

Purchasing policies, standards, and procedures.

The Procurement Procedures for Man-Tra-Con may be found on the following pages.

Procurement Procedures

All procurement actions shall be conducted in a manner which complies with the provisions of 29CFR95.

Section 1: Background and Philosophy

Procurement System

General Observations

1. Procedures are in place to ensure that unnecessary or duplicative items or services are not purchased, to ensure that conflict of interest has been avoided, and to ensure that positive efforts have been made to utilize small business and minority-owned business sources for procurement.
2. All non-expendable property with a per unit purchase price of \$5,000 or more require written approval from DCEO.
3. All Man-Tra-Con's purchasing policies, standards, and procedures are in compliance with OMB Circular A-110, Attachment 0 and 29CFR95, and the Uniform Guidance.
4. Sole source awards for On-The-Job training participants may be made, provided that an employer- employee relationship exists and that the employer will provide training to enable the participant to perform as a regular employee of the employer's (or another employer's) establishment. Records of such awards are maintained.
5. All potential providers, who have expressed interest in being considered for awards, will be sent Requests for Proposals for the areas of service for which they wish to be considered when such awards are due to be made.
6. The procurement system for the selection of service providers will take into consideration past performance (e.g., entered employment rates, cost per placement, and ability to meet contract objectives) as well as other criteria as determined locally by the SIWDB.
7. Procurement is valid for one calendar year from date of procurement for items or services of the same type.

Introduction

A. Purpose

These procedures have been developed to assist in procuring goods and services under current legislative rules and regulations relating to Workforce Investment Opportunities Act.

The procedures and directions that shall be outlined in the following pages are intended to provide staff with guidance in determining the appropriate method of procurement to be used as well as procedures to follow in different procurement situations in order to be in compliance with all Federal and State laws, rules and regulations.

B *Statement of Philosophy*

All procurement activities shall allow for open and free competition among potential vendors for services. Awards for contracts are made to vendors who can provide services that are the most advantageous to Man-Tra-Con regarding service, price and other specific factors.

Additionally, the activities that occur during procurement procedures shall ensure for the open and competitive procurement of WIOA sub recipient agreements.

Finally, it must be understood that any and all services procured are the best available to meet the employment and training needs of eligible individuals that reside in LWIA 25.

Using the above mentioned points as a general guide, the following principles have been developed to further insure that equitable procurement policies shall be followed:

1. All procurement transactions will be conducted in a manner that provides maximum open and free competition. Procurement procedures will not restrict or eliminate competition or result in the restraint of trade.

Examples of what shall be considered to be restrictive of competition include, but are not limited to:

- placing unreasonable or different requirements on various firms in **order** for them to qualify for the same procurement
 - noncompetitive practices between firms
 - organizational conflicts of interest
 - unnecessary experience and bonding requirements (i.e., request for qualifications or experience that are not related to the services to be procured)
 - failing to allow providers who can provide an "equal" product to effectively compete with providers who can provide the "brand name" product
2. Solicitations of offers will incorporate a clear and accurate description of the technical requirements for the service to be procured. Such description will not, in competitive procurements, contain features which restrict competition. The description will include a statement of the qualitative nature of the service to be procured and set forth those standards to which the service shall conform in order to meet the program purpose. Solicitations of offers will clearly set forth all requirements which service providers must fulfill and all other factors to be used in evaluating proposals.
 3. Awards will be made only to service providers that demonstrate the ability to meet objectives of the proposed procurement. Examples of how the ability to meet the procurement objectives can be demonstrated include, but are not limited to:
 - financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project
 - resources to meet the completion schedule contained in the contract
 - a satisfactory performance record for completion of contracts
 - cost analysis of proposed budget
 - accounting and auditing procedures adequate to control property, funds and assets
 4. When possible, attempts will be made to procure with minority firms by placing all qualified small and minority businesses and women's business enterprises on the potential vendors list. Contractors will also be encouraged to take these affirmative steps.

CODE OF CONDUCT

Any officer, employee or agent of Man-Tra-Con who is either: (a) engaged in negotiations with a potential contractor; (b) has arrangements concerning prospective employment with a potential contractor; or, (c) has a financial interest in a potential contractor may not participate in the review, award of administration of a contract for a potential contractor.

Such relationships constitute a Conflict of Interest. This prohibition also extends to:

- a. an immediate family member of any officer, employer or agent of the grantee/sub grantee;
- b. a partner or organization who employs any officer, employee or agent of the grantee/sub grantee.

Additionally:

1. No SIWDB member shall participate in the selection or in the awarding of a contract if a conflict of interest is involved. This provision does not prohibit a community-based organization, educational agency, employer, or other service provider represented by a SIWDB member from receiving a subgrant for the provision of training and/or services to participants. However, when such a conflict of interest arises, SIWDB members must abstain from voting on the award and disclose all financial/non-financial information of the subgrant.
2. No employee, officer of agent of Man-Tra-Con shall participate in the selection, in the awarding, or administration of a contract if a conflict of interest exists.
3. No contract will be made with a SIWDB member performing administrative services. Administrative services may include, but not be limited to, consulting services, accounting services, etc.
4. No contract will be awarded to any SIWDB member or entity with which he/she is affiliated which results in direct personal gain to that SIWDB member.
5. Man-Tra-Con officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from service providers, potential service providers (i.e., persons who perform services of type contracted for), or parties to grants.

Section II: Methods of Procurement

The appropriate method used to procure goods or services is dependent upon the known or anticipated amount of the procurement. Procurement of services for less than \$35,000 is handled differently than procurement of \$35,000 or more. This section describes the solicitation procedures to follow for all procurement situations.

The staff member soliciting the goods or service shall perform a price or cost analysis for every unit price of \$1,000 or more. At a minimum, the independent cost estimate should be made before receiving bids or proposals. The method and degree of analysis needed is independent on the procurement situation. All cost analyses are to be documented and placed in a Procurement File.

There are four (4) methods under which goods and services may be procured. These methods are:

1. small procurement procedures
2. sealed bids
3. competitive proposals
4. noncompetitive proposals

a. Small Procurement Procedures:

Small procurement procedures are simple and informal procurement methods to procure goods and services which do not exceed \$35,000 in the aggregate with a single vendor during a fiscal year.

b. Sealed Bids

Sealed bids are used when the good or service can be procured on the basis of price. Bids are publicly solicited and a firm-fixed-price contract is awarded to the bidder who can provide the good or service in accordance with the specifications in the invitation for bids at the lowest price.

c. Competitive Proposals

Competitive proposals are solicited through requests for proposals (RFPs) and are used when it is not appropriate to use sealed bids. This occurs when other factors in addition to price influence the award decision. After a technical evaluation of all proposals submitted, a fixed-price or cost-reimbursement contract is awarded to the provider who submits the proposal most advantageous to the LWIA.

d. Noncompetitive Proposals

Noncompetitive proposals are used when procurement is not possible using the other three procurement methods and when one of the following situations exists:

1. the good or service is available from only one source;
2. there is a public exigency or emergency for the good or service;
3. DCEO authorizes noncompetitive proposals; or,
4. competition is inadequate after attempting other procurement methods.

Section III: Using Procurement Methods

This section of the manual deals with the selection of one of the four (4) procurement methods. Regulatory requirements, best practices and suggested documentation are also included for each of the methods discussed.

USING SMALL PROCUREMENT PROCEDURES

Regulatory Requirements

Price or rate quotations must be obtained from an adequate number of qualified sources.

When to use Small Procurement Procedures

Small purchase procedures are to be used when the good or service being procured will not cost more than \$35,000 in the aggregate with a single vendor during a fiscal year.

Best Practice Techniques

1. It is relatively easy to conclude that small purchase procedures are appropriate for one-time purchases under \$35,000 and difficult, however, to make this determination when the same goods or services costing under \$35,000 for the initial procurement may need to be purchased again in the future. As a result, the future need for the item being procured must be carefully considered at the time of the initial procurement.
2. It is recommended that a minimum of three bids be obtained for each small procurement purchase.
3. If possible and time allows, bids or quotes should be obtained in writing.

Suggested Documentation

Suggested documentation of this form of the procurement process includes:

1. a description of the item(s) being procured;
2. price or rate quotations documented and on file for each vendor from whom a price quote or bid was sought;
3. the date on which the price or rate quotation was provided by each potential vendor contacted;
4. the name of the selected vendor or provider;
5. the amount of the procurement; and,
6. the delivery date of the good or service.

USING SEALED BIDS

Regulatory Requirements

1. Publicly advertise an invitation for bids which identifies the good or service being procured.
2. Solicit bids from an adequate number of sources.
3. Document an attempt to identify and obtain three (3) bids.
4. Allow a minimum of ten (10) working days for bids to be submitted before the day scheduled for opening bids.
5. Publicly open all bids submitted at the time and place identified in the invitation for bids.
6. Award a firm-fixed -price contract to the lowest responsive and responsible bidder.
7. Document why any bids were rejected.

When to use Sealed Bids

Sealed bids may be used when the following conditions are met:

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.

Best Practice Techniques

1. Procurement by sealed bids is most appropriate when there is relatively no difference between the good or service offered by one vendor from that offered by another. Procurement by sealed bids is not appropriate when the procurement decision will be based on more than price (i.e., quality of the good or service, the experience of the vendor, etc.).
2. An accurate and detailed technical description of the good or service to be procured should be prepared.

Suggested Documentation

Suggested documentation of this procurement process includes:

1. evidence of public advertisements of the invitation for bids;
2. a description of steps taken to attempt to obtain three bids;
3. documentation supporting that bids were publicly opened at the time and place stated in the invitation for bids;
4. the name of each bidder and the amount of the bid; and,
5. documentation supporting the selection of the winning bid and rejection of any or all other bids.

USING COMPETITIVE PROPOSALS

Regulatory Requirements

1. Publicly advertise a request for proposal which identifies the good or service being procured and the proposal evaluation factors.
2. Solicit proposals from an adequate number of qualified sources.
3. Conduct technical evaluations of all proposals received using a standard method.
4. Award a contract to the firm submitting the proposal most advantageous to the program.

When to use Competitive Proposals

Procurement by competitive proposals should be used when the conditions for using sealed bids are not met.

Best Practice Techniques

1. It is often most appropriate to use procurement by competitive proposals when the procurement decision will be based on more than price and the cost of the good or service is expected to exceed \$35,000. Procurement by competitive proposals is also appropriate when you anticipate that a good or service expected to cost less than \$35,000 will need to be procured again from the same vendor during the same fiscal year and the aggregate amount of procurements is expected to exceed \$35,000.
2. The solicitation instrument must include:
 - a) an adequate description of the item to be procured;
 - b) a description of the quality standards for the item which must be met;
 - c) a description of all evaluation factors to be taken into account and the relative importance of each factor;
 - d) an indication of the date on which the decision will be made; and,
 - e) a complete description of the requirements that vendors must fulfill.

Suggested Documentation

Suggested documentation of this method of the procurement process includes:

1. documentation showing that an RFP was publicized;
2. the results of evaluations for all proposals received; and,
3. documentation showing the basis on which the award decision was made.

USING NONCOMPETITIVE PROPOSALS

REGULATORY REQUIREMENTS

Perform a cost analysis (i.e., verifying the proposed cost data, evaluating the elements of costs and profit).

When to use Noncompetitive Proposals

Procurement by noncompetitive proposals may be used only when procurement is not feasible using any other procurement method. In addition, one of the following situations must exist:

1. the good or service is available only from one source;
2. the public exigency or emergency for the good or service will not permit a delay resulting from competitive solicitation;
3. competition is determined inadequate after a number of sources have been solicited.

Best Practice Techniques

This method of procurement should not be used unless absolutely necessary because it reduces competition among potential vendors to provide goods and services. Under certain procurement situations, however, there is no alternative. Examples of situations in which procurement by noncompetitive proposals may be necessary include:

1. when there is only one source in the area, such as in rural areas, able to provide the needed goods or services.
2. when a sudden massive layoff or plant closing requires that Title III services be immediately provided and there is not sufficient time to competitively solicit providers.

Suggested Documentation

Suggested documentation of this method of the procurement process includes:

1. a complete description of why procurement by noncompetitive proposals was used;
2. an indication of who approved the noncompetitive procurement;
3. the name(s) of the provider(s) contacted to provide the goods or services;
4. the date and amount of the procurement; and,
5. Evidence that a cost analysis was conducted and the results of the analysis.