

NORTH CENTRAL ARKANSAS WORKFORCE DEVELOPMENT BOARD

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WDB Policy #: 1.30

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SUBJECT Procurement Policy

PURPOSE

These policies and procedures are enacted by the North Central Workforce Development Board (NCWDB) for the procurement of supplies, equipment, and services to ensure materials and services are obtained in an efficient and effective manner in compliance with applicable Federal and State laws and regulations. Federal guidelines will be used except when WRPDD or state standards are more restrictive.

PROCUREMENT/BIDDING

Solicitation for goods and services shall be based on a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features which may unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement need. When used by bidders/offerors, specific features of the named brand shall be clearly specified.

The type of procuring instrument used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by the procuring party but must be appropriate for the particular procurement and for promoting the best interest of the grant project or program involved.

Contracts shall be only with responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement.

Delivery time required must be reasonable and in line with current industry norms.

No unreasonable requirements may be placed in order to qualify to do business with the Board or make unnecessary burdens on firms/vendors.

A system of contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow-up of all purchases.

All contracts for procurement of property and/or services shall be in writing and shall provide appropriate remedies to the Board in case of breach of the contractor.

The Board shall ensure minority or women-owned businesses are provided maximum opportunity to compete for contracts.

METHODS OF PROCUREMENT

All procurement transactions shall be conducted in a manner to provide to the maximum extent practical, open and free competition. Any purchases over \$1,000 must be approved by the Executive Director of the entity designated to be the Fiscal Agent. The following methods will be used:

SMALL PURCHASES

For purchases of less than \$10,000, no formal bid or quotes are required.

COMPETITIVE BIDS/RATE QUOTATIONS

Contracts in which the purchase price is at least \$10,000 and is less than or equal to \$20,000 may be awarded by requests for rate quotations. This method of procurement requires obtaining at least three bids/rate quotes by:

- 1) Direct mail request to prospective bidders and obtaining written bids; or
- 2) Telephone; or
- 3) Written form; or
- 4) Electronic media.

If three competitive bids are not obtained on purchases when bids are required, the procurement records must show the names of at least three firms contacted in attempting to obtain competition or document the reason three firms were not contacted.

Evidence of competitive pricing efforts will be attached to the invoice/statement prior to payment. Only firms which sell the type of commodity or service to be procured shall be contacted.

SEALED BIDS (FORMAL ADVERTISING)

Contracts exceeding an estimated purchase price of \$20,000 shall be awarded by competitive sealed bidding. Notification of bidding request in amounts expected to cost greater than \$20,000 will be placed in a statewide newspaper at least once. Additional media sources may be used.

In accordance with CFR 200.320 (c), 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. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must

be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

PROCUREMENT BY COMPETITIVE PROPOSALS

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Requests for proposals (RFP's) is a method of procurement that involves submission of cost or pricing data from the offeror where required, discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award, and an award made to the responsible offeror whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the RFP. Offerors shall be afforded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be: permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. Proposals received outside of the designated proposal period shall not be considered. The proposal may be cancelled or any or all proposals may be rejected in writing by the Board.

REQUEST FOR QUALIFICATIONS

The NCA WDA may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The request for qualifications procurement method is used when the qualifications or specialized expertise of the vendor is the most important factor in selection. Request for qualifications means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing. The Board makes its initial selection based upon the respondent's qualifications. Only after the most qualified respondent is identified does cost become a factor in determining the award. Discussion may be conducted with qualified vendors who, based upon qualifications submitted, are determined to reasonably be susceptible of being selected for the purpose of clarification to assure full understanding of, and responsiveness to the solicitation requirements, and to obtain best and final offers.

OPEN AND FREE COMPETITION IN PROCUREMENT

All procurement transactions of the Board shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Board shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair contract specifications,

requirements, statements of work and invitations for bids and/or requests for proposals shall be excluded from competition for such procurements. No request for proposal/qualification will restrict the companies or businesses to those located in certain state, local, or tribal geographic area except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineer services, geographic location may be a selection Awards shall be made to the bidder or offeror whose bid or offer is responsible to the solicitation and is most advantageous to the Board- price, quality and other factors considered. Factors such as discounts, transportation costs and taxes may be considered in determining the lowest bid. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order to be evaluated by the Board. Any and all bids may be rejected when it is in the Board's best interest to do so.

PROCUREMENT BY NONCOMPETITIVE PROPOSALS

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

EVALUATION PROCESS

The evaluation of all bids and proposals, other than those falling under the small purchase procedure, will be conducted in two stages. First, staff will receive and review all bids and proposals for compliance with the Workforce Innovation and Opportunity Act and other applicable federal, state, and local laws and regulations, conduct a cost analysis, and prepare recommendations. Second, all bids and proposals which meet or exceed the minimum requirements as established by the solicitation shall be forwarded to the NCAWDB's Executive Board or designated standing Committee, along with staff recommendations, for formal review. This committee shall be charged with finalizing proposal ratings, insuring that program specifications comply with the governing Plans and grants, ascertaining that there is not duplication of services and making recommendations to the full NCAWDB.

CONFLICT OF INTEREST

In order to avoid a possible conflict of interest, or the appearance of a conflict of interest, the Board has adopted a conflict of interest policy outlined in Article V, Section 5 of its by-laws. As required by that policy and by Office of Management and Budget (OMB) Uniform Guidance §200.112 Conflict of Interest, no member of the Board or staff of same, may participate in the selection of, award of, or administration of a contract supported by Federal funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the Board member, a member of his/her immediate family, his or her partner or any organization which employs, or is about to employ any of the above, has a financial or other interest in the entity selected for award. Violations may include sanctions or disciplinary action. All Board members are required to sign a WIOA Disclosure Statement upon appointment to the Board.

When the fiscal agent or board staff entity plan to apply to a request for proposal which may cause a conflict of interest, an outside entity must conduct the competition or outsource the process in an effort to mitigate the organizational conflict of interest.

HANDLING OF DISPUTES, CLAIMS AND PROTESTS OF AWARDS

Disputes, claims and protests arising from the implementation of the procurement procedures shall be made in writing and mailed to the Chair of the Workforce Board within five (5) working days of the alleged occurrence. Response to filed disputes, claims and protests shall be made in writing within five

- (5) working days of receipt of protests. A hearing shall be convened by the Executive Committee within ten

(10) days of the written response, if the Executive Committee determines that a procedural error was made in the selection process or that a violation of Federal law or implementing regulations has occurred. Decisions made by the Executive Committee shall be issued in writing within five working days and may be appealed via the Council's Complaint and Grievance Procedures.

NCWDB will perform a cost or price analysis in connection with procurement that requires Competitive Sealed Bidding including contract modifications.

NCWDB will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to: Rationale for the method of procurement, selection of contract type, basis for contractor selection or rejection, and basis for the contract price.

SELECTION OF ONE-STOP OPERATORS [WIOA SEC. 121(D)]

The local board, with the agreement of the chief elected officials, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators. NCA WDB will use a competitive process for the selection of a one-stop operator and support continuous improvement through the evaluation of the one-stop operator performance and will have open competition every four years. WIOA regulations at 20 CFR 678.605(d) require the preparation of written documentation explaining the determination concerning the nature of the competitive process to be followed in selecting a one-stop operator. Pre-qualified lists must be current and include enough qualified sources to ensure open and free competition and must not preclude bidders and offerors from qualifying during the solicitation period. To be eligible to receive funds made available under this subtitle to operate a one-stop center, an entity:

1. Shall be designated or certified as 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.

NCWDB will ensure that in carrying out activities under this title, one-stop operators

1. Disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;
2. Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training and education services; and
3. Comply with Federal regulations and policies, relating to calculation and use of profits.

Approved by the NCAWDB on

3/10/2021

Gayle Cooper, NCAWDB Chairperson:

Gayle Cooper