

NCI WORKS PROCUREMENT POLICIES

GENERAL POLICY

All procurement transactions by or on behalf of Northwest Central Illinois Works, herein after referred to as NCI Works, shall be conducted in a manner that provides the maximum extent possible, for open and free competition. Policies and procedures governing procurement shall ensure that goods and services are obtained in an effective and efficient manner, consistent with the provision of applicable federal, state, and local laws, rules and regulations.

CODE OF CONDUCT

This code of conduct is intended to set forth certain standards governing conflicts of interests by NCI Works officers, board members, affiliate partner agencies, employees should the board ever hire any such individuals, or authorized agents of NCI Works engaged in the award and administration of contracts supported by federal funds. These standards are designed to protect these individuals from accusations and/or implications of official misconduct, unethical behavior and conflict of interest, either real or perceived. NCI Works will maintain compliance with WIOA Joint Final Rules 678.600(e), including all subsections, and Uniform Guidance 2 CFR 200.318 – 326.

Except as otherwise permitted or provided by federal, state, or local laws, rules and regulations, the following provisions shall apply:

No NCI Works officer, board member, affiliate partner agency, employee should the board ever hire any such individual, or authorized agents of NCI Works may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or 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 parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity

Prior to a discussion, vote, or decision on any matter before a Board, if a member, or a person in the immediate family of such member, has a substantial interest or relationship to a business entity, organization or property that would be monetarily affected as the result of any official Board action, that member shall disclose the nature and extent of the interest or relationship and shall abstain from voting on or in any other way participating in the decisions of the matter. All such abstentions shall be recorded in the minutes of the Board meeting.

Substantial interest is defined as any person who owns 10% or more of the voting stock, owns 10% or more or owns \$5,000 or more, of the fair market value of a business; or if funds received by the person from the business exceed 10% of the person's gross income from the previous year; or if the Board member is related to a person in the first degree of affinity or consanguinity who has a substantial interest as defined.

NCI Works officers, board members, affiliate partner agencies, employees should the board ever hire any such individuals, or authorized agents of NCI Works will be provided with a Code of Conduct/Compliance pamphlet upon appointment to the board, or hired or otherwise engage by the board. Furthermore, s/he attests to the following on the Appointment/Re-Appointment Form required by the State of Illinois: that s/he will publicly disclose any conflict of interest whether real or apparent prior to discussion on a matter regarding provision of services by him/herself or an entity that s/he represents, or that would provide direct financial benefit to him/herself or a member of his/her immediate family, and that s/he shall abstain from voting on such matters.

PROCUREMENT AUTHORITY/DELEGATION OF RESPONSIBILITY

The Executive Director has the authority to approve single purchases up to \$5,000 following this procurement and purchasing policy, with notification to NCI Works at the next regularly-scheduled meeting, and providing this purchase is included in the Board's approved budget. Notification shall include the amount of the purchase, and the documented results of the procurement process. Any single purchase over \$5,000 must be approved by the NCI Works in advance, and in accordance with these procurement policies and procedures. The Executive Director is authorized to sign all contract transactions, unless otherwise required by federal or state authority.

If an emergency purchase is necessary in order to conduct normal business, procurement policies and procedures must be followed and the NCI Works Executive Committee/NCI Works! Board and the Corporate Board shall be notified in writing and approved at the full Corporate Board and NCI Works! Board at their regularly-scheduled meeting. The Executive Director is authorized to sign all contract transactions, unless otherwise required by federal or state authority.

MAINTENANCE OF A BIDDER'S LIST

A "bidder's list", containing the names and addresses of potential service providers that have made a written request to be placed on such a list, shall be maintained.

Solicitation invitations and Requests for Proposal/Quotes packages shall be sent to all potential service providers on the bidder's list, as appropriate, according to the type of goods and services being sought.

Every effort will be made to utilize small business and women and minority-owned sources of goods and services.

COMPETITION

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals/quotes must be excluded from competing for such procurements.

METHODS OF PROCUREMENT

Procurement shall be made by one of the following methods described below:

Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (Per §200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. The threshold for micro-purchases is \$3,000.

Procurement by small purchases, consultant or professional services - Relates to the procurement of services, supplies, or equipment (which are exempt from other procurement requirements) costing in the aggregate of \$25,000 or less.

- a. Purchases under \$500.00 do not require quotes from vendors.
- b. Purchases between \$500 and \$1000 require three oral quotes to be documented on a request for quote form. If three vendors are not available, this should be documented. A Purchase Order is required on equipment purchases of \$500.00 or more.
- c. Purchases for equipment and services over \$1000 will require three written quotes unless sole source justification is provided. Equipment over \$5000 must have prior DCEO approval. Items that are available as a result of federal, state or local government procurement procedures can be purchased without three quotes.
- d. For services over \$25,000, a Request for Proposal is required. Items that are available as a result of federal, state or local government bidding procedures can be purchased without three bids.

A Small Procurement Solicitation Form must be completed for small purchases/procurement. The form requires listing the material, goods or services; quantity; names of vendors; date contacted; person spoken to; price quote; explanation of service and notification method & date of acceptance or refusal; vendor selected and reason for selection. Final cost must be reasonable and necessary. Selection is not necessarily based on final cost alone. The quality of goods and services is also taken into consideration and also what a prudent person would purchase under similar circumstances. The Solicitation Form also requires the signature of procurer and Director along with the date.

Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in (1) below apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) 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.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. Invitations for the solicitation of proposal, with complete Request for Proposal (RFP) packages shall be sent to potential service providers contained on the established bidder's list, as appropriate according to the type of goods and services to be procured. Notice of solicitation of RFP's may also be published in local newspapers, and posted on the NCI Works and/or an affiliated partner's website(s). If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

NCI Works and/or an appropriate committee, shall review all proposals received in response to the solicitation when feasible. Copies of the proposals and recommendations shall be given to NCI Works or the appropriate committee for action. Because the NCI Works by-laws allow the Executive Committee to act on behalf of the full board, this function may also be performed by that committee when needed. Any decision made by a committee, including the Executive Committee, will be approved or ratified by the full board at its next regularly-scheduled meeting.

All selected bidders may be required to participate in negotiations prior to the award of any contract or agreement. Final approval of the selected bidder shall be contingent upon the satisfactory completion of negotiations and the continued availability of funding.

It is recognized that there will be times when a review of the proposals by the Board or appropriate committee is not feasible for expediency or other reasons. In these cases, the Board or appropriate Committee will be provided with a summary of each proposal, the rating sheets that have been completed, and a detailed explanation for the recommended bidder.

Unsuccessful bidders shall be notified in writing, within thirty days of the final decision.

Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

CONTRACTING WITH SMALL AND MINORITY BUSINEESES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

CONTRACT COST AND PRICE

a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit 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, consideration must be given to the

complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

BONDING REQUIREMENTS

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

CONTRACT PROVISIONS

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

POLICIES SPECIFIC TO SELECTION OF THE ONE-STOP OPERATOR

Per Section 678.600(e) of the Joint Final Rules:

The State and NCI Works will ensure that, in carrying out WIOA programs and activities, 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 career and training services; and
- (3) Comply with Federal regulations and procurement policies relating to the calculation and use of profits Uniform Guidance at 2 CFR part 200, and other applicable regulations and policies.

Per Section 678.605 of the Joint Final Rules:

- (a) Consistent with paragraphs (b) and (c) of this section, NCI Works must select the one-stop operator through a competitive process, as required by sec.121(d)(2)(A) of WIOA, at least once every 4 years. A State may require, or a NCI Works may choose to implement, a competitive selection process more than once every 4 years.
- (b) In instances in which a State is conducting the competitive process described in paragraph (a) of this section, the State must follow the same policies and procedures it uses for procurement with non-Federal funds.
- (c) All other non-Federal entities, including subrecipients of a State (such as local areas), must use a competitive process based on local procurement policies and procedures and the principles of competitive procurement in the Uniform Guidance set out at 2 CFR 200.318 through 200.326. All references to “noncompetitive proposals” in the Uniform Guidance at 2 CFR 200.320(f) will be read as “sole source procurement” for the purposes of implementing this section.
- (d) Entities must prepare written documentation explaining the determination concerning the nature of the competitive process to be followed in selecting a one-stop operator.

Per Section 678.610 of the Joint Final Rules:

- (a) States may select a one-stop operator through sole source selection when allowed under the same policies and procedures used for competitive procurement with non-Federal funds, while other non-Federal entities including subrecipients of a State (such as local areas) may select a one-stop operator through sole selection when consistent with local procurement policies and procedures and the Uniform Guidance set out at 2 CFR 200.320.
- (b) In the event that sole source procurement is determined necessary and reasonable, in accordance with § 678.605(c), written documentation must be prepared and maintained, concerning the entire process of making such a selection.
- (c) Such sole source procurement must include appropriate conflict of interest policies and procedures. These policies and procedures must conform to the specifications in § 679.430 of this chapter for demonstrating internal controls and preventing conflict of interest.
- (d) NCI Works may be selected as a one-stop operator through sole source procurement only with agreement of the chief elected official in the local area and the Governor. NCI Works must establish sufficient conflict of interest policies and procedures and these policies and procedures must be approved by the Governor.

Per Section 678.615 of the Joint Final Rules:

(a) NCI Works may compete for and be selected as one-stop operators, as long as appropriate firewalls and conflict of interest policies and procedures are in place. These policies and procedures must conform to the specifications in § 679.430 of this chapter for demonstrating internal controls and preventing conflict of interest.

(b) State and local agencies may compete for and be selected as one-stop operators by the NCI Works, as long as appropriate firewalls and conflict of interest policies and procedures are in place. These policies and procedures must conform to the specifications in § 679.430 of this chapter for demonstrating internal controls and preventing conflict of interest.

Per Training and Employment Guidance Letter WIOA No. 15-16

The Executive Committee will address contractual and administrative issues arising out of the procurements, such as protests, appeals, and disputes.

Approved by the NCI Works Executive Committee January 23, 2018

Approved by the Chief Elected Officials February 26, 2018

Ratified by NCI Works March 20, 2018

Proposed Changes Presented to CEOs June 25, 2018

Proposed Changes Presented to NCI Works Executive Committee June 26, 2018