contains a precise statement and complete specifications of what will be purchased, allowing only one interpretation. It allows no choice in how the work will be accomplished; it essentially requests only a cost from the bidder. Bid comparison and contractor selection is made on the basis of meeting the bid selection criteria, reasonableness of cost, allow-ability, and whether it meets the identified need(s). Lowest bid may not always be the best award. The bid award(s) must always be in the best interest of the program. Contractor selection must be documented in writing.*
4. The distribution of the RFP (RFB) will be made to anyone responding to the Notice of Request for RFP (RFB) written solicitation or the website. Distribution shall be made no sooner than the date and time named in the bid solicitation. The RFB (RFP) will be distributed to known vendors in an attempt to get as many bids as possible.
5. A pre-bid conference may be held with the prospective bidders to answer questions and to clarify issues within the RFP (RFB). The time and place

of the pre-bid conference is to be named in the Notice of Request for Proposal (RFP). Questions may be posed in person or in writing prior to the opening of the pre-bid conference, which may be accessed by telephone. The questions and answers are formally recorded and a written or electronic copy is available to all prospective proposers participating in the pre-bid conference. When attendance to the pre-bid conference is not mandatory a copy of the questions and answers from the pre-bid conference can be provided to any potential proposer upon request. After the close of pre-bid conference no questions may be answered regarding the bid solicitation.

6. An evaluation team of at least three members is formed prior to the public opening. These members shall have knowledge of the goods/services to be procured, and shall not benefit in any way from the bidder selection. The appointment of the evaluation team by the WDB Executive Director, or designee, shall be done in writing and retained. The evaluation team for program RFPs/RFBs may be made up of members of the WDB Planning and Operations Committee, MOU partner staff, and/or two or more WDB staff. The WDB Planning and Operations Committee may delegate the responsibility to WDB staff; the evaluation team will then be made up of three or more WDB staff. The Executive Director shall evaluate the budget section of the RFPs/RFBs to determine if the costs are necessary, reasonable, allowable, and allocable.
7. The time and date of the public opening shall be named in the Notice of Request for Proposal (RFP). The notice shall state the format for submitting the bid, that bids must be sealed upon receipt, the number of originals and copies to be submitted, the date and time to be received, and the bid number to be displayed on the outside of the sealed proposal. Bids received shall be time-stamped, logged, and placed, unopened, in a secure place until the time of the public opening. Bids received after the closing time are to be considered non-responsive and are to be returned to the bidder, unopened, and so noted on the log. Bids that do not meet the submission criteria outlined under paragraph 8 and/or the Notice of Request for Proposal (RFP) may also be determined non-responsive, if so stated in the RFP/RFB.
8. The bids shall not be opened prior to the stated public opening time and place. The bids shall be opened by at least two people not on the evaluation team, and shall be recorded as they are opened. The information recorded shall include the date, time opened, bidder's name, address, price, type of proposal or service(s) to be performed, or funding source and number of originals and copies enclosed. The log created at the public opening shall include the name of those in attendance and shall be signed by the team opening the bids. One copy of the bid, including the information from the container showing the date and time stamp or envelope it was sent in, is retained with the log as part of the permanent file. Proposals received in response to an RFP shall not be available for public review until after a contract is awarded or all proposals are rejected.

9. Bids are to be determined responsive or non-responsive based on conformity to the essential elements of the solicitation. A written report shall be prepared with adequate documentation of the reasoning for any bid deemed non-responsive. Non-responsive bids are removed from further analysis.
10. The bids are copied and distributed to the members of the evaluation team. The team should read all bids before meeting as a group, if the group is scheduled to meet and shall evaluate the proposals independently. A meeting of the evaluation team may be scheduled to review all the independent evaluations. All aspects of the evaluation meeting shall be recorded, including the date, the time the meeting begins and ends, and the names of those in attendance. Individuals who join the meeting late or leave early must also be recorded.
11. Responsive bids are analyzed and evaluated in accordance with the evaluation criteria. Each bid shall be evaluated independently of the others. Concerns and/or specific comments regarding the individual responses shall be recorded and maintained with the evaluation documentation. The points awarded by each evaluator shall be recorded separately, and shall be averaged to award a composite score. This may be documented by a computer printout or calculator tape, on which the name of the bidder, type of program, and verification of the composite score is recorded. This documentation is affixed to the proposal document, or maintained intact and included in the permanent file.
12. The evaluation team must make a contract award(s) recommendation based on their evaluation. Successful respondents must have earned a minimum of 80 out of 100 possible points or 80% to be considered (unless otherwise stated in the RFP/RFB Notice of Request for Proposal.) Opportunities for clarification, or supplemental information *not material* to the scope of work or conducting services under a grant award, may be offered by the evaluation team prior to final determination of successful bidder(s). The evaluation team may recommend that no award be made if it is in the best interest of the program. The recommendation is made to the Planning and Operations Committee for award. The Planning and Operations Committee presents the recommendation to the Board for a vote of approval to award a contract.
13. The Board shall consider the recommendations of the evaluation team/Planning and Operations Committee and shall vote on the recommendations made. Contract awards or non-awards are recorded in the minutes of the Board meeting. Abstentions from the vote due to a real or implied conflict of interest shall also be recorded in the minutes. WDB provides standards of conduct covering conflicts of interest and governing actions of its board members and employees engaged in the selection, award and administration of contracts.
14. The successful and non-successful bidders are notified in writing of the award. Successful bidders receive a Letter of Intent to Contract. The letter must be mailed within the time constraints outlined in the Notice of

Request for Proposal/RFB. The bidder must be notified in writing if further negotiations are required prior to the contract being awarded.

15. A contract is prepared for signature for the program year or other term outlined in the Notice of Request for Proposal/RFB. Contracts may be extended for up to two additional one-year periods if the bidder specifically expresses such a desire in the bid, it is approved by the Board, funds are available, and the sub-contractor (bidder) performs successfully under the terms of the contract. Contracts may be extended beyond the original term date under extraordinary circumstances (such as conforming to new legislation, regulations, or requirements). Any special extension will be at the discretion of the Workforce Development Board and will not exceed one year in duration. Such extension shall be executed by formal contract amendment with terms, conditions, and provisions of the original contract remaining the same. Budgets, as applicable may be increased / decreased as deemed appropriate.

Contracts for the lease of space may be entered into beyond a three-year period, not to exceed 10 years, under the following conditions: board approval has been obtained; lease period does not exceed state or federal guidelines; risk assessment has been performed on behalf of the board; and the contract contains an escape clause releasing the board of financial indebtedness.

- F. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2CFR 200.321)

WDB will take necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus firms are used when possible.

- G. Delivery of Career Services-Adult and Dislocated Workers [WIOA Sec. 134(c)(2)(C)]

Career services described in WIOA Section 134(A) for eligible adult and dislocated workers shall be provided through the one-stop delivery system:

1. Directly through one-stop operator(s) identified pursuant to section 121(d) or
2. Through RFP contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by WDB.

- H. Training Contracts

1. Training services authorized under this paragraph may be provided pursuant to a RFP contract for services in lieu of an individual training account (ITA) if:
 - a. The Consumer Choice Requirements [WIOA Sec. 134(c)(3)(F)] are met;
 - b. Such services are on-the-job training (OJT), customized training, or incumbent worker training or transitional employment;

- c. The board determines there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve individuals with barriers to employment;
 - d. WDB determines that:
 - i. It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations; and
 - ii. Such contract does not limit customer choice
 - 2. Training services must be directly linked to an in-demand industry sector or occupation in the West Central Region. WDB may approve training services for occupations determined by the board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area [WIOA Sec. 134(c)(3)(G)(iii)].
- I. Selection of Eligible Providers of Youth Workforce Investment Activities (WIOA Sec. 107(d)(10)(B) and Sec. 123)
 - 1. WDB shall award grants or contracts on a competitive basis to providers of youth workforce investment activities based on the criteria in the state plan (Issuance 01-2012).
 - 2. WDB may award grants and contracts on a sole source basis [(WIOA Sec 123 (b))] if the board determines there is an insufficient number of eligible providers of youth workforce investment activities in the area for grants and contracts to be awarded on a competitive basis.
 - 3. The requirement in WIOA Sec. 123 that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis does not apply to the design framework services when these services are more appropriately provided by the grant recipient/fiscal agent. Design framework services include intake, objective assessments and the development of individual service strategy, case management, and follow-up services.
- J. Selection of One-Stop Operators [WIOA Sec. 121(d)]

WDB, with the agreement of the chief elected official, is authorized to designate one-stop operator(s) and to terminate for cause the eligibility of such operators. To be eligible to receive funds made available under this subtitle to operate a one-stop center, an entity:

- 1. Shall be designated a one-stop operator through a competitive process; and
- 2. Shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection 121(b)(1), of demonstrated effectiveness.

- K. Emergency purchases over \$500 which fall outside the procurement guidelines will be allowed only when immediate action is necessary to resolve an extraordinary situation and the resolution of the condition receives priority over routine operations and duties. A purchase of this nature requires strict written documentation of the existing emergency condition to be filed with the purchase order and invoice. Emergency situations include those situations that create a serious and obvious threat to public health, safety, or operation of the WDB in executing its legal responsibilities to the public, or property in its legal care or control, as may arise by reason of flood, epidemic, illness, riot, natural disaster, accident, equipment failure, or similar cases.

The WDB Executive Director or the Director's designee must declare an emergency situation.

- L. Non-competitive proposal (Sole Source) procurement is defined as procurement through a solicitation of a proposal from only one source, or when competition is determined inadequate after solicitation from a number of sources. Sole source procurements under WIOA and other federal or state funding sources shall be minimized to the extent practicable. All sole source procurements shall be justified and documented in writing. Procurement by non-competitive proposals will be used only when the purchase is less than \$3000 (micro purchase) (no further documentation required) or:
1. The item or service is proprietary and is only available from a single source not excluding like items or services available under a different name, manufacturer, or packaging. Procurement solicitation cannot be so restrictive as to eliminate open competition.
 2. The emergency needs for the item or service does not permit a delay resulting from competitive solicitation. (See C, D, and F.)
 3. After solicitation from a number of sources, competition is determined inadequate and falls short of the necessary 2 or 3 telephone (see Micro and Small purchases definitions B. or C.), electronic or written bids, or the defined elements of a formal advertised competitive bid purchase. In all cases, the solicitations and the inability to obtain an adequate response(s) shall be well-documented and shall support the sole source procurement.
 4. The item is to be purchased through state or federal surplus property. Non-competitive procurements will follow the requirements of reasonableness of cost and price analysis, cost reimbursable basis, and debarred and suspended parties. Selection shall be based on the best known price from known vendors.
- M. The WDB has determined that the following items may be exempted from competitive procurement:

- a. Magazines
- b. Books

- c. Periodicals
- d. Newspapers
- e. Any form of direct advertising space and time, unless there are multiple businesses in the area able to provide the same service to the same coverage area needed and same demographics.
- f. Conferences – The cost of attending or participating is exempted. The cost of putting together a conference is not exempted.
- g. Training Sessions and Seminars – Related to an individual's profession or program.
- h. Copyrighted materials such as electronic media, CDs, DVDs, books, pamphlets, video tapes, or audio tapes. Copyrighted materials are defined as those which are available for purchase from only the publisher owning an exclusive copyright or from a single distributor operating under an exclusive franchise from the publisher.
- i. Updates of computer software which the agency already owns.
- j. Repair services and operational supplies from original manufacturer, if such repairs/parts/services/supplies must be performed or obtained by the original manufacturer or by the manufacturer's authorized service center, because (1) the nature of the repair, service or supplies are available only from the original manufacturer as a result of a lawful patent, or (2) the technical nature of the repair or service can only be performed by the original manufacturer due to a patented design or technical manufacturing process, or (3) repairs of such equipment would violate the terms of, or part of, the equipment warranty or purchase agreement.

N. In an effort of intergovernmental cooperation, any agency determined to be a unit of government may contract with any other unit of government through a non-competitive process, but it must be on a cost reimbursable basis. A reasonableness of cost and price analysis must be performed. The additional requirements for service provider selection must be completed if applicable. Contracts must comply with all requirements regarding lobbying and non-debarment certification. Contracts must be in the best interest of the WIOA funded programs or other state or federal program.

A unit of government is defined as any of the following agencies: agencies of the federal government; departments or divisions of state government, counties, cities, towns, townships or villages, state universities or colleges; junior/community college districts, tax-based schools and school districts, and regional planning commissions (RPCs). The WDB may enter into non-

competitive contracts with agencies on the approved list in the course of procuring goods or services for the benefit of the WIOA funded programs or other state or federal program.

- O. Contracting Agencies will submit a requisition for any purchase of equipment or services costing \$1,000 or more for WDB Executive Director or their Designee's approval. Single item or unit purchases of \$5,000 or more require WDB and Division of Workforce Development approval prior to purchase.
- P. An Equipment Memorandum will be prepared for any purchase of \$1,000 or more, for any addition to an existing system regardless of cost, or for any transfer of equipment. The memorandum will assign the appropriate location code for inventory purposes. The Equipment Memorandum shall be used to "post" to the inventory listing any single item or a system with a value of \$1,000 or more. Accurate inventory documentation shall be maintained.
- Q. Computers, equipment, furniture, and other sensitive items (cameras, calculators, chairs, etc.) with a cost between \$250 and \$999.99 will have a blue numerical inventory tag affixed to the item. Items with a purchase price of less than \$250 may be determined to be sensitive items at the discretion of the person approving the purchase and should be blue tagged and numbered accordingly. Sensitive items are equipment under \$1000, considered attractive or easily pilfered. Tags are obtained through the administrative entity (WDB) office. A listing of all such "blue tag" items, separate from the inventory listing, is maintained by the WDB.
- R. All purchases will be allocated in accordance with Section 200.22 of the Uniform Guidance and in direct proportion to the benefit derived by the funding source. Allocation methods will be documented.
- S. In accordance with Uniform Guidance Part 200.13:
 - 1. Capital expenditures for general purpose equipment are unallowable as a direct cost except with the prior approval of the awarding agency.
 - 2. Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$1000 or more have the prior approval of the awarding agency.