



RIVERSIDE COUNTY
WORKFORCE DEVELOPMENT BOARD

PROCUREMENT STANDARDS
POLICY

Date: April 27, 2016

Number: 18-01

PURPOSE: The Riverside County Workforce Development Board (WDB) establishes this policy to provide guidance to Riverside County Workforce Development Center (WDC) staff and subrecipients regarding the purchase and procurement of goods and services.

EFFECTIVE DATE: Upon Release

REFERENCES: Workforce Innovation and Opportunity Act of 2014
Federal Register, Volume 78, Number 248, Thursday, December 26, 2013, Part III, Office of Management and Budget, Title 2 CFR, Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule
§200.205 Federal awarding agency review of risk posed by applicants
§200.318 General Procurement Standards
§200.319 Competition
§200.320 Methods of Procurement to be followed
§200.321 Small and minority businesses, women’s business enterprises, and labor surplus area firms
§200.322 Procurement of Recovered Materials
United States Code (U.S.C.), 2006 Edition, Supplement 5, Title 31- Money and Finance, Section 3321 and U.S.C., 2013 Edition, Title 41- Public Contracts Miscellaneous, Section 2313

Employment Development Department (EDD) Directive [WSD12-10](#)
Employment Development Department (EDD) Directive [WSD08-4](#)
Riverside County Purchasing Policy Manual, Purchasing and Fleet Services, August 2015

LOCALLY IMPOSED REQUIREMENTS: Riverside County imposes a restrictive Procurement policy that must be followed by all WDC staff and any Subrecipients when

conducting any and all Procurement activities. All locally imposed requirements are indicated in ***bold, italic type***.

BACKGROUND:

The procurement activities of the WDC are governed by federal, state and county ordinances, regulations, rules and/or directives. It is the intent of this policy to ensure that all procurement activities provide for free and open competition, secure the best possible value, and are consistent with all applicable authority.

DEFINITIONS:

N/A

POLICY:

Procurement activities will be conducted on an ongoing basis, with the Agency having the discretion to initiate and conduct procurements at any time during the program (fiscal) year. Procurements will be conducted at intervals of not less than once every three years for any defined and/or previously awarded activity. The Agency reserves the right to award the contract term of any awarded program for up to three years for any state-funded activity and up to five years for any federally-funded activity based on the availability of funds. The Riverside County Board of Supervisors shall approve any additional funding required for the extended term. All Procurements shall be conducted in a fair and equitable manner in full compliance with all applicable authority.

The Agency and/or Subrecipients shall not award funds to any contractor that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. The most current "List of Parties Excluded from Federal Procurement or Nonprocurement Program" can be obtained from the General Services Administration directly or from the [System for Award Management \(SAM\)](#).

The Agency shall make every effort to award a fair share of contracts to small and minority business firms, women's enterprises and procure goods and services from labor surplus area firms. Preference will be given in Procurement programs to the purchase of specific products containing recovered materials identified in guidelines developed by the Environmental Protection Agency (EPA).

All announcements of the awarding of contracts with an aggregate value of \$500,000 or more shall specify the amount of federal funds that will be used to finance the acquisition.

I. CONFLICT OF INTEREST AND CODE OF CONDUCT

An employee, officer, or agent shall not participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. A conflict would arise when the employee, officer, 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 above has a financial or other interest in the firm or firms that may be selected for award.

An employee, officer, or agent will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Exceptions are only when the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value.

Any employee, officer or agent with a real or apparent conflict must declare a conflict, remove themselves from the decision making process and document their actions. No person involved in a competitive procurement will divulge any information regarding the procurement prior to the release of the procurement documents. To the extent permitted by state, local law or regulations, any violations of these standards by employees, officers, agents, by contractors or their agents may result in penalties, sanctions, or other disciplinary actions.

II. METHODS OF PROCUREMENT

The following procurement methods are the most commonly used by the Agency and shall be adopted by all Subrecipients when purchasing any goods or services required for the performance of any grant authorized activities.

A. PROCUREMENT BY SMALL PURCHASE

Small purchase means the procurement of goods or services that are less than \$24,999 in the aggregate.

Micro Purchases less than \$1,000:

Purchases for less than \$1,000 must be reasonable, conducted in accordance with good business practices and require at least two bids (written or verbal) prior to purchase.

Small Purchases between \$1,000 and \$2,499:

If the dollar range of the purchase is between \$1,000 and \$2,499, then the following is required:

- A minimum of three (3) bids obtained via telephone quotes, facsimile or informal written bids are required prior to purchase.
- A justification of why the lowest bid was not used must be included with the three (3) bids.

Small Purchases between \$2,500 and \$24,999:

If the dollar range of the purchase is between \$2,500 and \$24,999, then the following is required:

- A minimum of three (3) formal (written quotes on the Vendor's letterhead) bids are required prior to purchase.
- A justification of why the lowest bid was not used must be included with the three (3) formal bids.

All Equipment (tangible, nonexpendable, personal property, including purchase, rent, license, maintain, or subscribe to information-technology applications/software/services with a (per-unit single or cumulative cost) totaling \$5,000 or more within a twelve-month period, and charge any of the cost to the WIOA grant purchases must be submitted to the Agency contract representative for approval prior to purchase. The Agency will determine if the request must be submitted to the regulating authority and will notify the requestor in writing within ten (10) days. If the item can be purchased without this approval, the Agency will issue approval to the requestor within ten (10) days of receipt of the required documentation. For the purchase of equipment, a determination must be made and documented that the purchase of the equipment is more cost effective than leasing.

If an emergency precludes delay of obtaining bids (e.g. A flood at a center or the safety of a client requires the immediate acquisition of services), documentation of the action taken and the reasons for the action must be documented and forwarded to the Agency within 48 hours.

B. COMPETITIVE PROCUREMENTS

Any desired goods or services whose value is \$25,000 or more either per item or per transaction (i.e. one invoice or contract) must be procured using a publicly advertised formal process and allow an adequate response time for bidders to ensure fair and open competition. The following types of competitive procurements may be used:

Requests for Quotation (RFQ) are used whenever the County can specify with certainty the performance, functional or technical characteristics or the item or service needed. The bids are opened publicly and the award is generally to the lowest cost bidder meeting the minimum specifications as specified in the bid document and has the ability to fulfill the obligation. In order for this process to be used, four (4) conditions must be met. 1) A complete description and standard specification are established and can be made part of the solicitation; 2) The result expected from the procurement would be quotes based on a standard that will not vary between vendors; 3) There is reasonable assurance that a publicly advertised RFQ will result in at least two (2) vendors responding; and, 4) The selection will be made principally based on price.

Requests for Proposal (RFP) are used when there is reasonable expectation of more than one (1) bidder and where the lowest price is not necessarily the determining factor for award, and either a fixed-price or cost-reimbursement agreement will be awarded. The RFP method is appropriate when the agency seeking goods or services is looking for a variety of methods that may be employed to achieve the results.

Request for Proposals allow departments to utilize a weighted point method as a quantitative tool to assign different levels of importance (weights) to various factors. The RFP must contain the specifications for the proposed goods or services and must identify all the evaluation factors and their relative importance or weight in selection of successful bidders. The factors should include, but are not limited to the following:

- Technical Specifications (equipment) / Performance Outcomes (Services)
- Applicable Experience/Performance History
- References

- Overall Responsiveness to the Requirements of the RFP
- Managerial and Financial Stability
- Cost/Price Analysis

Failed Competition The Agency has determined that Competitive Procurement has occurred when at least two (2) proposals are received in response to any Procurement. If less than two (2) responsive proposals are received, then the competitive process has not been fulfilled (failed). The Agency reserves the option to either reissue the Procurement or enter into a non-competitive procurement. The sole-source Procurement will follow the standards of non-competitive procurements as outlined under Section C.

C. NON-COMPETITIVE PROCUREMENTS

Non-competitive Procurements are allowable, but they are considered a “last resort” option and only used when there is documented rationale for selecting this method of procurement. Grantees and their Subrecipients should exercise caution when using non-competitive Procurements.

Single Source A purchase of a commodity or service without obtaining competitive bids although more than one source is available.

Sole Source A purchase of a commodity or service that is noncompetitive in price, specifications, use, or scope of work. The commodity or service is proprietary and no other vendor is qualified or willing to meet the County’s specified requirements.

If a non-competitive procurement is used, the following requirements apply:

- The award is infeasible under one (1) of the methods discussed in Sections II. A. or II. B., *and* one (1) of the following conditions apply;
- The item is available from only one (1) source;
- Public emergency precludes delay (for example, a flood at the local day care center requires the immediate acquisition of additional services);
- The awarding agency authorizes the specific, non-competitive Procurement (upon a formal request for approval); *or*
- Competition is determined inadequate. This usually occurs after a competitive process has been used, and there are insufficient bidders (fewer than three).

III. RISK EVALUATION PRIOR TO AWARD

Prior to making an award under WIOA the awarding agency is required by United States Code (U.S.C.), 2006 Edition, Supplement 5, Title 31-Money and Finance, Section 3321 and U.S.C., 2013 Edition, Title 41-Public Contracts Miscellaneous, Section 2313 to review information available through OMB-designated repositories of governmentwide eligibility qualification or financial Awardee Performance and Integrity Information System (FAPIIS), Dun and Bradstreet, and “Do Not Pay” and the System for Award Management to review any possible suspension and debarment (2CFR Part 180).

In addition, for competitive grants or cooperative agreements, the awarding agency must have a framework in place to evaluate the risk posed by bidder before receiving WIOA awards.

In evaluating risks posed by bidders, the agency will use the following factors to determine risk:

1. Financial stability
2. Quality of management systems and ability to meet the management standards
3. History of performance (applicants record in managing federal awards, and if it is a prior recipient of Federal awards)
4. Timeliness of compliance with applicable reporting requirements
5. Conformance to terms and conditions of previous awards (and if applicable, , the extent to which any previously awarded amounts will be expended prior to future awards)
6. Reports and findings from audits (ability to resolve audit findings)
7. Bidder's ability to effectively implement statutory, regulator, or other requirements imposed by the agency.
8. Bidder's ability to comply with governmentwide suspension and debarment (2 CFR Part 180)

IV. LEASE VERSUS PURCHASE

Where appropriate, an analysis of lease versus purchase alternatives will determine the most economical approach and avoid acquisition of unnecessary or duplicative items. The decision to rent or purchase may be determined based on the funds available and the most cost effective method. Although leasing equipment with an option to buy is generally preferable to straight leasing, leasing is the only option with regard to real property since purchase or construction of real property is not allowed under the WIOA program.

V. CONTRACT COST AND PRICE

A cost or price analysis must be conducted in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, an independent estimate must be made before receiving bids or proposals. A cost analysis must be performed when the bidder is required to submit the elements of an estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or project change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

Profit must be negotiated 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. Please refer to Policy 18-03 for profit determination and allowance.

VI. CERTIFICATIONS

All vendors awarded contracts will be required to provide various assurances and certifications based on the goods or services to be supplied. Any required certifications should be included in RFP documents to ensure that Bidders are aware of terms and conditions applicable to the use of WIOA funds.

VII. PROCUREMENT GRIEVANCE AND APPEALS

The procurement grievance and appeals procedure is **limited** to Service Provider complaints or grievances relating to the rejection of a proposal submitted in response to a formal solicitation.

Filing

Any participating bidder may file a protest or appeal of a contract award or proposed contract award. The protest or appeal must be made in writing within five (5) business days of award notification and EDA shall issue a written decision within sixty (60) days of when the protest or appeal was filed. The filing must contain at least the following information:

- Date of appeal
- The name, address and telephone number of the protester
- The signature of the protester
- The bid name and date of bid closing
- A statement of the legal and/or factual grounds on which the protest or appeal is based, including copies of information relevant to the bid

Protests or appeals may be delivered in person or via courier to the following address:

Procurement Administrator
(Insert Procurement Bid Name)
Attn: GRIEVANCE AND APPEALS
Workforce Development Division
1325 Spruce Street, Suite 500
Riverside, CA 92507

The envelope should be clearly marked, "NOTICE OF APPEAL." Any personally delivered documents must be date stamped by EDA staff. The Director of Workforce Development, or designee, will respond within ten (10) business days after the protest or appeal has been filed.

Riverside County offers two levels of resolution in which the parties may resolve the issue as follows:

- **Level I APPEALS – Informal Resolution Efforts**
Either party may initiate efforts for informal resolution of the appeal at any time prior to a hearing. Efforts to resolve the grievance prior to a hearing are encouraged as this procedure is expedited to resolve problems in the most immediate manner possible. These efforts may take place in a meeting, by telephone, by correspondence, or any other method agreed to by the parties. Neither party will withhold information or proof from the other party in the informal resolution efforts.

In the event that the complainant refuses to cooperate in a timely manner, the complainant's

notice of appeal will be terminated, and the complainant will be forever barred from raising the grievance. Lack of communication in excess of ten (10) business days shall be deemed as refusal to cooperate.

Should informal resolution efforts result in a decision acceptable to both parties, the complainant shall provide a written withdrawal of the complaint. All recommendations for the current Procurement will be forwarded to the WDB Executive Committee for final approval.

- **Level II APPEALS – Hearing**

If the appeal cannot be resolved through informal resolution efforts, a hearing will be conducted at the local level within thirty (30) calendar days of filing the appeal. The complainant will be notified of the hearing details ten (10) business days prior to the hearing. The complainant will be allowed to reschedule once, however it will be permitted only if the request is made 72 hours prior to the scheduled hearing date and only if the original hearing officers' schedule permits. It is expected the complainant be prepared to present its case at any time.

The hearing will be conducted in an informal manner by an impartial hearing officer appointed by EDA with each side having the right to present its testimony, witnesses, relevant records and documents, and to be represented. The hearing is to be completed within sixty (60) calendar days of the filing of the appeal; proceedings will be electronically or stenographically recorded, and are a matter of public record. If a decision has not been met within sixty (60) calendar days at the local level, the bidder has the right to file an appeal with the state.

- **State-Level Informal Resolution and Hearing Procedures**

Please refer to EDD Directive WSD08-4, Section III.

A complainant must exhaust all administrative remedies with EDA before pursuing a protest at a higher level.

Decisions

EDA will forward the decision of the hearing officer to the Workforce Development Board's (WDB) Executive Committee for review and approval. Within three (3) business days of the decisions approval, the complainant will be notified in writing of the decision of the WDB Executive Committee.

Consolidation of Grievances

The complainant's failure to raise all concurrent issues in the initial Notice of Appeal will forever waive the complainant's right to appeal those issues. If the complainant receives notices or decisions from EDA at different times, it may file separate Notices of Appeal. If separate notices are filed, EDA has the right to combine the grievances into one hearing if they all involve Procurement issues that need to be resolved in an expedited fashion. If agreed to by both parties, the schedule applicable to the first appeal will be used.

Questions and Subsequent Communications

Once the complainant has submitted a Notice of Appeal, all questions regarding interpretations of this procedure should be directed to the Procurement Administrator.

Such inquiries and responses should be in writing, delivered in person, mailed, or by facsimile at (951) 955-0808. The Procurement Administrator may delegate the authority to receive questions and to respond when such delegation would aid in the expediting of the procedure.

VIII. DOCUMENTATION

Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three (3) years from the date of submission of the quarterly or annual financial report, as authorized by the federal awarding agency.

PROCEDURES:

Refer to Knowledge Management on the WDC Intranet site for procedures related to this policy.

REVISION HISTORY:

Revision Dates:	04/27/16
	08/25/15
	12/10/12
Original Policy Date:	01/01/03



Loren Sims, Administration Manager