

North Central Workforce Development Area

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LOCAL DIRECTIVE

Directive #: <u>16-141</u>	Date: <u>07/01/2016</u>
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TO: Staff and Service Providers

FROM: Dave Petersen, Executive Director

SUBJECT: Procurement, Contracting and Codes of Conduct

SUPERCEDES: Directive 05-46: Procurement, Contracting and Codes of Conduct

Effective Date: 07/01/2016

INTRODUCTION

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.

Reasonableness of Costs

SkillSource adopts OMB's Uniform Guidance at 2 CFR Part 200 Section 200.404, that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs.

When determining cost reasonableness, consideration is to be given to whether; the cost is generally recognized as ordinary and necessary to the operation of the organization or the performance of the award. Restraints consist of, sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award. Other considerations include; market prices for comparable goods in the geographic area; whether individuals concerned acted with prudence in the circumstances considering their fiduciary responsibilities; and significant deviations from the established practices that could unjustifiably increase the award costs.

Allowability of Costs

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.

STANDARDS

CODES OF CONDUCT

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.

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.

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

- 1) Decline to enter into the 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.

Violations of these standards could result in separation of employment or reassignment of duties.

COMPETITION

All procurement transactions shall be conducted in a manner to provide to the maximum extent practical, open and free competition.

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.

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.

Any and all bids or offers may be rejected when it is in SkillSource interest to do so.

CONSIDERATIONS

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 or entering into state and local intergovernmental agreements. In some cases emphasis upon the availability of support may be a main concern of the purchase price.

The type of procurement instrument 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.

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.

SMALL AND WOMAN OR MINORITY-OWNED BUSINESS

Efforts are made to utilize small and woman or minority-owned business as sources of supplies and services.

SPECIFICATIONS

Solicitations for goods and services are based upon a description of the technical requirements for the material, product or service to be procured and will not include features which will unduly restrict competition.

PRICE OR COST ANALYSIS

Price or cost analyses are made in connection with every procurement action reviewing and evaluating each element of cost to determine reasonableness, allocability and allowability 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.

METHODS OF PROCUREMENT:

COMPETITIVE – Cost Estimate Over \$10,000

Request for Proposals or Quotes are prepared and sent to prospective suppliers identified through some form of advertising and/or research. The requests outline specific requirements and needs determined by the Board and/or Management which include but are not limited to:

- 1) Clear and adequate description of goods and/or services;
- 2) all technical requirements including the range of acceptable characteristics or minimum acceptable standards (brand name or equal);
- 3) the means by which the proposals will be evaluated.

Proposals submitted by potential bidders are reviewed and evaluated according to the procurement standards by appropriate executive staff and/or Board committee. Decisions are documented and filed. Bidders are informed of their status according to predetermined dates stated in the request.

NON-COMPETITIVE

Contracts may be awarded or 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;
- 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;
- 5) On-the-job training (OJT);
- 6) Individual training accounts (ITA)

Every non-competitive procurement justification will be documented in the procurement file except OJT and ITA.

SMALL PURCHASE POLICY

Equipment, materials and supplies are purchased, whenever practical, with a pre-numbered purchase order authorized by management personnel at a level responsible for such transaction. Authorizing individual is responsible to verify purchase requisitions against remaining amount in applicable budget category to prevent over expenditure. This process provides oversight and internal accounting controls.

Buyer's knowledge can be used to determine price reasonableness for purchases **under \$500**. Such purchases are authorized by the appropriate authority and utilize a purchase order whenever possible.

Whenever an item has a value of **more than \$500 and less than \$10,000**, price estimates should be obtained from at least two vendors in which the lesser price will be chosen if specifications are satisfactory. Documented telephone quotes 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.

CONSTRUCTION

All contractors hired by SkillSource to Construct or repair in excess of \$2,000 shall provide a report from the Department of Labor concerning their compliance with the Davis Bacon Act, the Contract Work Hours and Safety Standards Act and the Anti-Kick Back Act in order to receive full payment.

CONTRACTS OR AGREEMENTS OVER \$10,000

Procurement of goods and services exceeding \$10,000 (unless otherwise specified by the Grantor agency) are approved by the SkillSource Board of Directors by way of approving the annual operating budget. Within the budget, administrative staff selects specific vendors.

The method of procurement and contract specifications for Service Providers/Contractors exceeding \$10,000 are approved by Administrative Staff. Specific requirements for contracts in excess of \$10,000 are outlined in the General Conditions of each negotiated contract.

Contracts in excess of \$100,000 will incorporate by reference Exhibit B - General Terms and Conditions for Agreements under the Workforce Innovation and Opportunity Act.

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 administrative support of the Federal award. These goods or services may be for the recipient's or sub-recipient'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.