

Procurement Policy

POLICY NUMBER: ADM-3001

EFFECTIVE DATE: October 22, 2021

SUPERSEDES: Procurement Policy # ADM-2001, Rev. 1, effective August 15, 2019

PURPOSE

This policy communicates WorkForce Central's policy and methods for the procurement of goods and services, including those purchases obtained with Workforce Innovation and Opportunity Act (WIOA) funds.

BACKGROUND

Applicable federal, state, and local laws and regulations, including the requirements set forth in the Office of Management and Budget (OMB) 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, guide the procurement standards referenced in this policy. When state and local procurement laws and regulations impose stricter requirements than applicable federal standards, state and local requirements will be followed.

POLICY

Procurement standards must ensure fiscal accountability and prevent waste, fraud, and abuse. Where applicable, standards must support fair, equitable, and competitive procurement of goods and services. Procurement transactions under WIOA between WorkForce Central and units of state or local governments shall be conducted on a cost-reimbursement basis only.

WorkForce Central will:

- Ensure full and open competition where necessary.
- Use the most economical and equitable approach to the procurement of goods and services.
- Award only to responsible contractors. Consideration will be given to such matters as:
 - Contractor integrity.
 - Compliance with public policy.
 - Record of past performance, when applicable. Entities with no previous performance history are encouraged to respond to WorkForce Central competitive procurements.
 - Financial and technical resources.
- Maintain oversight and monitor contractor performance regarding contract terms, conditions, and specifications.
- Maintain records detailing:
 - The history of the procurement, including the rationale for the selected method of procurement.
 - Selection of contract type.
 - Basis for contractor selection or rejection.
 - Basis for contract price.
- Implement a conflict of interest policy that ensures no employee, officer, or agent participates in the selection, award, and administration of a contract supported by a federal award if they

have a real, perceived, or potential conflict of interest. Conflicts of interest must be disclosed in writing when known in advance or announced to the voting body, when applicable. The party must excuse themselves from any further discussion and/or vote on the matter in question. Violations of such standards are subject to disciplinary actions provided in WorkForce Central's Code of Conduct and Conflict of Interest Policy, located at [WorkForce Central's Policy Library](#).

- Be responsible for the settlement of all contractual and administrative issues arising out of procurement.

A. Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent at a minimum with the standards provided in Section [200.319 of 2 CFR 200](#). To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded from competing for such procurements.

Except as may be required by state or local regulation, WorkForce Central procurement transactions will contain no requirements that unduly restrict competition as specified in [200.319](#)

WorkForce Central procurement procedures will ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not contain features which unduly restrict competition. Situations considered to be restrictive of competition include, but are not limited to:
 - Placing unreasonable requirements on organizations in order for them to qualify to do business
 - Requiring unnecessary experience and excessive bonding
 - Noncompetitive pricing practices between organizations or between affiliated companies
 - Noncompetitive contracts to consultants that are on retainer contracts
 - Organizational conflicts of interest
 - Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement
 - Any arbitrary action in the procurement process
- Identify all requirements which the respondents must fulfill.
- Identify factors to be used in evaluating bids or proposals.

WorkForce Central will ensure that all prequalified lists of persons, organizations, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free completion. WorkForce Central will not preclude potential respondents from qualifying during the solicitation period.

B. Methods of Procurement

As a matter of policy, and to the extent consistent with applicable state and local regulations, WorkForce Central will use any of the following procurement methods:

- a) Informal procurement methods:** Informal methods used for procurement of goods or services include:
 - 1. Micro-Purchases of \$1 up to \$10,000.** Purchase of supplies or services, the aggregate dollar amount does not exceed \$10,000. Micro-purchases may be made without soliciting quotations.
 - 2. Small Purchases of \$10,001 up to \$50,000.** The acquisition of goods or services, the aggregate dollar amount does not exceed \$50,000. A minimum of three (3) informal price

or rate quotations obtained via internet search, email, phone call, or other documented avenue is required. If three (3) quotations are unavailable, documentation of due diligence in attempting to acquire the three (3) quotations is required.

b) Formal procurement methods for \$50,001 and above: Formal procurement and cost and price analysis required. Methods for formal procurement of goods and services include:

1. **Sealed Bids** (formal advertising): Sealed bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible respondent whose bid, conforming with all of the material terms and conditions of the invitation for bids, is the lowest price. The sealed bid method is the preferred method for procuring construction if the conditions in [200.320](#) apply.
2. **Proposals:** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - Requests for Proposals (RFPs) must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified respondents. Any response to publicized requests for proposals must be considered to the maximum extent practical.
 - Evaluation criteria and method for selection will be included in the RFP.
 - Contracts must be awarded to the responsible respondent whose proposal is most advantageous to WorkForce Central and our community with price and other factors considered.
 - WorkForce Central may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby respondents' qualifications are evaluated, and the most qualified respondent 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 organizations are a potential source to perform the proposed effort.

c) Noncompetitive Procurement (Sole Source). Sole source procurement may be used only when one or more of the following circumstances apply:

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

C. Cost and Price Analysis

WorkForce Central must perform a cost or price analysis prior to receiving proposals in connection with any procurement, or contract modification, in excess of **\$50,000**. The method and degree of analysis is dependent on the facts surrounding the unique procurement situation.

WorkForce Central must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair

and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under a federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for WorkForce Central under [Subpart E-Cost Principles of the Uniform Guidance](#). WorkForce Central may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

D. Suspension and Debarment

WorkForce Central will utilize [SAM.gov](#) to ensure non-federal entities are not debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities as required in Executive Orders 12549 and 12689, 2 CFR part 180.

E. Contracting with Small, Minority Businesses, Women's Businesses, and Labor Surplus Firms

WorkForce Central will take necessary affirmative steps to ensure small, minority and women-owned businesses, and labor surplus firms are used when possible.

F. WIOA Program Procurement Requirements

WorkForce Central must make documentation available to authorized federal, state, or pass-through representatives upon request that demonstrates:

- The procurement processes used to select one-stop operators and service providers.
- How the procurement processes were followed, including selection criteria by which proposals were scored, when applicable.

Whenever possible and where required, all contracts will include performance requirements defined in measurable terms.

G. Procurement of WIOA One-Stop Operators

One-stop operators must be designated and certified through a competitive procurement process. The competitive process used by WorkForce Central to procure one-stop operators must be conducted at least every four (4) years and follow the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR [200.318](#) -. [326](#).

Sole source procurement for one-stop operators can be exercised as per local policies only if it complies with federal procurement regulations at 2 CFR 200.320 and 20 CFR 678.610 and federal guidance in [TEGL 15-16](#). WorkForce Central must be able to demonstrate they conducted sufficient research and outreach to justify using sole source procurement of one-stop operators. Evidence of publishing solicitations does not, by itself, sufficiently document the justification for sole source procurement. WorkForce Central must also document the solicitation was publicized in a manner providing for full and open competition. The Department of Labor (DOL) interprets WIOA sunshine provisions at Sections 101(g) and 107(e) as requiring WorkForce Central to present documentation and justification of their decision to use sole source procurement for one-stop operators at Workforce Development Council (WDC) meetings to provide transparency and possibly attract additional respondents for the next competition.

WorkForce Central must document, in writing, that they made the Pierce County Workforce Development Council (WDC) members and the public aware of the competitive process to be used to procure one-stop operators. That includes providing at least 30-day public notice through media where prospective local, state, and national respondents typically identify such opportunities. Solicitations must include the selection criteria to be used in the process and must be maintained as part of the documentation.

WorkForce Central may serve as the local one-stop operator if they:

- Are determined to be the successful respondent in a solicitation that conforms to the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318 - 200.326 and is administered by a fair and impartial third party. The Washington State Workforce Training & Education Coordinating Board (WTECB) and WorkForce Central may work together to establish a list of pre-qualified impartial third parties for this role.
- Establish and follow conflict of interest policies and procedures that identify appropriate internal controls approved by the Governor. Internal controls include the requirement that the solicitation and scoring process be managed by the fair and impartial third party and that WorkForce Central staff do not develop the solicitation for proposals, facilitate the scoring process, or score proposals.
- Submit a Washington State “Request for Waiver to Serve as One-Stop Operator” form to the WTECB and receive approval.

H. Procurement of WIOA Youth (Young Adult) Service Providers

WorkForce Central must:

- Select eligible providers of WIOA youth services through a competitive procurement process. Sole source procurement is allowed only when it complies with federal procurement regulations and the sole source procurement requirements outlined in this policy.
- Include the selection criteria to be used in the solicitation, which must be maintained as documentation of the selection process.
- Have written, documented evidence that they made the Pierce County WDC members and the public aware of the competitive process to be used to identify and select youth service providers. This includes providing at least 30-day public notice through media where prospective local, state, and national respondents typically identify such opportunities.
- Establish local policies and procedures to assess the ability of WIOA youth service providers to meet federal WIOA common performance accountability measures based on the primary federal indicators of performance for the WIOA youth program.

WorkForce Central may serve as a local WIOA youth service provider if they:

- Are determined to be the successful respondent in a solicitation that conforms to the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318 - 200.326 and is administered by a fair and impartial third party. The WTECB and WorkForce Central may work together to establish a list of pre-qualified impartial third parties for this role.
- Establish and follow approved internal controls and conflict of interest policies. Internal controls include the requirement that the solicitation and scoring process be managed by the fair and impartial third party and that WorkForce Central staff do not develop the solicitation for proposals, facilitate the scoring process, or score proposals.
- Submit a Washington State “Request for Approval to Provide WIOA Youth Design Framework Services” from to the WTECB and receive approval.

I. Procurement of WIOA Adult and Dislocated Worker Training Services

WorkForce Central must:

- Select providers of WIOA adult and dislocated worker training services through a competitive procurement process. Sole source procurement is allowed only when it complies with federal procurement regulations and the sole source procurement requirements outlined in this policy.
- Include the selection criteria to be used in the solicitation, which must be maintained as documentation of the selection process.
- Have written, documented evidence that they made the Pierce County WDC members and the public aware of the competitive process to be used to identify and select adult and dislocated worker training service providers. This includes providing at least 30-day public notice through media where prospective local, state, and national respondents typically identify such opportunities.

WorkForce Central may serve as a local WIOA adult and dislocated worker training services provider if they:

- Are determined to be the successful respondent in a solicitation that conforms to the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318 - 200.326 and is administered by a fair and impartial third party. The WTECB and WorkForce Central may work together to establish a list of pre-qualified impartial third parties for this role.
- Establish and follow approved internal control and conflict of interest policies. Internal controls include the requirement that the solicitation and scoring process be managed by the fair and impartial third party and that WorkForce Central staff do not develop the solicitation for proposals, facilitate the scoring process, or score proposals.
- Submit the Washington State “Request for Waiver to Provide WIOA Adult and/or Dislocated Worker Training Services” form to the WTECB and is granted a waiver by the Governor, based on satisfactory and demonstrable evidence that:
 - WorkForce Central determined that there were an insufficient number of eligible providers with the expertise in serving adults and dislocated workers to meet local demand. WorkForce Central must have come to this determination after having either received no response to a Request for Qualifications (RFQ) or Request for Interest (RFI) or received no response to a Request for Proposal (RFP), or conducted a competitive procurement in which no bidders met the minimum criteria.
 - WorkForce Central meets the requirements of an eligible training provider under WIOA Section 122.
 - WorkForce Central’s proposed training services prepare participants for in-demand industry sectors or occupations in the local area.
 - WorkForce Central subjected its waiver determination and request to a minimum 30-day public comment period and included all comments received in the final waiver request.

J. Procurement of Career Services

WorkForce Central may select providers of career services through a competitive procurement process, although WIOA does not require this. Allowable forms of procurement include sealed bid, competitive proposals, and sole source. When a competitive procurement process is not used in the selection of a subrecipient for a subaward, it must be guided by:

- Documented internal controls, including written procedures for employee conduct and conflict of interest provisions.
- The service provider’s track record, considering past record of performance, cost principles, record of compliance, and audit and monitoring results.

WorkForce Central may provide basic and individualized career services by agreement of the local Chief Elected Official and the Governor. WorkForce Central must submit a Washington State

“Request for Approval to Provide WIOA Basic and/or Individualized Career Services” form to the WTECB and receive approval.

K. Contract Provisions

WorkForce Central’s contracts must contain the applicable provisions described in [Appendix II of 2 CFR 200 "Contract Provisions for non-Federal Entity Contracts under Federal Awards"](#).

L. Subrecipient and Contractor Determinations

WorkForce Central will make a case-by-case determination whether each contract or agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor.

In determining whether a contract or agreement between WorkForce Central and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of agreement. WorkForce Central will use judgment in classifying each contract or agreement as a subaward or a procurement contract.

In compliance with 2 CFR 200.331, WorkForce Central will classify providers of WIOA Adult, Dislocated Worker and Youth services, and One-Stop Operators, as subrecipients.

REFERENCES

- 2 CFR 200.317-.326
- OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- WIOA law, sections 107(d)(10); 107(g)(1); 121(d)(1-2); 123; 134(c)(2)(C)
- 20 CFR 678.600-.635; 679.410; 679.430; 680.160; 680.300; 681.400
- TEGL 15-16
- TEGL 23-14, Section 8
- ESD Policy 5404, Rev. 1

APPROVED



[Katie Condit \(Oct 22, 2021 12:05 PDT\)](#)

Oct 22, 2021

Katie Condit, WorkForce Central CEO

Date

EQUAL OPPORTUNITY - EQUAL ACCESS

WorkForce Central is an equal opportunity employer/program. Auxiliary aids and services are available upon request for individuals with disabilities. Washington Relay Service – 711.