

## **High Country Workforce Development Board Procurement Policy**

### **I. Background**

The High Country Workforce Area is under the authority of the High Country Council of Governments which serves as the Grant Recipient/Administrative Entity for the Workforce Investment Act (WIA) funds allocated for the operation of WIA programs in Alleghany, Ashe, Avery, Mitchell, Watauga, Wilkes, and Yancey County(ies). As the Grant Recipient for the funding received under the Act, the local workforce area will be governed by the procurement policy as developed in accordance with Federal, State and local policies and approved for the High Country Council of Governments. Additional specific procurement policy requirements will be developed and implemented for the solicitation of WIA service providers for the operations of programs in the High Country local workforce area and as required by the Act.

### **II. Procurement Authority**

The High Country Workforce Development Board (WDB), in conjunction with the Chief Elected Official (CEO), has oversight of all phases of the local workforce area's operations and has the responsibility to provide policy guidance for the local workforce area. The WDB has authority for the procurement of services using WIA funds by the Grant Recipient/Administrative Entity. The WDB may at its discretion delegate certain functions within the procurement process to WDB staff and WDB Committees.

#### **Responsibilities of the High Country Council of Governments Workforce Development Board Staff**

- A. In concert with the CEOs, the WDB and its committees, the development of the Local Area Plan as required by the NC Division of Workforce Development.
- B. Development of all procurement documents.
- C. In concert with the CEOs, the WDB and its committees, review and evaluate responses to Requests for Proposals (RFPs) and other forms of procurement, in accordance with the Board's delegation of responsibility.
- D. The implementation of all WDB procurement decisions.
- E. Negotiation of contracts and other procurement agreements and document the process.
- F. Execution of contracts, contract modifications and other awards as approved by the WDB.
- G. Processing procurement appeals/protests/disputes/claims.
- H. Monitoring of all contract activities.

#### **Responsibilities of the High Country Workforce Development Board**

Aspects of the following responsibilities may be delegated to staff in accordance with Board policy and governance procedures

- A. Development and approval of the Local Area Plan.

- B. Approval and oversight of the procurement process.
- C. Approval of WIA program activities and funding levels.
- D. Approval and issue Request for Proposals (RFP) and proposal evaluation criteria.
- E. Approval of contracts, contract modifications and other awards.
- F. Approval of termination of contracts and other awards for non-compliance.
- G. Involvement in procurement appeals or protests.

### **III. Procurement Planning and Standards**

- A. **Planning** – Workforce development needs in the High Country Local Workforce Area shall be identified through strategic planning with the WDB and will be contained in the Local Area Plan. How these workforce needs will be met shall also be contained in the Local Area Plan and identified within the various types of services and activities planned. Provisions shall be made to avoid the purchase of, or contracting for, unnecessary or duplicative services. Funds provided herein shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds. The local WDB staff shall be responsible for establishing sufficient time for all phases of the procurement process in accordance with statutory and regulatory requirements to ensure program continuity and fair treatment of potential service providers.
- B. **Standards** – All procurement activities shall be conducted in compliance with all applicable Federal, State and local laws, policies and regulations. To the degree possible, all procurement transactions shall be conducted in a manner providing full and open competition. Such transactions shall not, in competitive procurements, contain features which unduly restrict competition. No unreasonable qualifications or requirements will be stipulated that will qualify or disqualify a potential service provider.

All necessary affirmative action steps shall be taken to ensure that minority firms, women's business enterprises, and community-based organizations are used when possible. The RFP is a request for entities to submit a proposal to operate a specific program or activity that has been planned by the WDB. More specifically, it is a package of program specifications with guidelines or directions for responding to these specifications. Proposals shall be solicited when procuring through either the competitive or noncompetitive method. Amendments to solicitations will be accepted if submitted within the time frames of the original solicitation requirement.

Procurements shall not permit excess profit for private for-profit entities.

Unsolicited proposals for workforce services may be accepted throughout the year. An unsolicited proposal is one for which no request for proposals are made, but the proposal may contain a unique set of services which may be needed in the local workforce area. The proposal may be submitted directly to the WDB. The WDB will then determine: (1) if the purpose of the unsolicited proposal is appropriate, and (2) if so, the appropriate classification for inclusion into their workforce development plan

as a competitive or noncompetitive proposal. The availability of funding resources will also be considered.

The local WDB staff shall maintain sufficient records to detail the significant history of the procurement (i.e., rationale for method of procurement, selection of contract type, contractor selection or rejection and the basis for contract price). Such records shall consist of detailed WDB minutes, detailed committee reports/minutes, correspondence, proposal reviews, rating/evaluation documents and negotiation records.

#### **IV. Procurement Methods**

- A. Procurement by Competitive Proposals** – Competitive procurement shall be the method of procurement of workforce services, except as provided for in situations described under the noncompetitive procurement section.

RFPs shall be publicized for a minimum of five consecutive days on the Board's website ([www.highcountrywdb.com](http://www.highcountrywdb.com)) and may also be publicized in newspapers or other media published in the region (including minority publications where feasible) that will provide for a general circulation throughout the area served. This public notice will be made at least ten calendar days prior to the release of the RFP. This public notice shall also contain information on the bidders' conference, if one is to be held. A bidder's list shall be maintained of all entities that have indicated in writing an interest in providing workforce services in the WDB's service area. This list shall be updated biannually. A notice indicating the service or activity being procured, date, time, location of the RFP release, etc., shall be sent to all individuals on this list, all existing service providers, and others as applicable.

All RFPs shall be released with language which shall include:

- Name and address of the High Country Council of Governments,
- Name, address and phone number of person(s) to contact regarding the solicitation.
- General description of the sub-grant program, including identification of the applicable Federal and State laws and regulations with which the selected contractor must comply, to include at a minimum reference to the Workforce Investment Act, USDOL WIA Regulations, 20 CFR Parts 626-631, and all appropriate policy issuances from the NC Division of Workforce Development..
- The population to be served and minimum service levels to any specific target groups, if any.
- An estimate of the number/range of individuals to be served and expected performance results in each activity.
- Requirements for coordination with other workforce entities, as applicable.
- Funding parameters by activity or program.
- A detailed description of the training and/or services to be provided.
- The period of performance.

- Applicable monitoring and reporting requirements, including, but not limited to, data entry, performance, and financial reporting.
- Other services or requirements (e.g., responsibility for eligibility determination, WDB policy on support payments, audit requirements and work statement requirements) that will affect proper budgeting by the offeror.
- Prohibition against subcontracting without WDB approval.
- Line item budget of proposed costs, including any profit to be realized and/or funds to be contributed.
- Documentation to be supplied by the offeror to establish its programmatic and financial capability to perform the work.
- Requirements for preparation and submission of the proposal, due date and time, content and format, number of copies, location and method for submitting the bid.
- Process and procedures by which proposals will be evaluated for competitiveness, including identification of specific criteria which will be used.
- Description of the procedures for responding to bidder inquiries and a schedule for the receipt of proposals, approximate dates for review and award.
- Conditions under which the completed contract may be modified and extended for additional years, if applicable.
- Grievance procedures for contesting the procurement process.
- Affirmative action assurance that the offeror will comply fully with the nondiscrimination and equal opportunity provisions of the Workforce Investment Act, the Non-traditional Employment for Women Act of 1991; Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR Part 34.

At the WDB's discretion, it may procure either single or multi-year program proposals and enter single or multi-year contracts. Multi-year contracts may not exceed a three (3) year period. Such multi-year contracts shall include provisions for first year funding and activity levels and provisions and conditions for the negotiation of subsequent year funding and activity levels.

Proposers will be required to submit their qualifications to function as a service provider. The provider, at a minimum, shall submit a brief description of the following: 1) organizational structure and experience; 2) personnel standards; 3) financial system; 4) latest audit; 5) bonding coverage; 6) procurement procedures; and, 7) monitoring procedures.

A log will be maintained of all bidders that have requested and been sent an RFP.

A conference for potential bidders *may* be held after the RFP becomes publically 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.

Amendments to solicitations will be accepted if submitted within the time frames of the original solicitation requirement. The closing submission date must be clearly stated in the RFP. Where late proposals are received, these shall be accepted and the date and time recorded. A letter shall then be sent to the proposer returning its proposal package and explaining why it is not being considered. The WDB reserves the right to accept or reject any and all proposals received in response to the RFP. Obligation to the bidder is contingent upon the availability of grant funds. No legal liability on the part of the WDB for payment of any money shall arise unless and until funds are made available to the WDB for procurement. The bidders shall be responsible for all costs involved in the development of the proposal.

The intent of the evaluation process is to certify that each proposal received meets the basic submission requirements (Proposal Review Criteria) and to determine the quality of each proposal. Under the Board's by-laws, the Youth Council serves as the Board's youth policy arm and has full authority to evaluate eligible providers of youth activities and select providers of WIA youth services. The Youth Council's decision is then forwarded to the WDB for information.

The evaluation process may be divided into the following major steps: 1) a general review of proposals; 2) an evaluation of vendor qualifications; 3) an evaluation of the technical aspects of each proposal; 4) an evaluation of the cost aspects of each proposal; and, 5) an evaluation of demonstrated performance, effectiveness, potential for meeting performance goals, costs, and quality of training.

In concert with the WDB and its committees, the local WDB staff shall develop a process for conducting technical evaluations and the review of the proposals received and for selecting contractors. Using the evaluation criteria contained in the RFP, the local WDB staff will review all proposals that meet the submission requirements; will submit technical evaluation and other summary reports to the WDB or designated committee of all proposals received; and may make recommendations to the WDB/committee for contract award based on these factors and the apparent ability to operate the program efficiently and effectively, with price and other factors considered. Alternatively, at the committee's discretion, proposal reviews will be jointly conducted by WDB staff and a WDB subcommittee created specifically for that purpose. In such case, it is the responsibility of the committee to become familiar with the programs, services, and activities being solicited and to understand what is being asked of the bidders in the proposal request. WDB staff shall provide training, guidance, and/or technical assistance on an as-needed basis to the review committee.

After evaluation of the proposals received by the WDB staff and/or WDB committee and recommendation for award, the final selection of service providers will be made by the WDB. The WDB will have the final authority for selection of service providers (with the exception of youth services, over which the Youth Council has full authority)..

Final selections will primarily be based on, yet not limited to, effectiveness, demonstrated performance, potential for meeting performance goals, costs, quality of

training, participant characteristics, past workforce development experience and performance of the bidder, and non-duplication of services.

Upon the Board's selection, a letter will be sent to each successful and unsuccessful bidder that contains the WDB decisions related to that procurement.

**Intention to Bid Option.** The WDB may use this option when there is a high level of uncertainty regarding the number of proposals which will be received for a workforce service or activity and whether there will be a sufficient number of bids to justify the development of a solicitation. This competitive method maintains the integrity of a competitive procurement process by identifying, through public notice, potential bidders to determine the feasibility of procurement.

**Procedural Requirements.** When using this option, the WDB will develop a set of preliminary training/service specifications for which the WDB intends to request bids. The specifications will include the following parameters:

- date the proposed solicitation will be issued
- specific type of training/services to be performed
- estimated number of participants and/or available funds or ranges, if preferred
- expected period of performance
- geographic area to be served
- specific target groups to be served
- type of contract to be awarded
- expected performance

A public notification will be issued in the same manner as that used for the issuances of RFPs. In addition, letters or e-mail notifications will be sent to all applicable organizations on the bidders' list, requesting an indication of whether the organization intends to bid on specific training/services which are described in the letter, consistent with the specifications developed. The letter will indicate the date by which a response is to be received.

If the intention to bid process is used and no interest is received, noncompetitive sole source procurement may be used. When only one intention to bid response is received for a service of geographic area, every effort will be made to negotiate the desired training/services with that provider. However, if acceptable training/services cannot be negotiated, the WDB may use sole source procurement to obtain the training/service. A complete history of this process will be documented in the procurement file.

**Limitations.** Sole source procurement will not be used if more than one organization indicated its intent to bid. In this case, an RFP solicitation for the training/services advertised must be developed and transmitted to all who responded to the intention to bid.

**B. Procurement by Noncompetitive Proposals** – Noncompetitive procurement (solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate) shall be used only when the award of a contract is not feasible under small purchase procedures, and when sealed bids or competitive proposals, and when one of the following circumstances applies:

- The service is reasonably available only from a single source.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- The awarding agency authorizes noncompetitive proposals.
- After the solicitation of a number of sources, including the current bidders' list, competition is determined inadequate.

The WDB staff will conduct a cost analysis and contract negotiation process for all noncompetitive procurements. The termination or suspension of a current contractor shall be considered as an emergency under certain conditions; however, termination of an existing contract should not be used for the purpose of circumventing competitive solicitation. Final approval will be made by the WDB or its delegated committee. The WDB staff is responsible for fully documenting this method of procurement. Special attention shall be given to code of standards of conduct, conflict of interest, and safeguarding values normally achieved through competition.

**C. Procurement by Small Purchase Procedures**

Informal quotes for purchases of \$300 up to \$25,000 may be obtained by written bid, telephone quote, published quote, or faxed quote. If small purchase procurements are used, price or rate quotations shall be obtained from a minimum of three qualified sources. When small purchase procurements are used, the purchase shall not be broken down into several purchases merely to be able to use small purchase procedures and to avoid competitive procurement. Procurement by small purchase procedures may not be used when securing program/activity services.

The purchase of the **personal services** of consultants is allowed when the deliverables are specifically defined and priced. Consultants and personal services contracts, costing **\$5,000** and over, **must** have review and written approval by the Division of Workforce Development before the contract is finalized. The request for review by the Division must include:

- The purpose of the contract;
- The cost of the proposed contract;
- The starting and ending dates;
- An assurance of adherence to State and local procurement policies; and
- The funding source to be used.

**D. Procurement by Sealed Bids**

Sealed bids procurement are publicly solicited and a firm-fixed price contract (lump sum or unit price) or other fixed-priced arrangement is awarded to the responsible

bidder whose bid, conforming with all the terms and conditions of the invitation for bids, is the lowest in price. In order for sealed bids to be feasible, the following conditions should be present: 1) a complete, adequate, and realistic specification or purchase description is available; 2) two or more responsible bidders are willing and able to compete effectively for the business; and 3) 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. If sealed bids are used, the following requirements shall apply: 1) the invitation for bids shall be publicly advertised and bids shall be solicited from a minimum of two known suppliers, providing them sufficient time prior to the date set for opening the bids. The advertisement must be published for two (2) consecutive days in a sufficient number of newspapers or other media (including the board website and in minority publications where feasible that will provide for a general circulation throughout the area; 2) the invitation for bids including any specifications and pertinent attachments shall define the services in order for the bidder to properly respond; 3) all bids shall be publicly opened at the time and place prescribed in the invitation for bids; 4) a firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder; and 5) any or all bids may be rejected if there is a sound documented reason. Procurement by sealed bids may not be used when securing program/activity type services, e.g., on-the-job training.

## **V. Procurement Records**

The Local Area staff shall maintain records sufficient to detail the significant history of procurement, i.e., rationale for method of procurement, selection of contract type and contractor selection and/or rejection. Such record will include:

- Evidence of WDB involvement in the decision-making process.
- A copy of the solicitation package.
- A copy of the public notification.
- Bidders' list to which notices were mailed.
- List of all organizations/entities sent a solicitation.
- Agenda and minutes of the bidders' conference, if a conference is conducted.
- A copy of each Question and Answer issuance, if applicable.
- Log sheet of bids received.
- A copy of each bid which was received.
- Rating and scoring sheets completed in the evaluation process.
- Business operation capability evaluations.
- Documentation of the rationale for selection and funding of any offeror which did not receive the highest score/ranking in the evaluation process.
- Evidence of WDB approval of the procurement.
- Completed cost analysis for each selected bidder.
- Copies of letters sent to both the successful and unsuccessful bidders.
- Completed Memo of Negotiations for each subrecipient contract.
- A copy of any submitted grievance and the resolution of each.
- High risk determinations and special award/contract conditions, if appropriate.

**VI. Contracting Standards**

The administrative entity shall maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts. The primary method of contracting in the local workforce area shall be the cost reimbursement method of contracting. At the discretion of the WDB, contracts with for-profit entities may be considered. The administrative entity will conduct a cost or price analysis in connection with every procurement action including contract modification and renewals. Contracts shall be for a period not to exceed three (3) years. The contract document used by the WDB will contain, or by reference address the elements contained to the appropriate official policies issued by the NC Division of Workforce Development.