

# North Central Workforce Development Area

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## LOCAL DIRECTIVE

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| Directive #: 16-141 REV 2 | Date: 06/01/2021 |
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TO: Staff and Service Providers

FROM: Dave Petersen, Executive Director

SUBJECT: Procurement, Contracting, and Codes of Conduct

SUPERCEDES: Directive 16-141 REV 1: Procurement, Contracting and Codes of Conduct

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### Rev 2 Change Summary:

1. Adds requirement in Section III.d.5. Raters must declare no conflict of interest by signing a conflict of interest statement specific to the proposals being rated. (See page 6 for form)
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### I. PURPOSE

This Directive explains the procurement and contracting policy for North Central. It guides the determination of cost reasonableness and establishes standards and guidelines for procurement and contracting procedures. These procedures apply to purchases and procurements, including but not limited to, service providers and one stop operators.

### II. COMPLIANCE

This Directive is structured to comply with the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations, 2 CFR Part 200 and the Workforce Innovation and Opportunity Act (WIOA-Public Law 113-128)

### III. METHODS OF PROCUREMENT:

- a. **MICRO PURCHASE (§ 200.67)– Aggregate dollar amount does not exceed \$10,000\* (FAR 48 CFR Subpart 2.1)**

Micro-purchases may be awarded without soliciting competitive quotes if the price is considered to be reasonable. To the extent practicable, purchases will be distributed equitably among qualified suppliers.

Purchases will be documented by purchase orders, vouchers or bills, sales slips, or memos of oral price quotations. Formal agreements may be required for the purchase of personal or

professional services.

\*Revised limit effective October 2018 per OMB memorandum M-18-18 dated June 2018

**b. SMALL PURCHASE – Aggregate dollar amount does not exceed Simplified Acquisition Threshold (\$250,000\*). (§ 200.88)**

Small-purchases (\$10,001-\$250,000) may be awarded using simple and informal procurement methods for securing services, supplies, or other property. Price or rate quotations, including specification of the service, supply or other property, the unit price, and timeframe and manner of performance, shall ordinarily be obtained from an adequate number of qualified sources, preferably three, to allow for a price analysis. Documented telephone quotes, on-line, and catalog prices can be used to determine price reasonableness. Specifications and price estimates are clearly documented and attached to the purchase order or cross-referenced to the central file when presented for authorization. Formal agreements will be required for the purchase of personal or professional services.

\* Revised limit effective October 2018 per OMB memorandum M-18-18 dated June 2018

**c. SEALED BIDS – Aggregate dollar amount exceeds Simplified Acquisition Threshold (\$250,000). (§ 200.88)**

Used when the nature of the product or service permits development of precise specification so that prospective suppliers have an identical understanding of the requirements. Bids are publicly solicited via formal advertising and a firm fixed price contract 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. Preferred method for procuring construction. Refer to § 200.320 (c) for specific conditions (1) and requirements (2).

**d. COMPETITIVE – Aggregate dollar amount exceeds Simplified Acquisition Threshold (\$250,000). (§ 200.88)**

Used with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. Generally used when conditions are not appropriate for the use of sealed bids.

1. Request for Proposals or Quotes must;
  - i. Be publicized
  - ii. Contain clear and adequate description of goods and/or services
  - iii. Include all technical requirements including the range of acceptable characteristics or minimum acceptable standards (brand name or equal);
  - iv. Include the means by which the proposals will be evaluated.
2. Proposals must be solicited from an adequate number of qualified sources.
3. Written method for conducting technical evaluation of the proposals received and recipient selection must be in place.
4. Submitted proposals are reviewed and evaluated by appropriate executive staff and/or Board committee.
5. Raters must acknowledge conflict of interest specific to the proposals.
6. Decisions are documented and filed
7. Bidders are informed of their status according to predetermined dates stated in the request.

**e. NON-COMPETITIVE – Aggregate dollar amount at least \$10,001.**

Contracts may be awarded for goods and services purchased under non-competitive procurement when it is appropriate, necessary, and in the best interest of SkillSource. Procurement by

noncompetitive proposals will be used when the acquisition is infeasible under small purchase procedures or competitive proposals and one of the following circumstances applies:

1. Goods and services are only available from one source;
2. The public exigency or emergency need for the item does not permit a delay resulting from competitive solicitation; (lack of planning does not constitute a public exigency or emergency)
3. Pass-through entity expressly authorizes noncompetitive proposals in response to a written request;
4. Competition is determined inadequate after solicitation of a number of sources;

Non-competitive procurement justification will be documented in the procurement/vendor file.

#### **IV. ADMINISTRATIVE STANDARDS**

##### **a. CODES OF CONDUCT**

Solicitation or acceptance of gratuities, favors or anything of monetary value, except as provided in Section 1.4 of the SkillSource personnel guidelines, from contractors or potential contractors or any parties to agreements entered into with SkillSource is not acceptable practice.

##### **b. CONFLICT OF INTEREST**

No employee, officer or agent of SkillSource shall participate in the selection, award or administration of a sub-grant supported by federal funds if a conflict of interest (real or apparent) would be involved. A conflict of interest arises if any of the following persons have a financial or other interest in the awardee:

1. Employee, officer or agent;
2. any member of his/her immediate family (spouse, partner, child, or sibling);
3. his/her business partner; or
4. an organization which employs, or is about to employ, any of the above.

In the event that a conflict of interest arises, the following steps should be taken:

1. Decline to participate in decision process or vote;
2. declare the conflict and make sure the declaration is recorded in the minutes;
3. decline to participate in the audience or become an advocate of the decision;
4. leave the room during the decision or voting process.

Neither membership on the Board nor the receipt of WIOA funds to provide training (OJT, ITA, IWT) and related services shall be construed, by itself, to violate provisions of WIOA or its regulations.

##### **c. PENALTIES**

Violation of the above standards may result in the removal of NCWC membership or the dismissal of employees and staff. Additionally, criminal penalties may be imposed as described in the Revised Code of Washington 42.23. Potential contractors/subgrantees who offer favors or items of monetary value in exchange for special consideration shall have their proposals/bids deemed invalid and shall not be considered as candidates for future awards for a period of five (5) years. Criminal prosecution may also be pursued.

#### **V. OTHER STANDARDS**

**a. ALLOWABILITY OF COSTS**

All costs paid by Federal funds must conform to OMB Uniform Guidance (§ 200.403-405) and (§ 200.420-475)

Generally costs are allowable under the award if they are; (1) reasonable for the performance of the award and allowable according to the Federal and State guidance; (2) conform to any limitations or exclusions as to types or amount of cost items; (3) are consistent with federal and organization policies and procedures; (4) accorded consistent treatment; (5) in accordance with generally accepted accounting principles; (6) not included as a cost or, except as provided by the WIOA, used to meet matching requirements on another federally financed program; (7) and are adequately documented.

**b. COMPETITION**

1. Procurement transactions shall be conducted in a manner to provide to the maximum extent practical, open and free competition.
2. In order to ensure objective contractor performance and eliminate unfair advantage, any contractors or consultants that develop or draft specifications, statements of work, invitations for bids, and/or requests for proposals shall be excluded from competing for same procurement.
3. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to SkillSource, price, quality, and other factors considered.
4. Any and all bids or offers may be rejected when it is in SkillSource interest to do so.

**c. CONSIDERATIONS**

1. The procurement procedures should involve consideration to consolidation of, or breaking up, initial costs to obtain a more economical purchase. Other possibilities include an analysis of lease versus purchase alternatives.
2. Enter into state and local intergovernmental/inter-entity agreements for procurement or use of common or shared goods and services.
3. The type agreement executed such as a contract, letter of agreement, memo of understanding, purchase order, bid offer or combination are determined by administrative staff considering what is appropriate for a particular procurement and in the best interest of the program.
4. SkillSource enters into agreements with responsible contractors, vendors or suppliers who possess the potential ability to perform successfully according to the purchase requirements. Criteria such as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources will be considered.
5. Efforts are made to utilize **small and woman or minority-owned business** as sources of supplies and services.

**d. COST PRICE ANALYSIS**

Cost price analysis are made in connection with every procurement in excess of the Simplified Acquisition Threshold including contract modifications.

**e. CONSTRUCTION STANDARD**

All contractors hired by SkillSource to Construct or repair paid by Federal grant funds in excess of \$2,000 shall comply with the Davis Bacon Act, the Contract Work Hours and Safety Standards Act and the Anti-

Kick Back Act. The decision to contract is also conditioned on acceptance of the Wage Determination and submission of Prevailing Wage Payroll Report

## **VI. DEFINITIONS**

Awardee - Individual or entity that is selected through a procurement process

Agents - An individual not employed by SkillSource that has the authority to act or represent SkillSource, usually an independent contractor

Contract/Agreement - A procurement instrument by which the fiscal agent, service provider, or subrecipient is committed to pay for goods, property, or services needed to accomplish the purposes of the contract/agreement.

Contractor (previously Vendor) - An entity responsible for providing generally required goods or services related to the Federal award. These goods or services may be for the recipient's or subrecipient's own use or for the use of participants in the program. Distinguishing characteristics of a contractor include:

- Providing the goods and services within normal business operations;
- Providing similar goods or services to many different purchasers;
- Operating in a competitive environment; and;
- Program compliance requirements do not pertain to the goods or services provided.

Fiscal Agent - The grant recipient or other entity identified by the grant recipient, to receive & disburse WIOA funds for a Local Workforce Board directly from the State.

Procurement Transactions - An act of purchasing goods or services

Sub-recipient - An entity that receives federal assistance passed through from a prime recipient or another subrecipient to carry out or administer a WIOA program. Distinguishing characteristics of a subrecipient include items such as:

- Determining eligibility for assistance;
- Performance measured against meeting the objectives of the program;
- Responsibility for programmatic decision making;
- Responsibility for applicable program compliance requirements;
- Use of the funds passed through to carry out a program of the sub-entity as compared to providing goods or services for a program of the prime recipient.

## **VII. REFERENCES**

OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (§ **200.318-200.323**)