




Workforce Investment Act Policy NO. 2013-PL-15

To: All Delegate Agencies, One-Stops and Sector Centers

From: 
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Chicago Cook Workforce Partnership

Subject: Procurement Policy

Date: December 6, 2013

Purpose:

To provide guidance to staff and service providers on the competitive purchase of goods and services from vendors. Procurement rules are prescriptive and include situational methods based on dollar thresholds and can be applied to the award of grants and sub-grants to and by service providers.

References:

Workforce Investment Act of 1998, Final Rules, Section 667.200
29 CFR 95
OMB Circular A 110 Section 40
DCEO Policy Letter No. 05-PL-16

Background:

OMB Circular A 110 Sec.40: Sections 41 through 48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and Executive Orders. No additional procurement standards or requirements shall be imposed by the Federal awarding agencies upon recipients, unless specifically required by Federal statute or Executive Order or approved by OMB. (Attachment A)

In addition, Section 667.200 of the WIA Final Rules specifies that staff selecting service providers take into account past performance in job training or related activities, fiscal accountability and ability to meet performance standards.

This Procurement Policy applies to the procurement of all goods and services purchased by Chicago Cook Workforce Partnership and The Chicago Cook Workforce Board has and been created to provide guidelines to staff and sub-recipients for:

- Determining the appropriate method of procurement to use, as well as the specific procedures to follow in different procurement situations in order to be in compliance with all Federal and State laws, rules and regulations.
- Ensuring that unnecessary or duplicative items or services are not purchased, to ensure that conflicts of interest have been avoided, and to ensure that positive efforts have been made to utilize small business and minority-owned business sources for procurement.

The Policy described in this document is ordered according to the sequence of procurement activity and includes procurement of goods and non-program related services, in addition to methods of solicitation, proposal review and evaluation requirements, procedures for negotiation with successful applicants, contract development and monitoring procedures, and procedures related to the continuation of effective programs.

Sample forms and documents used in the procurement process are included as attachments to this document and should be used by staff and sub-recipients during the procurement process.

Policy:

Responsibility for Procurement Activities

It is the responsibility of the CAO to procure, and/or delegate procurement, of all supplies and other expendable property, and equipment. The responsibility includes assigning procurement-related duties to staff persons, assuring that all procedures established in this document are followed, and that all procurement activities are performed in compliance with applicable Federal and State laws, rules and regulations.

Vendor List

- Once a year a public notice will be placed in Chicago and Cook County newspapers of general distribution to inform area businesses and organizations about the Partnership's vendor list. The Partnership's Chief Executive Officer, prior to distribution, shall approve all advertisements.
- All vendors interested in providing services to The Partnership must complete a Vendor Application (Attachment F). Vendor applications for placement on the Vendor List will be added to the Vendor List within one week by the staff person receiving the request.
- The Vendor List shall be updated as new vendors submit completed Vendor Applications, address changes for vendors that have relocated, and names removed for vendors per their request.

Procurement Principles

- Meet the Needs of the Individuals Served - All services procured should be the best available to meet the employment and training needs of the individuals served under WIA, and other State and Federal grants.
- Awards for contractors are made to vendors who can provide services that are the most advantageous to Chicago Cook Workforce Partnership and The Workforce Board regarding service, price, and other specific factors.
- Maximum free and open competition - All procurement activities shall allow to the maximum extent practical, open and free competition among potential vendors for services:
 1. Solicitation must be openly advertised
 2. Solicitation must be made available to all interested parties
 3. Solicitation must avoid "brand names"
 4. Solicitation must be free of requirements that constitute a restraint of trade.

Equal Treatment

- Uniform availability of solicitation - According to OMB, in order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements.
- Uniform availability of related communications

- Uniform application of procurement rules and policies

Arm's Length relationship

- Code of conduct to control conflict of interest - According to OMB 122 Section A42, at a minimum, the following written standards of conduct shall govern all employees of The Partnership and sub-recipients in carrying out all activities related to the award and administration of contracts:
- No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved.
- Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.
- The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements.
- Procedures for disclosure and abstention
- Self-dealing prohibited

Promotion of social and economic policies

- Preference for small, minority & women owned businesses - According to the OMB, positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:
- Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

Procurement Methods

Small Purchases (Attachment B)

Purchase decisions in excess of \$1,000 for labor, equipment, supplies or services purchased, leased or contracted for shall be made only after receiving whenever possible, oral quotations from at least three (3) vendors.

- In excess of \$1,000 with a \$25,000 threshold.
- Request for Quotes is the solicitation instrument
- Adequate number of quotes to determine market rate
- Purchase order is the typical contract instrument

Procurement of services and goods anticipated to cost between \$1,000 and \$25,000:

- Vendors to provide the service or goods required by Chicago Cook Workforce Partnership or The Workforce Board are solicited by the CAO or delegated staff.
- A minimum of 3 quotes must be solicited.
- Quotes are acceptable via written notice, verbal discussion, e-mail correspondence, or internet research.
- A Small Purchase Procurement Form must be completed. (Attachment B)
- Name of the vendor contacted
- Date of contact
- Quote amount
- Specific information regarding the services or goods to be offered
- Select the vendor that will provide the best service, not necessarily the lowest price.
- Note on each Procurement Form the reason for selection of the vendor or why a vendor wasn't selected.
- Obtain the Chief Executive Officer's signature on the form
- Attach forms to first purchase order request and invoice for payment

Best Practice Technique

- It is easy to conclude that small purchase procedures are appropriate for one-time purchases under \$25,000 but difficult to make this determination when the same goods or services (costing under \$25,000 for the initial procurement) may need to be purchased again in the future. As a result, the future need for the item being procured must be carefully considered at the time of the initial procurement.
- It is recommended that a minimum of three bids be obtained for each small purchase procurement.
- If possible, and where time allows, bids or quotes should be obtained in writing.

Invitation for Bids (Sealed Bids)

- Used only for goods and non-program related services that are greater than the \$25,000 threshold and for which all details and specifications are known
- Advertised through local media sources
- Bidder's conference required
- IFB is the solicitation instrument
- Detailed technical description of the goods or services clearly communicated
- Deadline for bid submission clearly communicated
- Time and place bids will be opened publicly clearly communicated
- Sealed Bids & Public Opening required
- All bids received shall be opened
- Contract awarded to lowest bidder
- No Negotiation

Best Practice Techniques

- Most appropriate when there is relatively no difference between the good or service offered by one vendor and that offered by another.
- Not appropriate when the procurement decision will be based on more than price (i.e., quality of the goods or services, the experience of the vendor, etc.)
- An accurate and detailed technical description of the good or service to be procured is prerequisite.

Competitive Negotiation

Purchase decisions exceeding \$25,000 but less than \$100,000 for labor, equipment, supplies or services purchased, leased or contracted for shall be made only after receiving whenever possible, written quotations from at least three vendors. (Attachment C)

Vendor Selection for Purchases Exceeding \$25,000 but less than \$100,000

- Greater than \$25,000 threshold but less than \$100,000
- Detailed specifications not known
- Written Request for Proposal/Quotations is the solicitation instrument
- The RFP/Q must describe the type of service being solicited
- The RFP/Q must provide requirements on the submission of proposals
- The RFP/Q must be made available to all applicable vendors
- The RFP/Q will be posted on the website
- Publicly advertise the RFP/Q that identifies the good or service being procured and the evaluation factors.
- Evaluation criteria must be known
- An established evaluation and award standard must accompany all RFP/Q's
- Negotiation required
- Criteria for award must be included in RFP/Q
- Proposals received after the deadline may not be considered

Best Practice Technique

- Most appropriate when the procurement decision will be based on more than price and the cost of the good or service is expected to exceed \$25,000 overall.
- Most appropriate when it is anticipated that good or service expected to cost less than \$25,000 will need to be procured again from the same vendor during a two year time frame and the aggregate amount of procurement is expected to exceed \$25,000.
- The solicitation instrument must include:
- An adequate description of the item or service.
- A description of the quality standards that must be met.
- A description of the evaluation factors to be taken into account.
- An indication of the date the decision will be made.
- A complete description of the requirements the vendors must fulfill.
- The evaluation results must be compiled in a comprehensive manner.
- Documentation showing the basis on which the award decision was made.

Procurement for similar services

The need may arise to procure services during the program year that are similar to services already procured during the same program year. Depending on the type of service or goods, certain solicitation procedures must be followed.

Program related services

- Similar services are defined as those services that provide the same program activity regardless of the grant under which the services are procured.

Technical assistance services

- Similar services are defined as any type of technical assistance provided by consultants under contract.

For services which were originally procured using small procurement procedures

- The same vendor may be selected only if the amount of the original procurement and any additional procurement for similar services during the program year has not or will not exceed \$25,000.
- Select a different vendor the similar service if the amount of the procurement will not exceed \$25,000
- Solicit competitive proposals for the similar service through the RFP/Q process where the same vendor will exceed \$25,000 or the anticipated amount will exceed \$25,000

For services which were originally procured by competitive proposal

- Modify the original vendor's contract to include the similar services
- Solicit competitive proposals for the similar services through the RFP/Q Process

Non-Competitive Negotiation

- Emergency situations are defined and limited to only public emergencies
- Procurement needs under \$25,000 are solicited using the Small Procurement Procedures
- Procurement needs of \$25,000 or more by noncompetitive proposal:
- Obtain approval from the Chief Executive Officer to utilize emergency solicitation procedures
- Make a determination of at least one available vendor from the approved vendor list who can provide the needed services
- Contact the vendor to request submission of a noncompetitive proposal
- Verify the proposed costs and evaluate the specific elements of costs and profit
- Complete the solicitation form by including the names of all vendors contacted, the date of contact, the name of the vendor authorized to submit the noncompetitive proposal and the results of the proposal analysis
- A contract is awarded
- Solicitation forms must be place in the Procurement file
- Only one source "sole source"
- Goods or service only available from one source;
- There is only one source in the area able to provide the needed goods or services.
- Inadequate competition
- Competition is determined inadequate after a number of sources have been solicited.
- Prior approval
- The grantor has approved the use of the vendor to carry out activities with the granting funds
- The approval must be received in writing by the grantor, signed and dated
- The vendor must be aware of the approval process
- A contract is awarded

Best Practice Technique

This method of procurement should not be used unless absolutely necessary because it reduces competition among potential vendors to provide goods and services.

Conclusion

It is the service provider's responsibility to ensure that the appropriate procurement mechanism is used in its own procurements. It is important to note that the procurement methods outlined in this policy letter are to be understood as the minimum requirements as determined by The Partnership. In addition, this

letter should not be understood to limit any additional required procedures as stated by the U.S. Department of Labor (USDOL) or the State of Illinois. If either USDOL or the State adds any required procurement requirements, those additional requirements will be understood to be added to The Partnership's minimum requirements.

Action Required

This information should be disseminated to delegate agency staff.

Inquiries

All inquiries should be directed to the assigned Regional Manager.

Effective Date

Immediately.

Attachments of PARTNERSHIP Documents regarding Procurement:

Attachment A-OMB Circular A-110

Attachment B-The Partnership Small Purchase Procurement Form

Attachment C-The Partnership Request For Quotes Solicitation Form

Attachment D-The Partnership Employee Handbook Section 108

Attachment E-The Partnership Accounting & Financial Policies & Procedures Manual pages 28-31

Attachment F-The Partnership Sub-recipient Contract Language-Exhibit J Conflict of Interest

Attachment G-Vendor List Application

Attachment H-Procurement Matrix