

Workforce Development Council of Seattle-King County
Policy 03-2002

~ Procurement and Selection of Service Providers ~

DRAFT **FINAL**

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Committee: F & O

Category: Internal External

Purpose

This policy is applicable to the procurement of goods and services obtained through funds provided under the Workforce Investment Act (WIA).

Reference

- WIA, Section 134 (d)(4)(G), 121(c)(1) and (2), 121(d)(2)(A), 181(e), 117(f)(1), 128(b)(1), and 123
- 20CFR 661.350
- 20 CFR 662.410
- 20 CFR 662.200
- 20 CRF 663.430
- 20 CFR 661.310
- OMB Circular A 110 (Administrative Requirements) 29 CFR 95
- OMB Circular A 102 (Administrative Requirements) 29 CFR 97
- OMB Circular A 122, A 133, A 21 and A 87 (revised)

Background

It is the policy of the Workforce Development Council (WDC) that all WIA recipients must conform to specific policies and procedures which ensure the safeguarding of public assets and that ensures competition is conducted in as fair and open manner as is feasible. The extent of competition should be consistent with the dollar amount of the award.

All contract procurement is conducted in a fair and open process. To the extent possible, small, minority, disabled and women-owned businesses will be provided the maximum opportunity to compete in all goods and services. To that end, all

procurements must be open, available for the public to respond and all procurement decisions completely and thoroughly documented.

It is the policy of the WDC that WIA recipients will not discriminate in the procurement and award process against any bidders based on federal, state, and city laws governing nondiscrimination and equal opportunity, including that of the WIA of 1998.

Requirements

WIA recipients must have written procurement procedures to ensure that each procurement (1) Contains a clear and accurate description of the technical requirements (including quantities), (2) Identifies all requirements that must be fulfilled, and (3) States what factors will be used for evaluation.

There must be a written code of conduct for the procurement, award and administration of contracts. To the extent permitted by state or local law or regulation, the code of conduct shall contain penalties, sanctions or other disciplinary action for violations of the code of conduct. The code of conduct must ensure that no one in a decision-making capacity has any real or apparent conflict of interest in the selection, award, or administration of contracts or sub-grants. No procurement will occur that commits the WDC to amounts in excess of funds available. Procurement standards shall ensure fiscal accountability and prevent waste, fraud, and abuse in WIA programs.

Officers, employees, or agents of a service provider or contractor may not accept or solicit gratuities, favors, or anything of monetary value from anyone intending to respond to a proposal, who has responded to a proposal, or who has received an award.

WIA recipients may only accept gifts when, a) they are unsolicited; b) they are unconnected with anyone who is intending to respond to a proposal, has responded to a proposal, or who has received an award, and c) the value is nominal (interpreted by the WDC as \$50).

Methods of Procurement

Up to \$5,000 – Purchases may be made upon buyer experience and knowledge of the market. Prices may be made based upon catalogs or telephone quotes to obtain the best quality and price.

\$5,001 to \$25,000 – Documented telephone quotes or written/faxed quotations must be received from at least three sources.

\$25,001 to \$50,000 – Informal written solicitation document must be used to receive responses from at least three sources. The document must describe the

goods/services required, the volume or amount, the time lines for responding (must be reasonable), and the cost or fees. At a minimum all appropriate individuals and/or companies on the Bidders list must be notified in writing. Complete documentation must be maintained for at least three years.

\$50,001 or more – Formal written solicitation must occur. All appropriate individuals and/or companies on the Bidders list must be notified in writing. Complete documentation must be maintained for at least three years.

Contracts may not be “broken” into smaller components to avoid the requirements of the procedure.

Informal & Formal Written Solicitation

Listed below are the steps that must be taken in a Written Solicitation. The steps that are in bold italics are additional steps that must also occur for a Formal Written Solicitation.

1. All competitive procurement shall utilize a Request For Proposal (RFP) or Request For Qualification (RFQ).

Informal Written Solicitations may use a Purchase Order Number.

2. ***Procurement of services over \$25,000 must be advertised for Public Notice.***
3. Unless waived by the funding source, an individual who develops the specifications and statement of work for a RFP or RFQ shall not be eligible to compete for said RFP or RFQ.
4. RFPs and RFQs and Purchase Orders shall include a clear and accurate description of the technical requirements for services.
5. Consideration will be given to small, minority, disabled, and women-owned businesses in the procurement process.
6. Responses from prospective bidders may be received via fax, mail, or email as addressed in the bid document.
7. ***All proposals from prospective bidders shall be submitted sealed and addressed to staff according to the bid document.***
8. Contracts will only be awarded to contractors that demonstrate the technical expertise to successfully operate such contracts.

9. Fixed-price contracts, cost-reimbursable contracts, or performance contracts shall be used, as appropriate, offering the most economically advantageous balance of quality and cost.
10. Contracts with successful bidders shall contain at a minimum:
 - a) Price or estimated cost;
 - b) Method of payment;
 - c) Scope and extent of work;
 - d) Period of performance;
 - e) Signature of authorized officials;
 - f) Provisions that allow for administrative, contractual, or legal remedies if the contractor violates or breaches terms of the contract;
 - g) A provision for termination because of circumstances beyond the control of the WDC (the provision shall include conditions under which termination actions will be taken, the manner of taking such actions, and the basis for settlement);
 - h) A provision that the contractor shall maintain adequate participant, financial and administrative records under the contract and make those records available to the WDC or any duly authorized representative, as specified by the WDC;
 - i) A provision that subcontracts must contain selected paragraphs of 29 CFR parts 31 and 32 implementing the nondiscrimination and equal opportunity provisions of Title VI of the Civil Rights Act of 1964, as amended;
 - j) A provision that qualified small minority and women's businesses have the maximum practicable opportunity to participate in the subcontract performance; and
 - k) Include the appropriate provisions as specified by the funding source.
11. The Chief Executive Officer, or designee, may enter into a contract agreement for the WDC.
12. All work performed as part of a contract shall be monitored periodically by the WDC to determine compliance with the contract requirements.
13. The WDC will select One-Stop Operators through designation or certification through a competitive bid process, or under an agreement between the local council and a consortium of entities that include at least three or more of the required One-Stop partners.

Non-Competitive Procurement

Non-Competitive Procurement (sole source) may be used when sole source justification exists. Such justification includes:

1. The requirements of RCW 39.34 **Interlocal Cooperation Act** are complied with and joint cooperation action is the best way to procure goods or services;
2. The item or service is only available from a single source;
3. Public exigency or emergency exists.
4. The funding source authorizes the non-competitive procurement in writing;
5. After solicitation of a number of sources, competition is deemed inadequate; or
6. On-the-Job Training contracts (except OJT brokering contracts).

Issuance of Procurement Documents

All RFPs and RFQs shall be reviewed, approved, issued and received by the Fiscal Division.

Bidders List

A Bidder's list will be established. Such List will be continually open for prospective bidders who will be added as received. The list will be by type of goods and/or services identified by the Bidder as its area of interest or expertise.

To the extent possible, small, minority, disabled and women-owned businesses will be included in bidder's lists, and will be targeted for mailings and advertised procurement.

If mail sent to a Bidder is returned undeliverable, they will be removed from the list. Similarly, the WDC will periodically purge its list and request bidders to reapply.

Vendors List

Based upon responses received from procurement actions, the WDC may establish pre-approved vendor lists for staff use. The vendor lists may detail several pre-approved vendors/consultants that may be used.

Waivers

The Chief Executive Officer, or designee, may waive the procedural requirements for a specific FRP, RFQ, or contract under the following circumstances:

1. The Chief Executive Officer, or designee, finds that compliance with these procurement requirements would create an undue burden and risk on the WDC.

Access to Procurement Processes & Contracts

1. During the procurement process up to receipt of proposals, all information concerning the RFP or RFQ is available for review and inspection.
2. During the procurement process from receipt of a proposal to award of a contract, all information concerning the rating of individual bidders is confidential.
3. Contracts to provide core and intensive services are authorized under WIA Title IB as specified in the MOA or resource sharing agreement, between partners and the WDC.
4. After a contract is awarded, all proposals and information contained therein are available for public review and inspection.
5. WIA training services for adult and dislocated workers are financed and provided through the use of Individual Training Account (ITA) vouchers except under three conditions: (1) when the services provided are on-the-job training (OJT) or customized training; (2) when the local board determines there are an insufficient number of eligible providers to accomplish the purpose of a system of ITA's as described in the local plan; (3) when the local board determines there is a training services program of demonstrated effectiveness offered in the area by a CBO or another private organization to serve special participant populations that face multiple barriers to employment. The local board must develop criteria to be used in determining demonstrated effectiveness. These training services may only be provided if a waiver is received from the Governor and meet additional requirements.
6. The local board shall identify eligible providers of youth activities and shall award grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the state plan, to the providers to carry out the activities, and shall conduct oversight with respect of the providers, in the local area.
7. No funds available under Title 1-B shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of business, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this Title. No funds available under Subtitle B shall be used for foreign travel.
8. 20 CFR 661.310 restricts the provision of core and intensive services by the local board and by the staff of the local board. In addition, should the local board or its staff wish to be a one-stop operator, they must obtain state approval. Youth

services must be competitively procured. If a local board or its staff wish to provide any of the above Title 1-B services, a “firewall” must be in place sufficient to avoid both the actual and the appearance of a conflict of interest.