

AREA 2 | SUMMIT & MEDINA
WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)
POLICY LETTER A-04 | PROCUREMENT OF
OHIO MEANS JOBS CENTER OPERATOR AND PROVIDER OF
CAREER SERVICES

- I. **SUBJECT:** Procurement of OhioMeansJobs Center Operator and Provider of Career Services
 - II. **PURPOSE:** The purpose of this policy is to outline the requirements and procedure for the procurement of Area 2's OhioMeansJobs center operator(s) and provider(s) of Career Services.
 - III. **EFFECTIVE DATE:** July 1, 2019
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IV. **BACKGROUND**

OhioMeansJobs center operators are the entities selected by the Area 2 Workforce Development Board (WDB) to operate the Summit and Medina OhioMeansJobs centers and to coordinate the activities of the local partners and service providers at those locations. Under WIOA, the WDB is required to select operators through a competitive procurement process that complies with the requirements and restrictions for operators and operator selection in WIOA and all federal, state and local procurement rules, policies and procedures.

Providers of Career Services must meet the definition of subrecipients in that the services benefit a public purpose, the providers determine participant eligibility, and directly serve those who are eligible. Since the Adult and Dislocated Worker Career Services provider is as a subrecipient role, the WDB does not have to conduct a competitive process to select one, however, competitive procurement is the preferred practice for acquiring a Career Service provider in Area 2. Competitive procurement provides more incentive to meet performance measures so the provider is likely to be selected again in the future. Competitive procurement also filters underqualified organizations and promotes transparency of governmental processes.

The procurement of the Career Services provider and OhioMeansJobs center operator may be completed in conjunction or through a separate procurement process. The Career Services provider is considered a subrecipient and the operator is generally defined as a contractor, so two separate agreements with the entity selected to perform both roles may be necessary given that the requirements for a subaward differ from the provision in a contract. Also of note, the Career Services selection process must be conducted on an area-wide basis, i.e., there must not be a separate selection process conducted by each county in a local area as such a practice would be contrary to the WIOA vision for an integrated service delivery system.

V. COMPETITIVE PROCUREMENT

The WDB must support full and open competition in the process it utilizes to select the operator and/or Career Services provider and comply with federal, state, and local procurement guidelines. The entire procurement process must be performed under a process that promotes transparency and responsibility. The process must be documented, include a written explanation of the nature of the procurement process, and be made available to the public on a regular basis through electronic means and open meetings. The information the WDB is required to make available to the public includes, but is not limited to:

1. The WDB written conflict of interest policy;
2. The WDB written procurement policies;
3. The procurement solicitation itself;
4. A listing of the entities that have submitted bids or proposals;
5. An abstract of those bids or proposals;
6. The identity of the selected operator and/or Career Services provider; and
7. Total award amount and duration of the contract with the operator and/or Career Services provider.

Conflicts of Interest

Policies and procedures must be put in place to effectively address any real or apparent conflicts of interest. To ensure a fair and open competitive process, all potential conflicts of interest in the procurement, management, and oversight of the operator and/or provider of Career Services must be identified and addressed before planning and implementation of the selection process. The WDB should issue an inquiry to the current operator, local fiscal agent, local service providers, and local partners to determine if any of those parties will compete to serve as operator and/or provider of Career Services.

Until the solicitation is released to the public, it must be kept confidential to ensure that no individual or entity that will compete to serve as operator and/or provider of Career Services has an unfair advantage over other competing individuals or entities.

Further, no WDB board member or other individual involved in the planning and the development of the solicitation should respond to inquiries from any individual or entity that will compete. All such inquiries should be directed to an online address where all questions and responses can be seen by all competitors through a question and answer (Q&A) process.

Paragraph (B) of section 102.03 of the Revised Code prohibits current and former public officials and employees from disclosing or using confidential information acquired in the course of official duties as public officials or employees when the confidential designation is set by statute or otherwise warranted because of the circumstances under which the information was received and preserving confidentiality is necessary to the proper conduct of government business. With respect to procurement, any individual with knowledge of the selection process or solicitation must not disclose the information to ensure that the competitive process is fair and open to all.

Policies and procedures must be established to ensure that proper firewalls are in place to address any real and apparent conflicts of interest. Potential conflicts include, but are not limited to:

1. Local stakeholders competing to serve as operator.

2. Assignment of additional roles to operator, such as provider of Career Services.
3. Operator procurement of subcontractors, if the WDB assigns such authority.
4. Operator participation in local WIOA Memorandum of Understanding negotiations with local partners.

VI. METHODS AND PROCEDURE

Methods

Preferred Supplier and Qualified Source and Bidder Lists

The WDB will develop and maintain two lists of qualified sources from which to utilize or solicit proposals from for any program good or service. The Preferred Supplier List shall include sources evaluated to be qualified to provide the good or service for any purchase up to \$3,000 (micro-purchase). The Qualified Source and Bidder List shall include sources evaluated and documented to be qualified that have expressed an interest in providing products or services to the Area, for purchases \$3,001 and above (small purchase and large purchase competitive proposal).

Factors to evaluate the qualifications of suppliers and providers include reasonable pricing, quality of good or service, past performance (if applicable), and efficient delivery of the good or service. Evaluation must be documented.

If the service can be categorized as education or training, the WDB will comply with the state of Ohio's mandate to use their Workforce Inventory of Education and Training (WIET) System. Documentation of qualification is not needed if the source is in the WIET system.

Types of Procurement

1. Micro-Purchases (purchases of \$0.01 - \$3,000)
 - a. Micro-purchases may be awarded without soliciting quotes for acquisitions of supplies or services when:
 - i. The price of the good or service is considered reasonable; and
 - ii. To the extent practical, micro-purchases are distributed equitably among qualified suppliers.
2. Small Purchases (purchases of \$3,001 - \$150,000)
 - a. If appropriate, a Request for Quotes (RFQ) will be utilized.
 - b. For purchases where price is the overriding factor and which involve standardized products or services (e.g. office equipment and supplies), the WDB may use an informal procurement method by obtaining price or rate quotations from an adequate number of qualified sources, but not less than three sources.
 - c. For purchases where price is not the overriding factor and where relative quality and performance must be evaluated (e.g. consultant services), the WDB shall seek proposals from an adequate number of qualified sources, but not less than three sources.
 - i. When the WDB has contacted and provided the opportunity to propose to at least three sources and only one source provides a proposal, bid, or quote, the WDB may declare that competition is inadequate and award the contract to the sole proposing source.

3. Large-Purchase Competitive Proposals (\$150,000+)
 - a. The WDB shall use competitive proposals when the conditions are not appropriate for the use of micro-purchases or small purchases.
 - b. A Request for Proposals (RFP) will be utilized.
 - c. In order to promote a free and open competition in the procurement of the Career Services provider and OhioMeansJobs center operator, the WDB will:
 - i. Solicit bids by publicly issuing an RFP;
 - ii. Ensure that the RFP adequately describes the procurement process, description of services needed, and all significant evaluation factors;
 - iii. Certify that the RFP and any corresponding material is available at all times on the WDB's website during the open bid period;
 - iv. Post a legal notice in the appropriate local paper(s) announcing the active request;
 - v. Require interested bidders submit a Letter of Intent to propose;
 - vi. Hold a Technical Assistance (TA) meeting to answer questions about the RFP if indicated;
 - vii. Make clear the deadlines for RFP questions, Notice of Intent to Propose, and the proposal;
 - viii. Publicly post any RFP questions received on the WDB website; and
 - ix. Document the process for identifying any potential conflicts of interest in the selection of the provider(s).

Procedure – Competitive Process

1. The WDB will develop a draft RFP timeline;
2. Establish a team of proposal evaluators;
3. Develop the RFP with the Area fiscal agent, if applicable;
4. Issue the RFP;
 - a. Publish the RFP and corresponding documents on the WDB website;
 - b. Publish public notices, including a legal notice in the newspaper(s) if appropriate;
5. Offer potential bidders a TA session prior to the deadline for the LOI if appropriate;
6. Accept LOIs until the published deadline;
7. Allow for a question and answer (Q&A) period and publish all responses to questions on the WDB website so all bidders may view them;
8. Accept proposals until the published deadline;
9. Check-in the proposals and distribute to the selected evaluators;
10. Evaluate accepted proposals using the proposal evaluation tool and compile scores;
11. Conduct a price/cost analysis;
12. Conduct provider conferences if appropriate and needed;
13. Evaluators will recommend providers and contract amounts based on the compiled scores and conferences to the Performance Committee;
14. Performance Committee will make recommendations to the WDB Executive Committee for approval;
15. Notify the selected providers and negotiate contracts along with the Area fiscal agent; and
16. Document the above steps.

Procedure – Documentation

The WDB must maintain documentation of the selection process from planning through selection and the execution of a contract. Documentation must include:

1. A written description of the procurement method chosen and the factors that were considered;
2. Copies of the Area procurement policies and procedures
3. A copy of any area Conflict of Interest policies or procedures;
4. Copies of any multi-functional agreements;
5. A copy of the Area's Code of Conduct;
6. Documentation of the roles and responsibilities to be assigned to the program provider, including a description of how the WDB determined which roles to assign;
7. Documentation of a cost and/or price analysis;
8. Documentation of the provider's federal System for Award Management (SAM) status;
9. A copy of the draft and final dates in the RFP timeline;
10. A copy of the RFP;
11. A copy of all questions from bidders, including those asked at the TA session, and their responses;
12. Copies of all proposals submitted;
13. A copy of the proposal evaluation tool;
14. Copies of all proposal evaluations;
15. Copies of the award and denial letters; and
16. A copy of the resulting contract(s).

VII. COST AND PRICE ANALYSIS

The Area 2 WDB will perform a cost and/or price analysis in connection with every procurement action over the \$150,000 threshold, including contract modifications where it has been determined that the planned modifications have a monetary effect. The method and degree of the analysis is dependent on the facts surrounding that particular procurement, but at minimum, the WDB will make independent estimates before receiving any proposals/bids.

Price Analysis

Price analysis is the process of examining and evaluating a price, without looking at the estimated cost elements and proposed profit of the offer or whose price is being evaluated.

Price analysis techniques will include:

1. Comparison of proposed prices with independent estimates of cost developed by the WDB;
2. Comparison of prior quotes and contracts with current quotes for the same or similar services;
3. Use of parametric relationships to point out apparent gross differences (e.g. dollars per placement or participant, price per instruction hour, price per participant training hour, etc.); and
4. Comparison of prices on published price lists with published market prices of commodities.

Cost Analysis

Cost analysis is the review and evaluation, element by element, of the cost estimate supporting a company's proposal for the purpose of pricing a contract. A cost analysis is necessary when the bidder is required to submit the elements of the estimated cost, when adequate price competition

is lacking, and for sole-source procurements such as contract modifications when it has been determined that the proposed modification will have a monetary effect.

Cost analysis includes evaluation of:

1. The supporting data submitted by the bidder;
2. The cost elements; and
3. The factors the bidder considered in developing the estimated cost of performing the specified work.

VIII. PROPERTY STANDARDS

Materials, supplies, or equipment used for the performance of a WIOA-funded contract may be charged as direct costs. In the specific case of computers and laptops, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of the contract.

If materials, supplies, and/or equipment was purchased by a WIOA Career Services provider through its contract with the SAMWA COG and there is a residual inventory of supplies and/or equipment whose original value exceeded \$5,000 aggregate, upon termination or completion of the WIOA program contract, the supplies and/or equipment must be retained by the SAMWA COG for use on other WIOA-funded activities.

IX. REFERENCES

1. ODJFS WIOA Policy Letter 16-08 Procurement of the OhioMeansJobs Center Operator and Provider of Career Services
2. WIOA Public Law 113-128
3. Ohio Administrative Code Chapter 5101:9-4
4. Ohio Revised Code Chapter 102 and 2921.42
5. Uniform Guidance 2 CFR 200.314, 200.318-326, 200.453