



Mississippi Valley Workforce Development Board

PROCUREMENT POLICY

APPROVED DATE: September 13, 2022

EFFECTIVE DATE: September 13, 2022

Amended Date: July 11, 2023

PURPOSE

The following policies and procedures have been developed to assist in procuring goods and services under current legislative rules and regulations relating to the Workforce Innovation and Opportunity Act (WIOA).

The procedures and directions that are outlined in the following pages are intended to provide the Mississippi Valley Workforce Development Board (MVWDB), contractors, and subrecipients with guidance in determining the appropriate method of procurement to be used as well as procedures to follow in different procurement situations in order to be in compliance with all Federal and State laws, rules, and regulations.

BACKGROUND

WIOA Sec. 184(a)(3)(A) requires each State (including the Governor of the State), local area (including the Chief Elected Official for the area), and provider receiving funds under this title, to comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget (OMB). OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations; 2 CFR 200,

STATEMENT OF PHILOSOPHY

All procurement activities shall allow for open and free competition among potential vendors for services. Awards for contracts are made to vendors who can provide services that are the most advantageous to MVWDB regarding service, price, and other specific factors. Additionally, the activities that occur during procurement procedures shall ensure the open and competitive procurement of WIOA agreements.

GENERAL PROCUREMENT REQUIREMENTS

Procedures are in place to ensure that unnecessary or duplicative items or services are not purchased, to ensure that conflict of interest has been avoided, and to ensure that positive efforts have been made to utilize small business and minority-owned business sources for procurement.

All non-expendable property with a per unit purchase price of \$5,000 or more requires written approval from Iowa Workforce Development (IWD).

All potential providers and vendors, who have expressed interest in being considered for contracts, will be placed on the bidder's list and sent solicitations for the areas of service for which they wish to be considered when such awards are due to be made.

When possible, attempts will be made to procure minority firms by placing all qualified small and minority businesses and women's business enterprises on the potential vendor's list.

Contractors will also be encouraged to take these affirmative steps.

The procurement system for the selection of service providers will take into consideration the provider's ability to meet contract objectives as well as other criteria as determined locally by the MVWDB. Examples of how the ability to meet the procurement objectives can be demonstrated include, but are not limited to:

- financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project
- resources to meet the completion schedule contained in the contract
- a satisfactory performance record for completion of contracts
- cost analysis of proposed budget -accounting and auditing procedures adequate to control property, funds, and assets

The competitive procurement process for the selection of service providers and One Stop Operators will occur every 4 years. Procurement is valid for one calendar year from the date of procurement for items or services of the same type.

The MVWDB will also ensure that any entity is not debarred, suspended, or otherwise excluded from or ineligible to participate in Federal assistance programs or activities. Information about the selection of contractors will be made available to the public on a regular basis through electronic means and open meetings, in accordance with the Sunshine Provision.

All negotiations of the contract for or with potential contractors/service providers must be arm's length negotiations. The definition of an arm's length negotiation is a negotiation where the parties to the negotiation have equal bargaining power and symmetric information, leading to agreement upon fair market terms.

EQUITABLE PRINCIPLES

Procurement procedures will not restrict or eliminate competition. Activities that may be considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Non-competitive pricing practices between firms or between affiliated companies.
- Non-competitive 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.

PROCUREMENT ANALYSIS

The following questions should be taken into consideration when determining whether a procurement is necessary and the type of procurement to be used:

- Recognize and identify needs.
- What are the requested goods or services?
- Can the good or service be purchased through an existing contract?
- What is the approximate dollar value of the required good or service?
- Is there an established budget for the procurement?
- What is the timeline for this purchase and is it realistic?
- Will this be a one-time purchase or recurring? If recurring, how often?
- Will it be necessary to write specifications?
- What are the potential risks with this purchase?
- What method of solicitation is best for this type of purchase?

METHODS OF PROCUREMENT (2 CFR 200.320)

MVWDB shall use one of the following methods of procurement, depending upon the nature of the goods and services to be secured, and the terms and conditions contained within this policy.

- Micro Purchases.
- Small Purchases - Request for Quotes
- Sealed Bids
- Request for Proposals
- Noncompetitive Procurement - Sole Source

Each method of procurement has listed below it a threshold. That threshold indicates the price range of goods and/or services to be purchased for which that method of procurement is allowed to be used, and at what amount or range that method of procurement must be used. MVWDB shall have the sole discretion to choose whatever procurement method is applicable within these guidelines.

Type of Procurement	Under 10,000	10,000– 50,000	Over 50,000
Micro Purchase	X		
Request for Quote	X	X	
Sealed Bids	X	X	X
Request for Proposals	X	X	X

Micro Purchases

Micro Purchase procedures are simple and informal procurement methods to procure goods and services which do not exceed \$10,000 in the aggregate with a single vendor during a fiscal year. Micro purchases may be awarded without soliciting quotes for acquisitions of supplies or services when:

- The price of the good or service is considered reasonable; and
- To the extent practical, micro-purchases are distributed equitably among qualified suppliers.

The MVWDB may elect to use another method of procurement for purchases under \$10,000 and if it does shall adhere to the requirements pursuant to that method selected.

Small Purchase - Request for Quotes

Threshold: Required for Purchases of \$10,000- \$50,000.00. For purchases where the price is the overriding factor, which involves standardized products or services, and where the aggregate acquisition costs are greater than the micro-purchase threshold (\$10,000) but do not exceed the small purchase threshold (\$50,000.00).

Or services where price is not the overriding factor but are relatively simple and straightforward purchases the MVWDB may use relatively simple and informal procurement methods by obtaining price or rate quotations from an adequate number of qualified sources but not less than three sources, if three sources are available.

Sealed Bids

An option for purchases of \$50,000.00 and above is a Request for Bid (RFB). A RFB is always a publicly advertised, formal solicitation.

- The RFB includes well-defined specifications and/or scope of work, including all contractual terms.
- Bids for the goods or services must be received by a set date, time, and place, where they may be publicly opened.
- The RFB award is made to the lowest responsible bidder.

“Responsible Bidder” means a vendor that has the capability in all respects to perform the contract requirements. In determining whether a vendor is a responsible bidder, the board may consider various factors including, but not limited to,

- the vendor’s competence and qualification for the type of services required,

- the vendor's integrity and reliability,
- the past performance of the vendor relative to the quality of the good or service,
- the past experience of the department in relation to the good or service,
- the relative quality of the good or service,
- the proposed terms of delivery,
- and the best interest of the board.

Procurement by sealed bids is most appropriate when there is relatively no difference between the good or service offered by one vendor from that offered by another. Procurement by sealed bids is not appropriate when the procurement decision will be based on more than price (i.e., quality of the good or service).

Request for Proposals

A Request for Proposal (RFP) is always a publicly advertised, formal solicitation and is used when it is not appropriate to use sealed bids and the amount of the contract is over \$50,000. This occurs when other factors in addition to price influence the award decision.

The RFP includes well-defined specifications and/or scope of work and contains all contractual terms and conditions. The RFP solicits two parts to a proposal -- technical and cost -- from prospective vendors.

After an evaluation of all proposals submitted, a contract is awarded to the provider who submits the proposal most advantageous to MVWDB.

The MVWDB shall use Request for Proposals when the conditions are not appropriate for the use of competitive sealed bidding, micro-purchases, small purchases, or non-competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, a contract is awarded, and the following conditions are met:

- The complex and technical nature of the procurement cannot be described in bid specifications; and
- It is logical to award a contract on factors other than price.
- You anticipate that a good or service expected to cost less than \$50,000 will need to be procured again from the same vendor during the same fiscal year and the aggregate amount of procurements is expected to exceed \$50,000.

Solicitations for goods and services (requests for proposals or RFPs) should provide for all of the following:

- Requirements that the bidder/offer must fulfill and all other factors to be used in evaluating bids or proposals.
- Funding level range or an up-to amount must be provided in the RFP that ensures the responsibilities in the Statement of Work can be performed.
- Requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards. (45 CFR Part 75.328(c)(1))

- The specific features of "brand name or equal" descriptions that bidders are required to meet when appropriate. (45 CFR Part 75.328(c)(1))
- A description of the format, if any, in which proposals must be submitted, including the name of the person to whom proposals should be sent.
- The date by which proposals are due.
- Required delivery or performance dates/schedules.
- The release of an RFP for services does not obligate the MVWDB to accept any or all proposals. The MVWDB shall be held harmless of any action resulting from any decision not to accept any or all proposals.

Non-Competitive Procurement

Noncompetitive procurement refers to "sole source procurement."

- A true sole source procurement involves a situation in which the MVWDB can reasonably demonstrate that there is only one entity truly qualified to fulfill the provision of goods and/or services.
- Noncompetitive procurement or sole source procurement is to be distinguished from a method of competitive procurement that solicits bids, quotes, and/or proposals from multiple sources, but in the end, only one entity responds to the same.

The MVWDB may use noncompetitive procurement methods only when the award of a contract is infeasible under the micro-purchasing threshold, small purchase procedure, competitive sealed bidding, or competitive proposals, and one of the following conditions applies:

- The item is available only from a sole source. This type of noncompetitive proposal means only one source exists for the goods or services being procured: an example being the procurement of proprietary products. Business justification or long-term relationships with a particular contractor does not constitute justification as sole source procurement. Sole source procurements do not require prior approval.
- The public exigency or emergency for the requirement will not permit a delay resulting from the competitive solicitation. This type of noncompetitive procurement is mainly reserved for emergencies caused by natural disasters.
- The federal awarding agency or IWD authorizes noncompetitive procurements.
- The purchases are for equipment or services where the prices are established by law for technical equipment requiring standardization and interchangeability of parts with existing equipment.

Noncompetitive proposals require the mutual discussion and arrangement of terms of a transaction or agreement for the purpose of arriving at a common understanding of contract essentials such as technical requirements, schedules, prices, and terms. For any noncompetitive proposal in excess of the small purchase threshold, written documentation must be included in the records to show why a noncompetitive proposal was used instead of competitive bidding. Such justification must include the following items:

- Copies of the public advertisements
- Proof of the announcement medium used (newspaper, social media)
- Documentation showing how long the announcement was posted
- A list of providers contacted
- Copies of all letters received from prospective bidders or respondents, including those indicating a bidder's lack of interest in competing for the contract
- The date and amount of the procurement
- The name of the entity to which the sole source is to be awarded
- Any other materials which would justify the agency's use of noncompetitive procurement methods
- Documentation showing that the entity has the capacity and ability to perform the functions required to provide career services and/or youth workforce investment activities

Sole Source for WIOA Providers

Sole source must only be pursued after a minimum of two attempts to competitively procure, including one attempt that combines the procurement of the Adult and Dislocated Worker service provider with the selection of the one-stop operator. Sole source selection of a service provider can only be completed under the criteria outlined in WIOA. Should the MVWDB request to use sole source procurement for service providers it will submit a formal request to IWD electronically.

- The request will include justification that all other options were exhausted and identify the reason for sole source.
- Also, identify the timeline and the activities performed prior to the sole source request, and certify that all appropriate measures consistent with the WIOA and this policy have been taken.

PROPOSAL PROCESS AND EVALUATION REVIEW

The MVWDB will meet and select a small committee of at least three Board members, committee members, CEOs, or board advisors to oversee the RFP process. RFP will be open for a minimum of 20 business days and posted on the board website, other outlets, and distributed to the bidder's list when applicable. A pre-set time period will be available for written questions, and answers will be posted to the board website.

MVWDB staff will perform a review of each proposal prior to them being distributed to the RFP committee to confirm the proposal is complete and meets all the submission guidelines stated in the RFP and provide an abstract to the committee. Proposals that are incomplete or fail to meet all submission guidelines stated in the RFP will be rejected.

Proposals will be evaluated by the RFP committee and a recommendation will be made to the MVWDB or designated committee for award. The MVWDB or designated committee will vote on the RFP committee recommendation at a meeting and reserves the right to either accept, reject or make changes to the committee's recommendation. Upon the MVWDB decision, all bidders

will be notified of the awardee.

Bidders may request, in writing, feedback on the proposal submitted after the funding awards are determined.

BIDDER CONFERENCE/ Q&A SESSION

A conference for potential bidders may be held after the RFP/RFB becomes publicly available. To maintain fair and open competition, the answers to questions that arise from the bidders' conference shall be provided to all entities on the bidders' list and all entities that have requested an RFP/RFB. Amendments will be accepted if submitted within the time frames of the original solicitation requirement.

BEST AND FINAL OFFER (BAFO)

MVWDB may take this optional step at the completion of the evaluation process of an RFB or RFP. A BAFO process might be appropriate under one of the following circumstances:

- The bids submitted by all vendors are over the budget or considerably higher than anticipated.
- A submitted proposal/bid has a significantly lower cost than all other proposals under consideration, yet it does not have the overall highest score.
- The scores of two or more vendors (RFP) are very close.

BAFO Process and Procedures

- The evaluation committee shall decide if the BAFO option is appropriate and will determine who of the bidders/respondents will receive an invitation to submit a BAFO (all bidders/respondents may be invited). However, the agency should only invite bidders/respondents who could potentially receive the award.
- The content of the BAFO solicitation may request additional information regarding important specifications such as levels of support, contract terms, implementation schedules, and/or costs.
- The BAFO solicitation CANNOT contain any material modifications to the initial solicitation or the evaluation criteria.
- The BAFO solicitation will follow the same requirements and process as an original solicitation: sealed bids/proposals, specific timeframes, etc.
- Bidders/respondents who receive a BAFO solicitation are not required to submit a BAFO, or they may simply respond with a written statement that their response remains as originally submitted. The following is the scoring process for the BAFO:
 - There should be no changes to the evaluation committee.
 - Scoring sheets should be based on the additional information requested in the BAFO and used by the evaluation committee.
 - Dependent upon the additional information requested in the BAFO, there may or may not be an independent scoring from the initial solicitation scoring.

REJECTION OF BIDS OR PROPOSALS

A bid/proposal response that fails to provide the required forms or which does not comply with the specifications, terms, and conditions of the RFB or RFP may be considered non-responsive and rejected. Unless stated otherwise in the solicitation documents, submissions that include an alternate bid/proposal are unresponsive and subject to disqualification.

CANCELLATION OF A SOLICITATION

The MVWDB may cancel a solicitation at any time during the procurement process prior to signing a contract if the requirement stated in the solicitation no longer exists, funds are lacking, the board decides not to proceed with the solicitation, or for any other reason.

PROCUREMENT RECORDS

The MVWDB must develop and maintain a record/file of each relevant procurement sufficient to detail the significant history of the procurement and support the procurement decisions made. The record should include the following information as appropriate for the type of procurement performed:

- A description of the item(s) being procured;
- Evidence of MVWDB involvement in the decision-making and planning process.
- A copy of the solicitation package (e.g., RFP/RFQ/RFB).
- A copy of the public notification.
- Bidders' list to which notices were mailed.
- Agenda and minutes of the bidders' conference if a conference is conducted.
- A copy of each question asked, and the answer issued,
- Log sheet of bid proposals received, including the date and time.
- A copy of each bid that was received.
- The results of all technical reviews and evaluations for all proposals received; and,
- Rating and scoring sheets completed during the evaluation process.
- Documentation supporting that bids were publicly opened at the time and place stated in the invitation for bids.
- Documentation of the rationale for selection and funding of any offeror who did not receive the highest score/ranking in the evaluation process.
- Evidence of MVWDB approval of the procurement.
- The name of the selected vendor or provider, the amount of the procurement; and the delivery date of the good or service.
- A copy of any submitted grievance(s) and the resolution of each.

- Risk analysis determinations and special award/contract conditions, if appropriate.

TYPES OF CONTRACTS

Cost Reimbursable Contracts

MVWDB may use a cost-reimbursable contract for any form of procurement.

- In this type of contract, reimbursements are made to the contractor for actual expenses incurred in the provision of goods/services.
- Under cost-reimbursable contracts, the primary risk in achieving a reasonable relationship between expenditures and results falls to the MVWDB in negotiating line costs.

This type of contract is required for procurement transactions between units of state or local governments and any other entity organized principally as the administrative entity for the local workforce development board. Each contract must contain a detailed line-item budget specifying the expense items and estimated amounts for all costs.

- All costs in the approved budget must be allowable and properly allocated among the cost categories that will benefit.
- The contract must fully describe the services to be delivered and the invoicing and payment and procedures including signatory authority for the submission of invoices.
- Any provisions of flexibility in expenditures among the specific line items must also be described in the contract.

Cost Reimbursable Contracts with Profit

A cost-reimbursable contract may include a profit element when an incentive is appropriate to induce a private for-profit contractor/service provider to provide WIOA training or services.

Fixed Price Contracts

The use of a fixed-price contract is limited to specific circumstances in which a contractor/service provider agrees to deliver specified WIOA services at a negotiated price.

- These situations might include such services as eligibility determination assessment or case management with a detailed work statement, with a unit price established for each deliverable, e.g., number of enrollments, number of assessments, etc.

This type of contract differs from a fixed unit price, performance-based contract only to the extent that it provides for delivery of a specific service, regardless of participant outcomes.

- Requirements for establishing and paying the fixed price are the same, except that payment conditions must be based on the delivery of measurable units of service, rather than on participant outcomes.

Hybrid Contracts (Cost Reimbursable with Fixed Price Element)

Hybrid contracts incorporate a combination of cost reimbursement and fixed price characteristics. In these contracts, some cost items will be separately identified to be reimbursed on actual costs incurred and other cost items will be units identified as a fixed price. These contracts must be negotiated and executed on the basis of a detailed line-item budget in which

the cost items to be reimbursed are separately identified from the fixed price element(s). The requirements applicable to the cost-reimbursable and fixed-price contracts will apply to each separately identified set of expenses.

Fixed Unit Price/Performance-Based Contracts

Fixed unit price/performance-based contracts are allowable for employment and training services as an incentive for contractors to perform efficiently and achieve high levels of participant outcomes. The following requirements apply in establishing a fixed unit price and the condition for payments:

- A cost analysis of all cost elements, i.e., line-item costs, must be conducted and documented, and the reasonableness of the unit price determined,
- The fixed unit price must be allocated to benefitting cost categories based on the ratios established in the cost price analysis,
- The offeror must certify in writing that cost data are accurate, complete, and current at the time of agreement on price. The awarding agency must retain the right to a price adjustment if it is discovered that the sub-recipient knowingly submitted data that were not accurate, complete, and current,
- Payment conditions must include measurable participant outcomes (e.g., quantifiable levels of skill attainment, placement in a training-related position, a placement wage requirement, and job retention).

GENERAL CONTRACT PROVISIONS FOR ALL CONTRACTS

Except for small purchases for which a purchase order is appropriate, the MVWDB must award a bilaterally executed contract that includes at a minimum:

- the fixed price and/or estimated costs,
- a description of the scope and extent of work performed or specification of the goods/services to be provided and
- the period of performance

The MVWDB contracts will contain the applicable provisions described in Appendix II to Part 200 – “Contract Provisions for non-Federal Entity Contracts Under Federal Awards”.

RIGHT TO FILE A GRIEVANCE

Any organization making an application under an RFP has the right to file a grievance related to the RFP process within five (5) working days of the award announcement.

- All grievances must be made in writing and must fully identify any contested issues and/or policy or procedural violations.
- Subjective interpretations by evaluators are not subject to protest or grievance.

A bidder may file a grievance in writing, with the MVWDB Executive Director, who will then have ten (10) days in which to reach an informal written resolution of the grievance.

- Should the grievance not be resolved within ten (10) days, the bidder may submit in writing a protest to the MVWDB Executive Committee.
- The Executive Committee will then have twenty (20) days to reach a formal written decision.

A hearing is not a right under this MVWDB grievance policy.

- No further appeals will be allowed.
- This does not prohibit the bidder from seeking other resolutions in addition to those allowed by the Mississippi Valley Workforce Area.
- Any further resolutions taken by the bidder outside of this policy will be handled by the CEOs of the MVWA.

STANDARDS OF CONDUCT

Any officer, employee, or agent of the MVWDB who is either:

- engaged in negotiations with a potential contractor.
- has arrangements concerning prospective employment with a potential contractor; or,
- has a financial interest in a potential contractor may not participate in the review, award, or administration of a contract for a potential contractor. Such relationships constitute a Conflict of Interest. This prohibition also extends to:
 - an immediate family member of any officer, employer, or agent of the grantee/sub-grantee.
 - a partner or organization who employs any officer, employee, or agent of the grantee/sub-grantee.

Additionally, no MVWDB member shall participate in the selection or in the awarding of a contract if a conflict of interest is involved.

- This provision does not prohibit a community-based organization, educational agency, employer, or other service provider represented by an MVWDB member from receiving a contract for the provision of training and/or services to participants.

However, when such a conflict of interest arises, LWDB members must abstain from voting on the award and disclose all financial/non-financial information of the contractor. No employee, officer, or agent of the MVWDB shall participate in the selection, awarding, or administration of a contract if a conflict of interest exists. No contract will be awarded to any MVWDB member or entity with which he/she is affiliated which results in direct personal gain to that MVWDB member. MVWDB officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from service providers, potential service providers (i.e., persons who perform services of the type contracted for), or parties to grants.

CONFIDENTIALITY AND NON-DISCLOSURE

Information will not be disclosed to anyone who is not directly involved in the procurement process relating to the intent to implement a procurement, the amount of funds available, or any

related data, until that information is made known to all bidders through a notification of the intent to solicit or dissemination of a Request for Proposal (RFP) or Request for Quote (RFQ).

Technical and cost/price information from any proposal must not be disclosed to anyone not officially involved in the procurement process while the procurement is still in progress.

Certain technical or proposal information that a bidder has designated as proprietary or trade secret, and with which MVWDB concurs, must not be disclosed to other bidders, even after the award is made and publicized.

The number of names of bidders will not be disclosed to anyone not officially involved in the procurement process until the contract is awarded and the decision is made public.

Equal Opportunity Programs/Employer

Auxiliary aids and services are available upon request for individuals with disabilities.