



## Administrative Policy #1018 Procurement Policy

Date Issued: 07/01/2015 Date Effective: 07/01/2015 Date of Last Revision: 01/11/2019

### I. Purpose

This policy communicates West Central Job Partnership (WCJP) methods for the procurement of goods and services obtained with Workforce Innovation & Opportunity Act (WIOA) funds and sets forth the requirements provided by the Office of Management and Budget (OMB) [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule \(2 CFR 200\)](#).

### II. Background

[WIOA](#) Section 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 shall 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 \(2 CFR 200\)](#) supersedes and streamlines requirements requirement from OMB Circulars [A-21](#), [A-87](#), [A-110](#), [A-122](#), [A-89](#), [A-102](#), [A-133](#) and the guidance in Circular [A-50](#) on Single Audit Act follow up. [2 CFR 200](#), also referred to as the “Super Circular”, consolidates the guidance previously contained in the above OMB Circulars into a streamlined format that aims to improve both the clarity and accessibility of the guidance.

Funding distributed *prior* to the effective date of 2 CFR 200 (December 26, 2014) still follow fiscal policies and OMB Circulars A-87, A-110, A-122, and A-133. Any funding awarded *after* December 26, 2014 must comply with the rules and regulations found in 2 CFR 200.

As dictated in [2 CFR 200.110](#), procurement standards in 200.317-200.326, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance for two additional fiscal years after this part goes into effect (June 30, 2016).

### III. Definitions

### IV. Roles and Responsibilities

WCJP will coordinate with all the programs of the Higher Education ACT (HEA) to avoid double billing and duplication of Federal funds. WCJP will list all available HEA funds on the contracts entered into with the training providers. This information will also be listed on the participant's IEP because PELL grants may now be used for applicable living expenses. By completing these linkages, the Grant Recipient will ensure, to the extent possible, that Federal, State and local resources will be coordinated sufficiently to meet the training and educational-related costs of services.

The Grant Recipient will determine the ability of a provider to perform successfully under the terms and conditions of the contract by examining:

- ~ the provider's past performance in achieving planned program goals;
- ~ the likelihood of meeting performance goals;
- ~ the ability to meet the program design specifications;
- ~ the quality of training;
- ~ the provider's ability to arrange supportive services;
- ~ the fiscal controls and accounting of state and federal funds in previous programs; and
- ~ the provider's ability to achieve competency standards for participants.

WCJP has used and will continue to use the following service providers: community colleges, private colleges and universities, members of the State System of Higher Education, community based organizations, private sector organizations, and organized labor organizations.

The Grant Recipient's procurement system has been developed to promote fair and open competition among providers. WCJP may utilize any one of the procurement methods including: micro-purchasing, small purchase procedures, competitive proposals and noncompetitive proposals. The GR will use the RFP procedure for the procurement of most youth training programs over \$150,000. However, the majority of classroom training, through ITAs is performed on an individual basis.

### **Micro-Purchase and Small Purchase Procedures**

Micro-purchase is a purchase of supplies or services using simplified acquisition procedures which does not exceed the micro-purchase threshold of \$3,000 set by the Federal Acquisition Regulation. The micro-purchase threshold is periodically adjusted for inflation and WCJP will comply with that published amount.

Small purchase procedures will be used for the majority of procurement actions of the Grant Recipient. This procedure will be used to secure goods and services that cost between \$3,001 and \$150,000 in the aggregate. The GR will use the following procedures for procurement of this type.

1. All small purchases (except petty cash purchases) must be approved by the CFO of West Central Job Partnership or his designated representative.
2. A purchase order must be completed for every purchase made over \$200.00 for a single item or group of similar/like items.
3. A service, item, or group of similar/like items on an individual purchase order of more than \$1,000 but less than \$3,000 requires three telephone quotes. Purchases over \$3,000 but less than \$150,000 require three written bids. Bids may be obtained by telephone and confirmed in writing.
4. WCJP reserves the right to reject any and all quotes for not meeting specifications, quality, or service requested.

### **Purchasing Supplies & Receipt of Goods**

Supplies are purchased once per month unless there is an immediate need.

Signed supply requisitions are sent via interoffice mail or e-mail from the LCCL and MCCL to the Administrative Assistant. These requisitions may come from the CareerLink Program Coordinator (CPC) or the Lead Employment Training Specialist (LETS).

The Administrative Assistant completes supply requisitions for both PA CareerLink® centers and the Administrative office. These forms specify:

- The quantity of each item being ordered
- The item number
- The item description
- The location requesting the item (WCJP, LCCL, MCCL)
- What program or person requested the item

Upon completion, this form is emailed as an attachment to the Chief Financial Officer (CFO) for approval. Once approval is given by the CFO, the order will be placed by the Administrative Assistant. Orders placed for either LCCL or MCCL are shipped directly to the LETS at the PA CareerLink® while orders for the Admin office are shipped there to the attention of the Administrative Assistant.

After submitting orders, 2 copies of the order confirmation page, 2 copies of the supply requisition, and 2 copies of the CFO's approval are printed out. One copy of each form is submitted to the Finance Department. The second copy of each form, along with the original requisitions from the CareerLink® centers, are kept by the Administrative Assistant.

Upon delivery to the PA CareerLink®, orders are compared to the packing slip by the CPC or LETS. Once all items are verified the CPC or LETS initials and dates the packing slip and notes that all items were received. The packing slip is sent to the admin office for verification the order was received then given to finance to add to the original order as backup for the invoice.

Admin office deliveries are received by the Administrative Assistant, but a Finance Assistant will check the packing slip against the order. The Administrative Assistant is not permitted to check any orders they placed. The packing slip is given to finance to add to the original order as backup for the invoice.

### **Invitation for Bid (IFB)**

Invitation for Bid (IFB) will be used to procure services when the scope of the service can be satisfactorily described, and price is the only factor to be considered in the award. The IFB will include a complete description of the services required and all contractual terms and conditions applicable to the procurement.

All IFBs which involve the expenditure of funds in the amount of \$150,000 or more will be published in local newspapers in the Legal Notice section.

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB. The amount of each bid together with the contractor's name, address and any other relevant information shall be recorded.

Bids shall be evaluated based on the requirements and specifications stated in the IFB. The criteria affecting the bid price and considered in evaluation for award shall be objectively measurable. The IFB shall state the evaluation criteria to be used. IFBs reflecting the minimum participation level will be presumed responsible bids for the purpose of nondiscrimination.

**Correction or Withdrawal of Bids** - WCJP will carefully review and consider requests by bidders for correction or withdrawal of bids before or after bid opening to maintain the integrity of the

competitive bidding system to assure fairness and to avoid delays or poor contract performance. Circumstances which permit review and consideration for correction or withdrawal of bids include:

- Before Bid Opening - Upon receipt of written notification or by personal request of the contractor or authorized representative prior to the bid opening.
- After Bid Opening but Before Contract Evaluation - Contractors should not be permitted to correct or withdraw a bid after a bid opening. However, withdrawal of bids is permitted by written determination by the CFO when:
  - a.) the GR knows or has reason to know that an obvious error has been made.
  - b.) the contractor requests relief and presents credible evidence that the reason for the lower bid price was a clerical mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly on the compilation of the bid.

Award - The contract shall be awarded with reasonable promptness by written notice to the responsible contractor submitting the lowest bid price and meeting the requirements and criteria of the IFB.

Cancellation of Invitations Before Opening - The GR may cancel IFB by returning all unopened bids to the contractors and issue a notice of cancellation to all contractors to whom IFBs were issued.

### Competitive Proposal Procedure (RFP)

Competitive Proposal Procedures will be used when the GR anticipates numerous sources will be submitting an offer for either a fixed-price or cost-reimbursement contract. The GR would use this type of procurement for services with a more detailed work statement.

The CFO reviews all proposals, bids and negotiated letters of agreement. The Workforce Development Board or subcommittee there of (including Youth Standing Committee) may review and rate the proposals and makes a recommendation to the WDB for selection. The WDB ultimately approves the contractors and/or service providers. The WDB has the right to refuse the recommendation made by the subcommittee. The CFO has the authority to execute, modify and terminate all contracts.

The RFP issued by the GR will consist of a title page; table of contents; time, date and place of the pre-proposal conference, if applicable; general information about the contractor; information required from contractors; criteria for selection; work statement; closing time and date; name and telephone number of the RFP contact person; and an appendix.

Requests for proposals will be advertised in local newspapers at least twice within one week. When applicable, individual businesses, schools, community organizations, and professional groups will be sent a copy of the RFP notifying them of the request. Prior to advertisement, the RFP may be announced at the quarterly WDB meetings.

Request for proposal distribution lists are maintained and updated to insure maximum distribution of RFPs to promote fair and open competition. The notice of RFP shall be distributed to all offerors

and the agency mailing list and to all who request the solicitation by mail or by phone. A computerized RFP data base will be maintained for future mailings.

Where RFP procurement may be complex or there is a possibility of uncertainty in interpreting the RFP, a pre-proposal conference will be held. The meeting will brief all potential offerors regarding the objectives of the solicitation and the format for responses.

RFPs shall be time and date stamped as they are received by the GR. The CFO or his designated representative will retain all RFPs until they are ready to be reviewed by the RFP subcommittee of WDB or Youth Standing Committee.

All proposals will be evaluated and rated according to the evaluation criteria listed on the RFP rating sheet. The proposal rated the highest will be recommended for WDB approval by the RFP subcommittee; however, WDB reserves the right to refuse any proposal regardless of cumulative points received or price proposed. WDB members may refute or discuss with the committee non-agreement with the selection.

Any appeals or protests of selection of a service provider must be filed with the CFO of the GR. The agency must appeal within 10 days of the contract award for the appeal to be valid. The CFO mandates final judgment on an appeal.

Priority may be given to providers whose public mandate is the service solicited and have provided the service to the GR successfully and can demonstrate capability.

Service providers will be subject to monitoring reviews and will be subject to the GR sanction policy outlined in Oversight and Monitoring. In addition, any outstanding audit exception must be finalized before the GR will award another project or continuation of a current project.

The GR will not contract with any service provider which has been debarred or suspended or is in any other way ineligible for participation in Federal assistance programs in accordance with the Department of Labor regulations at [29 CFR part 98](#).

Individual Training Accounts, which utilizes off-the-shelf training packages at higher educational institutions will be considered contractor services and will not be subject to service provider selection.

WCJP contracts with accredited institutions that have documented success in educating/training individuals. All training contracts written by the agency for services shall be cost reimbursement or tuition-based depending upon the type of service being provided. Presently, WCJP does not enter performance-based contracts. If in the future the agency enters into performance-based contracts, all DOL, OMB and WIOA guidelines will be adhered to.

## Noncompetitive Proposal Procedure (Sole Source)

Non-Competitive Proposal Procedures will be used by the GR when the other three methods are not an applicable procurement option. The decision to use sole source procurement will be in writing and rest entirely with the CFO of the GR and may not be delegated. Sole source procurement may be used by the GR when one or more of the following conditions exist:

1. Only a single contractor is capable of providing the service.
2. A state or federal statute or regulation exempts the service from competitive procedures.
3. Enrollment of individual participants in classroom training.
4. It is clearly not feasible to award the contract on a competitive basis.
5. The service is an OJT activity.
6. The services are to be provided by expert witnesses.

Sole source justification may include, but is not limited to, the following pertinent items:

1. If timing is a factor supporting sole source procurement explain:
  - a. who established the time frame and the logic used;
  - b. possible specific consequences of altering the time frame; and
  - c. how long WCJP has known that work must be performed and why the contract process was not started earlier
2. Describe specific efforts taken to locate other contractors. Statements such as “contacted several contractors and no one is interested” are not acceptable. If individuals are contacted, show names and telephone numbers of persons contacted.
3. If the sole source situation results from a lack of response to a former competitive effort, describe the follow-up efforts and the reasons for the lack of response. Also explain why further advertising is not possible.
4. Identify previous contracts between the agency and the contractor during the past three years. For each contract, show beginning and ending date, contract number, amount of the contract, and whether the contract was awarded competitively or on a sole source basis.
5. Identify and attach a copy of the specific section of the published document or statute that exempts the service from competitive bidding.
6. It is most unusual when a sole source award can be justified on the basis that only a single contractor is capable of providing the service. While agency personnel may only be aware of a single contractor, there are many sources of information that can be used to identify contractors. The following is a partial listing:
  - a. agency procurement and contracts personnel
  - b. contract compliance officers
  - c. other state agencies with similar needs
  - d. state licensing agencies
  - e. federal program coordinators
  - f. professional organizations
  - g. classified sections of telephone directories

Upon receipt of the sole source justification, the Program Director may proceed to negotiate and/or prepare the contract. The sole source justification will be attached to the fully executed contract.

The GR shall ensure that no individual in a decision making capacity including WDB members shall engage in any activity, including participation in the selection, award, or administration of

subaward or contract supported by WIOA/HHS funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when an individual, any member of an individual's family, an individual's partner or organization which employs, or is about to employ, any of the preceding, has a financial or other interest in the firm or organization selected for the award.

The officers, employees or agents of the agency making the award will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Unsolicited gifts not of substantial or nominal intrinsic value will be permitted.

In addition, WDB members shall not cast a vote on, nor participate in any decision making capacity on the provision of services by such member (or any organization that member directly represents), nor on any matter which would provide any direct financial benefit to that member. This written code of standards can be found in the West Central Job Partnership employee personnel policy and the WDB and Governing Board By-Laws.

The GR shall perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, the awarding agency shall make independent estimates before receiving bids or proposals. The GR will perform a cost analysis when the offerors is required to submit the elements of the estimated cost, when adequate price competition is lacking, and for sole source procurements, including contract modifications or 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. The offerors shall certify that to the best of its knowledge and belief, the cost data are accurate, complete, and current at the time of agreement on price. Contracts or modifications negotiated in reliance on such data should provide the GR a right to a price adjustment to exclude any significant sum by which the price was increased because the contractor had submitted data that were not accurate, complete, or current as certified. A price analysis shall be used in all other instances to determine that reasonableness of the proposed contract price.

West Central Job Partnership shall not permit excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities). If profit or program income is included in the price, WCJP shall negotiate profit or program income 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. To establish a fair and reasonable profit or program income, consideration shall be given to: 1) The complexity of the work to be performed; 2) The risk borne by the contractor; 3) The contractor's investment; 4) The amount of subcontracting; 5) The quality of the contractor's record of past performance; 6) Industry profit rates in the surrounding geographical area for similar work; and 7) Market conditions in the surrounding geographical area.

The GR does not mandate payment of the tuition by the participant; however, for new participants enrolled after July 1, 2015 the GR will provide funding up to \$8,000 per enrollment. WCJP funding will be reduced by Pell, PHEAA, SEOG and any other grants or scholarships, including costs covered by the Department of Health and Human Services. Up to one half of the PELL grant may be

permitted to be kept by the client to go toward paying housing, meals and extraordinary transportation and child care costs if not covered by any other payment. Therefore the formula for skill training is:

Cost of Total Training.....\$  
Less PELL Grant.....\$  
Less PHEAA Grant.....\$  
Less all other Grants.....\$  
Less payment from HHS.....\$  
Plus PELL used for support....\$  
  
Equals GR Payment.....\$

If the participant chooses to attend training in excess of the \$8,000 formula above he/she will affirm by signature that they agree to be responsible for the remaining costs and they may use any other funds at their disposal such as minority grants, scholarships, GI Bill, etc, for this purpose. The GR reserves the right to waive the capped amount for those participants pursuing training in a demand occupation or for females pursuing nontraditional training. The demand occupations must be rated "A" or better. Students who have defaulted on prior government loans will not be enrolled into classroom training. They may be served in OJT, job search or other non-formal training programs.

Applicants who have already attained a Bachelor or Associate degree may not pursue another degree and will be restricted to any training program of less than one year duration unless their original degree is no longer relevant in the labor market. Students applying in the midst of their current enrollment in education and who have less than two years remaining may qualify for assistance if their cumulative QPA is 2.5 (on a 4.0 scale) or more. A complete transcript must be submitted and the student cannot convert a prior associate degree for this purpose to continue to a Bachelor Degree.

Any requested training not on the demand list must be for relocation purposes to an area of identified demand for that occupation and the student must conduct research to show the demand exists.

The GR reserves the right to redline any occupational area on the demand list if prior placement for the occupation falls below 50% for any school/site.

**Procurement Using the Approved List of Training Providers for ITAs -**

With the implementation of the Workforce Innovation and Opportunity Act of 2014, Adults, Dislocated Workers and Older Youth may be eligible for an ITA or Individual Training Account. Eligible WIOA clients who have received a career service may be enrolled at a training facility whose program is listed on the State Approved List of Training Vendors. WCJP will fund a maximum of \$8,000 towards tuition and fees over the duration of training which must not exceed two years in length. Please review the ITA Policy for more details.

**Procurement – Conflict of Interest**

The Local Elected Officials, WDB Members, WCJP staff, agents or volunteers will not participate in the selection, award or administration of a contract if a real or apparent conflict of interest would

be involved. Such a conflict would arise when that person or any member of his or her immediate family has a financial or other interest in the firm selected for the award. Fiscal Agent staff will complete a Conflict of Interest Form. Repercussions for violating the Conflict of Interest Code will be determined by the severity and intent of the infraction and will follow the discipline procedures outlined in the WCJP Personnel Policy.

**V. Appendices (if applicable)**

Appendix A: Operator Procurement

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### Selection of One-Stop Operator

The Local WDB, with the agreement of the Chief Elected Official, is authorized to designate or certify one-stop operators procured competitively and to terminate for cause the eligibility of such operators. To be eligible to receive funds made available under WIOA to operate a one-stop center, an entity:

1. Shall be designated or certified as a one-stop operator through a competitive process; and
2. Shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities, that, at a minimum, includes 3 or more of the one-stop partners described in [20 CFR §678.400](#), of demonstrated effectiveness, located within the local area.

West Central will ensure that in carrying out activities under this title, one-stop operators:

1. Disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;
2. Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services; and
3. Comply with Federal regulations, and procurement policies, relating to the calculation and use of profits.

The local WDB will select the one-stop operator through a competitive process, as required by sec. 121(d)(2)(A) of WIOA, at least once every four (4) years. This process will be conducted using a competitive process based on the local procurement process and procedures, principles of competitive procurement in the Uniform Guidance ([2 CFR 200.318 through 200.326](#)), procurement requirements as stated in the [PA DOL's Financial Management Guide \(Draft, 2017\)](#), and [Workforce System Policy No. 121-04 \(Local Workforce Delivery System – PA CareerLink® System Operator, February 27, 2017\)](#).