



# LITTLE ROCK WORKFORCE INVESTMENT BOARD

## Finance, Procurement, Financial, and Programmatic Monitoring Policy and Procedure Manual **(Redacted: See Note on Page 2)**

**Note:** These policies are intended for Workforce Investment Act funding. Please refer to individual grant special clauses and conditions for specific instructions on financial or procurement issues.

November 1, 2002

# Little Rock Workforce Investment Board

## Policy and Procedures Index

**Note: This document includes the portion on Procurement Procedures as required to comply with availability for public viewing required by the Workforce Investment and Opportunity Act's Sunshine Provision, Sec. 101(g) and 107(3).**

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## **II. PROCUREMENT PROCEDURES**

### **1. COMPETITION**

Procurement shall be conducted in a manner that provides full and open competition. LRWIB and/or the One Stop Operator shall not: place unreasonable requirements on firms or organizations in order for them to qualify to do business; require unnecessary experience and excessive bonding; accept noncompetitive pricing practices; promote conflicts of interest; specify only a “name brand”; or require overly restrictive specifications.

### **2. BIDDERS LIST**

LRWIB and Operators shall maintain a current pre-qualified bidders list of person, firms, or other organizations that can be used in acquiring goods and services. The list shall include sufficient numbers of qualified sources to ensure maximum open and free competition.

### **3. CONFLICT OF INTEREST**

Each recipient shall ensure that no individual in a decision making capacity, including Board members, will engage in an activity, including participation in the selection, award, or administration of an award or contract supported by WIA/Grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the individual, any member of the individual’s immediate family, the individual’s 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 organizations selected for award. All board members, LRWIB staff and contractor staff will sign a “Workforce Investment Act Disclosure Statement”, attachment “C”, upon appointment to the LRWIB.

### **4. METHODS OF PROCUREMENT**

All purchases shall be made by the applicable method that would provide the most economical practical procurement. A list of all vendors used by the LRWIB staff will be supplied at least once a year or on demand to the Executive Committee.

Federal and State regulations require that the Little Rock Workforce Investment Board (LRWIB) establish standards by which WIA Title I programs, implemented with funds awarded by the LRWIB to Service Providers, must abide by the Workforce Investment Act of 1998, the WIA Regulations, all applicable Office and Management and Budget (OMB circulars, state regulations in law and rules [Arkansas Code Annotated and State of Arkansas Procurement Law and Regulations], Office of State Procurement [OSP], Department of Finance and Administration [DFA], and the Arkansas Workforce Investment Board [AWIB] established policies.

The LRWIB has adopted to follow Arkansas Workforce Investment Board's Policy Manual for Procurement and Contract Policy that was effective Program Year 2009 and approved by the Arkansas Workforce Investment Board April 14, 2009. To which a copy of the entire written policy follows on Exhibit I (taken from AR DWS website November 28, 2011 by J. Davis).

## **5. SMALL PURCHASES**

All small purchase procedures must use price or rate comparisons from an adequate (2 minimum) number of qualified sources. Small purchases are appropriate only when

- i) price is the overriding factor and may be easily quoted and compared
- ii) delivery is standardized,
- iii) performance outcomes are not dependent upon the content of the goods being procured,
- and
- iv) made in one purchase transaction (see note\*\* below).

***Notes\*\* Small purchases that exceed the \$5,000 limit shall not be split into incremental payments to allow for use within the small purchase method. Such purchase attempts will be deemed unauthorized and disallowed.***

## **6. COMPETITIVE BIDS**

Bids are publicly solicited, and the procurement is awarded to the lowest bidder, resulting in a fixed-price (either lump sum or unit price) contract.

- b) A grantee may solicit sealed bids under three (3) required conditions:
  - i) complete and realistic specification of required goods or services is available and part of the solicitation,
  - ii) there are at least two responsible bidders, and
  - iii) the procurement may be made principally on the basis of price.
- c) A grantee or sub-grantee may award a firm fixed-price contract for complex technical specification such as Information Technology (IT) acquisitions.
- d) The requirements for use of competitive bids are specific:
  - i) Invitation for Bid (IFB) is publicly advertised and bids are solicited from an adequate (more than two) number of known suppliers
  - ii) IFB must contain all "specifications and pertinent attachments" and must define the items or services to be procured in sufficient detail for the bidders to respond properly
  - iii) All bids must be publicly opened;
  - iv) A firm fixed-price contract is awarded to the lowest responsive and
  - v) Any or all bids may be rejected if there is a documented reason.

## **7. COMPETITIVE SEALED PROPOSALS**

- a) Competitive sealed proposal method seeks goods or services through a variety of methods that may be employed to achieve the results called for in the Request for Proposal (RFP).
- b) Competitive proposals are used when there is more than one prospective offeror, the lowest price is not necessarily the determining factor for award, and either a fixed-price or cost reimbursement agreement will be awarded.
- c) Competitive sealed proposals involves:
  - i) Solicitation of proposals through a request for proposals (RFP) in which
    - (1) The request for proposals shall indicate the relative importance of price and other evaluation factors;
  - ii) Discussions with responsible offerors whose proposal have been determined to be reasonably susceptible to being selected for award and
    - (1) There shall be no disclosure of any information derived from proposals submitted by competing offerors that would provide any competitive advantage.
  - iii) An award made to the responsible offerors whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the request for proposals and the results of any discussions conducted with responsible offerors.
- d) Competitive sealed proposals require:
  - i) Publication of RFPs within a reasonable manner, with a minimum of five days.
  - ii) Notice of the specifications that provide a general description of the proposed goods or services sought and
  - iii) Identification of all the evaluation factors and their relative importance or weight in selection of successful bidders.
  - iv) Solicitation of proposals from an adequate number of qualified sources.
  - v) A method for conducting technical evaluations of proposals and
- e) Evaluation factors may focus on approach, program design, innovation, coordination, and experience.
- f) Public notice of the request for proposals shall be given in the same manner as provided in ACA § 19-11-229(d), which refers to public notice of competitive, sealed bidding.
- g) A competitive sealed proposal may be cancelled, or any or all proposals may be rejected in writing by the agency.

## **8. COMPETITIVE SEALED BIDDING**

- a) "Competitive sealed bidding" means a method of procurement which requires:
  - i) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;
  - ii) Public, contemporaneous opening of bids at a pre-designated time and place;
  - iii) Unconditional acceptance of a bid without alteration or correction, except as authorized in ACA § 19-11-204 and 19-11-228 - 19-11-240;

- iv) Award to the responsive and responsible bidder who has submitted the lowest bid meeting requirements and criteria set forth in the invitation for bids; and
  - iv) Public notice.
- b) Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:
- i) Purchase descriptions are suitable for award on the basis of the lowest bid price and
  - ii) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.
- c) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting two (2) successive items:
- i) the submission of unpriced technical proposals, then to be followed by
  - ii) an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation.
- d) Notice inviting bids shall be given
- i) not fewer than five (5) calendar days nor more than thirty (30) calendar days preceding the date for the opening of bids by
    - (1) publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or
    - (2) posting by electronic media, but in all instances, adequate notice shall be given.
  - ii) The notice shall include a general description of the commodities, technical and general services, or professional and consultant services to be procured and shall state where invitations for bid may be obtained.
  - iii) The notice shall also state the date, time, and place of bid opening.
- e) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.
- i) Each bid, together with the name of the bidder, shall be recorded and open to public inspection.
  - ii) Bids shall be evaluated based on the requirements set forth in the invitation for bids.
  - iii) These requirements may include criteria to determine acceptability such as:
    - (1) Inspection;
    - (2) Testing;
    - (3) Quality;
    - (4) Workmanship;
    - (5) Delivery;
    - (6) Past performance; and
    - (7) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.
- f) Bid Invitations: shall set forth the evaluation criteria to be used and no criteria may be used in bid evaluation that were not set forth in the invitation for bids.
- g) Contract Award: The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

- h) Notification to all Bidders: All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.
- i) Excess of Available funds: If all RFPs exceed available funds as certified by the appropriate fiscal officer in situations in which time or economic considerations preclude re-solicitation of work of a reduced scope, the Office of State Procurement may negotiate an adjustment of the bid price with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.
- j) Cancellation: An invitation for bid may be cancelled or any or all bids may be rejected in writing.

## **7. PROPRIETARY or SOLE SOURCE PROCUREMENT (Noncompetitive Proposals)**

- a) Solicitation of a proposal from a single source, or, after solicitation of a number (more than one) of sources, competition is determined inadequate to fulfill the requirements of the funding agency.
- b) Under regulations promulgated under State procurement laws and WIA guidelines, a contract may be awarded for a required or designated commodity or service to a sole or mandatory supplier when the Office of State Procurement Director, or a designee of the officer determines in writing that it is not practicable to use other than the required or designated commodity or service.
- c) The following requirements must be met:
  - i) The award is infeasible under one of the methods discussed above, and
  - ii) One of the following conditions apply:
    - (1) The item is available from only one source or hidden damages are present
    - (2) Public emergency precludes delay and requires the immediate acquisition of services. In this event quotes should be obtained if possible
- d) Agency Authorization: The Office of State Procurement may authorize the specific noncompetitive procurement (upon a formal request for approval)
- e) Competition is determined inadequate. (generally after a competitive process has been used and there are insufficient bidders).
  - i) Unless a written determination is made that there is only one (1) source for the required or designated commodity or service, efforts shall be made to obtain price competition such as:
    - (1) A cost analysis that includes verification of the proposed cost data and evaluation of the specific elements of costs and profits and
    - (2) A comparison with the agency's prior independent price estimate.
- f) Profit must be separately negotiated in the award, and cost plus a percentage of cost agreements are not allowable.
- g) Sub-grantees may be required to submit the proposed noncompetitive procurement to their awarding agency (i.e., the State for formula sub-grantees) for review or approval.

***Note\*: Noncompetitive procurements are allowable under 29 CFR 97.36, but they are considered a "last resort" option and used only when there is a documented reason for***

*sole source selection. Grantees should ensure that the competitive process is open and fair and must exercise caution when using noncompetitive procurements.*

## **10. PUBLIC NOTICE**

Public notice shall be given at least one time in at least one newspaper having general circulation in the state. Notice will be given not less than five days or more than thirty days preceding bid opening date. The notice will include a description of procurement, where IFB, RFP/RFQ may be obtained, and the date, time, and place of bid opening.

## **11. BID SUBMISSION**

Bidders shall submit bids at the place and on or before the date and time set. Bids received after the date and time designated for bid opening are late bids and will not be considered. Late bids will be returned to bidders unopened, provided the envelope is properly identified with a return address. Bids shall be kept secured and unopened prior to opening date. Bids may be modified or withdrawn prior to date and time of opening. Bids will be opened publicly at the time and place designated.

## **12. BID EVALUATION**

Bids will be evaluated based on the criteria set within the IFB, RFP/RFQ. The following matter shall be treated with the same regards to all bids: time discounts or cash discounts shall not be considered; quantity discounts should be included in the price of the item. The unit price shown on the contract shall be the net price, less the discount; an award may be made to the lowest aggregate bidder for all items, group of items, or on an individual item basis, whichever is deemed to be in the contractors best interest.

## **13. BID AWARD**

A contract shall be awarded to the lowest responsive bidder whose bid meets all requirements set forth in the competition. All other bidders requesting to be notified of the award status will be notified of decision. If, after evaluation, it is determined that no satisfactory bid has been received, all bids may be rejected.

## **14. IFB UNSUCCESSFUL BID**

In the event no bids were received or items bid do not meet specifications and it is apparent that further solicitation of bids would be futile, requested commodities may be purchased from any available source.

## **15. RFP/RFQ NONCOMPETITIVE (SOLE SOURCE)**

A procurement action may be initiated with the intent of open competition, but due to uncontrollable factors, the procurement might result in a noncompetitive procurement. As a minimum, advertisement for proposals must meet with the public notice section of this policy. Sole source contracts may result when a minimum of two (2) responsive offers have failed, or when only one proposal is received. The procurement must be well documented.