



**Seventh Planning District Consortium
WORKFORCE INVESTMENT PLAN PY 05- PY 06**

**Procurement Policies and Procedures
September 1, 2004**

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PROCUREMENT POLICIES AND PROCEDURES

I. INTRODUCTION

A. Purpose

These procurement procedures shall set standards for procuring quality products and services by methods which shall ensure fiscal accountability and prevent waste, fraud, and abuse in programs administered under the WIA.

B. Authority

In accordance with Section 184 of the Workforce Investment Act, the procurement policies, procedures and requirements set forth herein are authorized by and in compliance with all applicable federal and state laws, rules and regulations as determined by the Governor of the State of Louisiana.

Each subrecipient, including but not limited to The Seventh Planning District Workforce Investment Area Grant Recipient and Sub-Recipient-Fiscal Agent, of Workforce Investment Act funds shall maintain a written procurement policy which contains and adequately addresses the elements contained herein. Subrecipient policies should be in compliance with all applicable local rules and regulations.

C. Delegation

The authority to interpret, implement, and enforce these policies, procedures and requirements as they pertain to the operation of WIA programs is delegated to The Coordinating and Development Corporation, Division of Workforce Development.

D. Responsibility

The Coordinating and Development Corporation, Division of Workforce Development assumes full responsibility for establishing and maintaining its own procurements under WIA, which shall be accomplished in accordance with LSA-R.S. 38 and LSA-R.S. 39, as applicable, all rules published in Title IV of the Louisiana Administrative Code, and with the policies and procedures set forth herein.

The more restrictive provisions of the aforementioned applicable statutes, rules, policies and procedures shall prevail.

Subrecipients, including but not limited to, The Seventh Planning District Workforce Investment Area Grant Recipient, Sub-Recipient-Fiscal Agent, substate grantees, and administrative entities shall assume full responsibility for establishing and maintaining their own procurements under WIA. All procurements shall be accomplished in accordance with LSA-R.S. 38, LSA-R.S. 39, and Title IV of the Louisiana Administrative Code, as applicable, the policies and procedures set forth herein, and any other applicable state and local laws and regulations.

The more restrictive provisions of the aforementioned applicable statutes, rules, policies and procedures, as well as any more restrictive contract provisions, shall prevail.

E. Definitions

Acquisition Cost - of an item of purchased means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit of acquisition cost in accordance with the recipient's and subrecipient's regular accounting practices.

Act - means the Workforce Investment Act.

Awarding agency - (1) with respect to a grant, the U. S. Department of Labor, and (2) with respect to a subgrant or contract, the party that awarded the subgrant or contract.

Brand name or equal - means a commercial product described by a brand name and make or model number or other nomenclature by which the product is offered to the public by a particular supplier, or another product having all characteristics of the brand name product essential to meet the recipient's or subrecipient's needs.

Commercially available or off-the-shelf training package - means a training package sold or traded to the general public in the course of normal business operations, at prices based on established catalog or market prices. To be considered as "sold to the general public," the package must be regularly sold in sufficient quantities to constitute a real commercial market, to buyers that must include other than WIA programs. The package must include performance criteria pertaining to the delivery of the package which may include participant attainment of knowledge, skills or a job.

Consulting service - means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, and advertising contracts, except for printing associated therewith.

Contract - means every type of agreement, including orders and documents purporting to represent grants, which are for the purchase or disposal of supplies, services, construction, or any other item.

It includes awards and notices of award; contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders, and letter contracts. It also includes contract modifications with respect to any of the foregoing.

Contractor - means the organization, entity, or individual that is awarded a procurement contract under the recipient's or subrecipient's procurement standards and procedures.

Cost - means accrued expenditure.

Cost analysis - means the review and analysis of a contractor's or prospective contractor's

submitted cost data to form an opinion as to whether the contractor's proposed costs represent what the contract should cost to perform. It includes the verification of cost data, the necessity for specific costs, the allowability of contingencies, the reasonableness of estimated amounts, and the basis used for allocation of and appropriateness of particular items of overhead costs.

Cost-plus-a-percentage-of-cost contract - is a cost-reimbursement contract whereby the contractor is reimbursed for costs plus a fixed percentage of costs; its effect is to increase the profit of a contractor in proportion to the contractor's increased costs. Its use is prohibited by law (41 U.S.C. 254b and 10 U.S.C. 2306 (a)) in Government contracting. Its use is also prohibited in recipient or subrecipient contracting.

Cost-reimbursement contract - means a contract which establishes an estimate of total costs for the purpose of obligating funds and a ceiling that the contractor may not exceed (except at contractor risk) unless the awarding party agrees to amend the contract to provide additional funds. This kind of contract may also provide for a fixed dollar profit which may not be increased unless the contract is amended to increase the scope of work. The contract provides for payment of all allowable costs to the extent prescribed in the contract.

Debarment - an action taken by a debarring official in accordance with federal regulations to exclude a person from participating in covered transactions. A person so excluded is debarred.

Equipment - means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. All purchases of equipment with a unit cost of \$5,000 or more must have prior approval of the Louisiana Department of Labor.

Expenditures - are amounts payable or accrued for goods received, work performed, or services rendered, regardless of when paid.

Formal advertising - is a competitive procurement method which is normally used when the nature of the product or service permits development of a precise description or adequate specifications so that prospective suppliers will be enabled to have an identical understanding of the requirement. Bids are solicited publicly through advertising and by issuing "Invitations for Bids."

In response to the solicitation, "formal" sealed bids are submitted which are not subject to negotiation or change. The sealed bids are opened publicly on a specified date and are read aloud. A firm fixed-price contract is awarded to the responsible bidder whose bid, conforming to the material terms and conditions of the invitation for bids, is lowest in price.

Governor - means, in addition to the chief executive of the state, the recipient of WIA funds awarded to the state under Title I.

Grant - means an award of WIA financial assistance by the U. S. Department of Labor to an eligible Workforce Investment Act recipient.

Grantee - means the recipient.

Immediate family - as the term relates to a public servant means his children, the spouses

of his children, brothers, sisters, parents, spouse, and the parents of his spouse.

Invitation for bids - (IFB) is a set of documents which includes a description of the product or service desired and all other information needed to enable a prospective contractor to submit a bid. The invitation for bids is the specific term applied to the solicitation used in Government contracts when the formal advertising procurement method is used.

Modification - with respect to contracts means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as administrative changes, notices of termination, and notices of the exercise of a contract option.

Personal property - means property of any kind, except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities. Each item of property having an acquisition cost or having an appraised value of \$250 or more must be placed on inventory. All purchases of property with a unit cost of \$5,000 or more must have prior approval of the Louisiana Department of Labor.

Personal services - means work rendered by individuals which requires use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which requires use of highly technical or unique individual skills or talents, such as, but not limited to, paramedical, therapists, handwriting analysts, foreign representatives, and expert witnesses for adjudications or other court proceedings.

Price analysis - the process of examining and evaluating a price without looking at the estimated cost elements and proposed profit of the offerer whose price is being evaluated.

Prior approval - means documentation evidencing consent prior to incurring specific costs.

Procurement - means the process which leads to any award of WIA funds.

Professional service - means work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which the independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants, and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill.

For contracts with a total amount of compensation of fifty thousand dollars (\$50,000) or more, the definition of "professional service" shall be limited to the above professions and any other profession that may be added by regulations adopted by the Office of Contractual Review of the Division of Administration.

Public employee - means anyone, whether compensated or not, who is: (a) an administrative officer or official of a governmental entity who is not filling an elective office, (b) appointed by an elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an

agency thereof, either as a member of an agency, or as an employee thereof, (c) engaged in the performance of a governmental function, (d) under the supervision or authority of an elected official or another employee of the governmental entity. A public employee shall be in such status on days on which he performs no services as well as days on which he performs services. The termination of any particular term of employment of a public employee shall take effect on the day the termination is clearly evidenced.

Public servant - means a public employee or a public official.

Quasi-public organization - means an organization which has many of the characteristics of a public organization, but which is not actually a public organization (e.g., community action agencies, educational associations).

Real property - means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Reasonable costs - a cost is reasonable if, in its nature or 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.

The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.
- b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and state laws and regulations, and terms and conditions of the award.
- c. Whether the individual concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Government.
- d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

Recipient - means the entity to which a WIA grant is awarded directly from the U.S. Department of Labor to carry out the WIA program.

The recipient is the entire legal entity that received the award and is legally responsible for carrying out the WIA program, even if only a particular component of the entity is designated in the grant award document. For WIA grants under Title I, the state is the recipient.

Records - are documents of actions taken with respect to the grant or agreement including financial records, statistical records, and supporting documents.

Request for proposal - (RFP) is a set of documents which includes a description of the product or service desired to enable a prospective contractor to submit a proposal which includes information that procurement and technical personnel need to evaluate proposals

submitted.

The request for proposals is the specific term applied to the solicitation used in Government contracts when negotiated procurement procedures are used.

Responsible contractor - (responsible bidder) means a contractor or prospective contractor who appears to possess the ability to perform successfully under the terms and conditions of a proposed procurement based on a review of such factors as a satisfactory record of past performance, integrity, and business ethics; and financial and technical resources or access to such resources.

Responsive - means that a bid or proposal complies, with respect to method and timeliness of submission and to substance of the bid or proposal, in all material respects with the requirements of the invitation for bids or request for proposals. A minor irregularity in a bid or proposal, which is deemed to be a matter of form rather than substance, the correction of which would not be prejudicial to other bidders, does not render a bid or proposal non-responsive.

The Seventh Planning District Workforce Investment Area - means The Seventh Planning District Workforce Investment Area designated by the Governor pursuant to Section 116 of the Act.

The Seventh Planning District Workforce Investment Area grant recipient - means the entity that receives WIA funds for The Seventh Planning District Workforce Investment Area directly from the recipient.

Secretary - means the Secretary of the U. S. Department of Labor.

Service provider - means a public agency, private non-profit organization, or private-for-profit entity that delivers educational, training, employment or supportive services to WIA participants. Awards to service providers may be made by subgrant, contract, subcontract, or other legal agreement.

Social service - means work rendered by any person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to the following objectives:

- a. Rehabilitation and health support. Services rendered by a contractor with special knowledge or service available to assist individuals attain or maintain a favorable condition of physical and/or mental health.

These services include but are not limited to:

1. Health-related counseling;
2. Alcohol or drug abuse training and treatment;
3. Training to support emergency medical services;
4. Services to support family planning;
5. Counseling, delinquency prevention;

6. Genetic disease evaluation and counseling;
 7. Community-based medical support services;
 8. Evaluation and training for physically/ mentally handicapped; and
 9. Other services in support of same.
- b. Habilitation and socialization. Services rendered by a contractor with special knowledge to assist specified client groups to enhance their self-sufficiency or alleviate their dependency and/or isolation from the community. Services include but are not limited to:
1. Day care;
 2. Work and training;
 3. Early intervention for the mentally retarded, developmentally delayed, or physically handicapped;
 4. Transportation for service access;
 5. Homemaker, home management, and housing improvement services;
 6. In-home and out-of-home respite care;
 7. Socialization services for low income and other special needs groups;
 8. Nursing home ombudsman;
 9. Nutritional, employment, case management, senior center activities, or other services to aid independent living by the elderly; and
 10. Training and community planning services for same.
- c. Protection for adults and children. Services rendered by a contractor to provide therapeutic intervention for adults or children who are in danger or threatened with danger of physical or mental injury, neglect, maltreatment, extortion, or exploitation, including victims of family violence. These services include but are not limited to:
1. Community planning for neglect/abuse;
 2. Adoption;
 3. Substitute care;
 4. Education and training;
 5. Crisis intervention type services;
 6. Emergency shelter for victims of rape/family violence or services in support of same; and

7. Training and evaluation services for same.
- d. Improvement of living conditions and health. Services rendered by an authorized contractor with special knowledge or services available to assist individuals to attain or maintain favorable conditions in which to live. These services include but are not limited to:
 1. Distribution of foodstuffs either purchased or that are made available from government-owned commodities;
 2. Determining the needs of the poor, and development of programs to distribute the available resources;
 3. Determining the needs of the poor and identifying programs to alleviate these property conditions;
 4. Providing services to respond to the educational/employment needs of eligible individuals in the communities needing these services. The primary purpose of this service is to provide the participating individuals with the skills necessary for them to advance socially, academically, and occupationally; and
 5. Providing training and evaluation of services for any of the above services.
- e. Evaluation, testing, and remedial educational services for exceptional handicapped or learning disabled non-public school students.

Services rendered by a contractor with special knowledge or services available to provide special educational and related services for exceptional or handicapped students voluntarily enrolled in approved non-public schools of Louisiana who are not otherwise provided with such services through either their local school program or through other services afforded to them by local school boards or other public agencies. These services may include but are not limited to:

1. Identification, assessment, appraisal, and evaluation of exceptional or handicapped children;
2. Development of individualized educational programs; and
3. The providing of instructional and supportive services to such eligible students in accordance with the provisions of R.S. 17:1941, et seq. and P.L. 94-142 and their regulations.

State - is defined at Section 101 of the Act. For cash payment purposes, the definition of "State" contained in the Department of Treasury regulations at 31 CFR 205.3 shall apply to WIA programs.

Subgrant - means an award of WIA financial assistance in the form of money, or property in lieu of money, made under a grant by a recipient to an eligible subrecipient. It also means a subgrant award of WIA financial assistance by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement purchases from vendors nor does it include any form of assistance received by program

participants.

Subrecipient - means the legal entity to which a subgrant is awarded and which is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided.

For WIA purposes, distinguishing characteristics of a subrecipient include items such as determining eligibility of applicants, enrollment of participants, performance measured against meeting the objectives of the program, responsibility for programmatic decision making, responsibility for compliance with program requirements, and use of the funds awarded to carry out a WIA program or project, as compared to providing goods or services for a WIA program or project (vendor). Depending on local circumstances, the WIB, local elected official, or administrative entity may be a subrecipient. The Seventh Planning District Workforce Investment Area grant recipient and WIA Title I substate grantee are particular types of subrecipients.

Supplies - means all tangible personal property other than "equipment" as defined in this part.

Vendor - means an entity responsible for providing generally required goods or services to be used in the WIA program. 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 vendor include items such as: Providing the goods and services within normal business operations; providing similar goods or services to many different purchasers, including purchasers outside the WIA program; and operating in a competitive environment. A vendor is not a subrecipient and does not exhibit the distinguishing characteristics attributable to a subrecipient as defined above. Any entity directly involved in the delivery of program services not available to the general public, with the exception of an employer providing on-the-job training, shall be considered a subrecipient rather than a vendor.

II. GENERAL POLICIES

A. Duplication

The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall not use funds provided under WIA to duplicate facilities or services available in the area (with or without reimbursement) from federal, state, or local sources, unless it is demonstrated that the WIA-funded alternative services or facilities are more likely to achieve the performance goals of the Workforce Investment Act.

B. Competition

1. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall conduct procurements in a manner which provides full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- a. Placing unreasonable requirements on firms or organizations in order for them to qualify to do business;

- b. Requiring unnecessary experience and excessive bonding;
 - c. Noncompetitive pricing practices between firms or organizations or between affiliated companies or organizations;
 - e. Organizational conflicts of interests;
 - f. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement;
 - g. Overly restrictive specifications; and
 - h. Any arbitrary action in the procurement process.
2. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall have written procedures for procurement transactions. These procedures shall ensure that all solicitations:
 - a. Incorporate a clear and accurate description of technical requirements for the material, product, or service to be procured (including quantities). Such description shall not, in competitive procurements, contain features which unduly restrict competition; and
 - b. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
 3. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall ensure that all prequalified lists of persons, firms, or other organizations which are used in acquiring goods and services are current and include sufficient numbers of qualified sources to ensure maximum open and free competition.
 4. Awards are to be made to responsible organizations possessing the demonstrated ability to perform successfully under the terms and conditions of a proposed subgrant or contract. A determination of demonstrated ability shall be done in accordance with the requirements contained in Section 122.

C. Conflict of Interest

1. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall adhere to the following written code of standards of conduct governing the performance of persons engaged in the award and administration of WIA contracts and subgrants:

To the extent permitted by state or local law or regulation, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the awarding agency’s officers, employees, or agents, or by awardees or their agents.

2. Staff conflict of interest. No individual in a decision making capacity shall engage in any activity, including participation in the selection, award, or administration of a subgrant or contract supported by WIA funds if a conflict of interest, real or apparent, would be

involved.

3. WIB conflict of interest.
 - a. A WIB member shall not cast a vote on, nor participate in any decision making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member.
 - b. Neither membership on the WIB nor the receipt of WIA funds to provide training and related services shall be construed, by itself, to violate provisions of Section 117 of the Act.
4. A conflict of interest under subsection C.2 and 3 would arise when:
 - a. The individual,
 - b. Any member of the individual's immediate family,
 - c. The individual's partner, or
 - d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm or organization selected for award.
 - e. The officers, employees, or agents of the agency and WIB members making the award will neither solicit nor accept gratuities, favors, or anything of monetary value from awardees, potential awardees or parties of subagreements.

D. Methods of Procurement

The state and each subrecipient shall use one of the following methods of procurement, as appropriate for each procurement action:

1. Small purchases

Small purchase procedures are simple and informal procurement methods for securing services, supplies, or other property. The Coordinating and Development Corporation, Division of Workforce Development shall use small purchase procedures prescribed by the executive order of the Governor for the procurement of small purchases.

Subrecipients shall utilize the following standards for the procurement of small purchases as set forth in the aforementioned executive order.

- a. Recipients and subrecipients shall not break down one purchase into several purchases merely to be able to use smaller purchase procedures.
- b. Any procurement less than \$25,000 shall be made in accordance with the following small purchase procedures:
 1. Purchases up to \$500. No competitive bidding is required. No purchase order/release order is necessary.

2. Purchases over \$500 not to exceed \$5,000 may be made by telephone or facsimile quotations solicited from at least three (3) bona fide, prospective bidders and purchases made on the basis of the lowest responsive quotation received. Files must be documented listing persons contacted, and the terms and delivery of each bidder solicited and any special comments. Written confirmation of price should be obtained from successful bidder.
 3. Purchases over \$5,000, but less than \$25,000, shall be made by sending out written invitations for bids to at least five (5) bona fide, qualified bidders. Written invitations for bids shall contain complete specifications, the quantity required, delivery point and other information sufficient for a supplier to make an acceptable bid.
- c. Exceptions to minimum competitive requirements:
1. No competitive bidding required on the following:
 - a. Parts for repairs to equipment from authorized dealer (not stocking of parts).
 - b. Repairs to equipment from authorized dealer.
 - c. Repairs to vehicles in the following order:
 1. Utilize fleet management statewide maintenance and repair contract if available, or if not available;
 2. Authorized dealer or competitive bid.
 - d. Aircraft repairs, inspection and parts should be obtained from a Federal Aviation Administration certified repair station and using Federal Aviation Administration certified mechanics and approved by the head of the agency or his designee.
 - e. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements.
 - f. Livestock when purchased at public auction sale.
 - g. Purchasing or selling transactions between state budget units and other government agencies.
 - h. Publications and copyrighted materials when purchased directly from the publisher; or state library and libraries at colleges and universities when using subscription services.
 - i. All public utilities and services provided by local government.
 - j. Prosthetic devices and devices for physical restoration, if not covered by state contract.
 - k. Educational and related resources (except equipment) and membership in professional organizations.

- l. Purchases for clients of Blind and Vocational rehabilitation programs which are federally funded at a rate of at least eighty percent, (80%) regulated by Title 34 of the Federal Rules and Regulations, Code of Federal Regulations Part 361, 365, 370 and 395 and in accordance with OMB Circular A-102; not covered by competitive contract, not to exceed \$5,000.
 - m. Wire, related equipment, time and material charges to accomplish adds, moves, and/or changes to telecommunications systems up to \$2,500.
 - n. Working class animals trained to perform special tasks; such as but not limited to narcotics detection, bomb detection, arson investigation, rescue technique, etc.
 - o. Food, materials and supplies for home economics courses, other teaching and training where purchasing, preparing, and serving is part of the regularly prescribed course.
2. Telephone or facsimile quotations from at least three (3) bona fide, qualified bidders where feasible:
- a. Farm products which include, but may not be limited to fresh vegetables, milk, eggs, fish, or other perishable foods.
 - b. Food, materials, and supplies needed for:
 - 1. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available.
 - 2. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates or clients is unstable and unpredictable.
 - c. Convention and meeting facilities.
 - d. Gasoline and fuel purchases unless covered by a competitive contract. Gasoline and fuel purchases in excess of \$5,000, unless covered by a competitive contract, require prior approval of the chief procurement officer.
 - e. All equipment for blind operated facilities not covered by competitive state contract.
 - f. Feed commodities which includes but not limited to soybean meal, cottonseed meal, oats, etc., for use on prison farms.
2. Sealed Bids (Formal Advertising) - for purchases \$25,000 and over.

Bids are publicly solicited procurements for which a firm fixed-price award (lump sum or unit price) or other fixed-price arrangement 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. Additional requirements follow:

- a. Contracts for \$25,000 and over shall be awarded by competitive sealed bidding, except as otherwise provided in these policies and procedures.

- b. Competitive sealed bidding shall be initiated by the issuance of an invitation for bids containing a description of the supplies, services, or major repairs to be procured and all contractual terms and conditions applicable to the procurement.
- c. Adequate public notice of the invitation for bids shall be given at least ten (10) days prior to the date set forth therein for the opening of bids on all matters except those made for housing of state agencies, their personnel, operations, equipment, or activities for which notice shall be given at least twenty (20) days prior to the opening of bids. Notice shall be in writing and to persons in a position to furnish the supplies, services, or major repairs required, as shown by its records and by advertising, if the amount of the purchase is twenty-five thousand dollars (\$25,000) or more.
- d. The advertisements or written notices shall contain general descriptions of the supplies, services, or major repairs for which bids are wanted and shall state:
 - 1. Names and locations of the departments or institutions for which the purchases are to be made,
 - 2. Where and how specifications and quotation forms may be obtained, and
 - 3. Date and time not later than which bids must be received and will be opened.
- e. Each advertisement shall be published in the official journal of the state and/or parish as appropriate, or if there is no newspaper printed in the parish, in a newspaper printed in the nearest parish that has a general circulation in the parish in which the agency is situated.
- f. Bid opening - Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.
- g. Bid Evaluation - Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, and criteria affecting price such as life cycle or total ownership costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
- h. Correction or withdrawal of bids - patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under regulations.
- i. Award - the contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Award shall be made by unconditional acceptance of a bid without alteration or correction except as authorized in this part.
- j. Resident business preference - in contracts awarded by competitive sealed bidding, resident businesses shall be preferred to nonresident businesses where there is a

tie bid and where there will be no sacrifice or loss in quality.

k. Exemptions:

1. Purchases of goods manufactured by or services performed by severely handicapped individuals in state-operated and state-supported sheltered workshops as defined in R.S. 39:1595.4 shall be exempt from the provisions of this section.
2. Purchases of testing and/or assessment instruments for \$5,000 and over may be procured through the competitive proposal process. This exemption does not apply to state agencies.

l. State Contracts

1. The Coordinating and Development Corporation, Division of Workforce Development shall procure from state contract if a competitive statewide contract exists and the amount is above the minimum order quantity.
2. Subrecipients may purchase from state contract if they qualify and are approved by the Office of State Purchasing within the Division of Administration.
3. Procurements from state contract shall be deemed to have satisfied requirements of competitive bidding.

m. Acquisition of Space

1. Every lease for the use of 5,000 square feet or more of space shall be awarded pursuant to the sealed bid process of this section. No such lease shall extend beyond a period of ten (10) years.

No competitive bidding or competitive proposals are required for the leasing of space under 5,000 square feet.

2. An existing lease for space may be renegotiated with the present lessor but only after the Division of Administration for State Agencies, or other authorized individual, has entered into a competitive negotiation process involving discussions with at least three (3), unless there are less than three (3), offerors who submit written proposals. Such proposals shall be solicited by advertising as in the sealed bid process of this section.

If it is determined by the Commissioner of Administration for State Agencies, his designee, or other authorized individual, after the evaluation of these proposals and discussions with the current lessor, that to renew the present lease would be in the best interest of the state or WIA program, the renewal of an existing lease may be renegotiated or the Commissioner or other authorized individual may enter into a lease with one of these offerors if determined to be in the state's or WIA program's best interest.

In making such a determination the Commissioner, his designee, or other authorized individual shall take into consideration, over the duration of the lease, rental rates, the amount of funds necessary to relocate, any geographical

considerations particular to that program, the amount of disruption to business that may be incurred in moving to a new location, and any other relevant factors presented.

3. Any lease for space for under two thousand five hundred (2,500) square feet may be amended up to but not to exceed a maximum of two thousand four hundred ninety-nine (2,499) square feet.
4. In the event alterations or modifications of space currently under lease are required to meet changed operating requirements, a lease may be amended. Such lease amendment may, with approval of the Division of Administration for State Agencies, or other authorized individual, provide an adjustment in monthly lease payments not to exceed twenty-five percent (25%) of the original annual lease price per square foot, sufficient to reimburse the lessor for paying for the leasehold improvements; provided however, that any adjustment in monthly lease payments shall also require the approval of the Joint Legislative Committee on the Budget for State Agencies and the continuance of an adjustment in excess of the current lease shall be further contingent on the appropriation of funds therefor in the following fiscal year.

3. Competitive Proposals

Competitive proposals are normally conducted with more than one source submitting an offer and either a fixed-price or cost-reimbursement type award is made. A documented methodology for technical evaluations and award to responsible offeror whose proposals are most advantageous to the program with price, technical, and other factors considered shall be established.

a. Requirements for Competitive Proposals:

1. Consulting Service Contracts - contracts for consulting services which have a total maximum amount of compensation of fifty thousand dollars (\$50,000) or more shall be awarded through a request for proposal process.

Adequate public notice of the request for proposals shall be given by advertising in the official journal of the state and or parish, as appropriate, and in one or more newspapers of general circulation in the state and/or parish at least once a week for three (3) different weeks.

The first advertisement shall appear at least thirty (30) days before the last day that proposals will be accepted. When available, advertisements shall be placed in those national trade journals which serve the particular type of contractor desired.

In addition, written notice shall be mailed to persons, firms, or corporations who are known to be in a position to furnish such services, at least thirty (30) days before the last day that proposals will be accepted.

2. Personal Service Contracts - adequate public notice of the request for proposals shall be the same as for consulting service contracts which have a maximum amount of compensation less than fifty thousand dollars (\$50,000).
3. Professional Service Contracts - adequate public notice of the request for proposals shall be the same as for consulting service contracts which have a maximum amount of compensation less than fifty thousand dollars (\$50,000).
4. Social Service Contracts - for social service contracts not qualifying under Section II.D.4 of these policies and procedures, adequate public notice of the request for proposals shall be given by advertising in the official journal of the state and/or parish, as appropriate, in which the services are to be performed and such other newspapers, bulletins, or other media as are appropriate in the circumstances. Such advertisements shall appear at least twice in the official journal of the state and/or parish as appropriate.

If the services are to be performed in or made available to residents of a multi-parish area, advertising in the official journal of the state and/or parish, as appropriate, and in one or more newspapers of general circulation in the state and/or parishes at least twice shall be sufficient to meet this requirement. In all cases, the first advertisement shall appear at least fourteen (14) days before the last day that the proposals will be accepted.

In addition, written notice shall be mailed to persons, firms, or corporations who are known to be in a position to furnish such services, at least fourteen (14) days before the last day that proposals will be accepted. This last requirement is subject to reasonable limitation at the discretion of the using agency.

5. Existing leases - Existing leases for space may be renegotiated after requests for proposals as outlined in Section D.2.m(2), Sealed Bids, of this policy.
6. Requests for proposals shall indicate the relative importance of price and other evaluation factors. It shall clearly define the tasks to be performed under the contract, the criteria to be used in evaluating the proposals, and the time frames within which the work must be completed.
7. Award shall be made to the responsible offeror whose proposal is determined in writing by the head of the using agency, or other authorized individual, to be the most advantageous to the state, and/or The Seventh Planning District Workforce Investment Area taking into consideration price and the evaluation factors set forth in the request for proposals.
8. Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible for being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:
 - a. With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions;
or

- b. Where time of delivery or performance will not permit discussions; or
- c. Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with that particular service that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

4. Noncompetitive Proposals (Sole Source)

Procurement is through solicitation of a proposal from only one source, the funding of an unsolicited proposal, or after solicitation of a number of sources, when competition is determined inadequate.

The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall minimize the use of sole source procurements to the extent practicable, but in every case, the use of sole source procurements shall be justified and documented. Procurement by non-competitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:

- a. The item or service is available only from a single source;
- b. The public exigency or emergency need for the item or service does not permit a delay resulting from competitive solicitation;
- c. After solicitation of a number of sources, competition is determined inadequate;
- d. On-the-job training (OJT) contracts, except OJT brokering contracts which shall be selected competitively; or
- e. Enrollment of individual participants in classroom training.
- f. Contracts for consulting services which have a total maximum amount of compensation less than fifty thousand dollars (\$50,000) may be awarded without the necessity of competitive bidding or competitive proposals.
- g. Contracts for personal services may be awarded without the necessity of competitive bidding or competitive proposals.
- h. Contracts for professional services may be awarded without the necessity of competitive bidding or competitive proposals.
- i. Contracts for social services may be awarded without the necessity of competitive bidding or competitive proposals only if the Director of the Office of Contractual Review or other authorized individual of the subrecipient, as applicable, determines that any one of the conditions listed below is present:

If none of the conditions above are determined to be present in a contract for social service, then the contract shall be awarded through a request for proposal process (for state agencies) or through a request for proposal, small purchase, or sealed bid process (for non-state agencies).

1. The services are available only from a single source (sole source). Sole source procurement shall be determined by the Director of the Office of Contractual Review or other authorized individual of the subrecipient, as applicable. A contract shall also be considered as sole source if a request for proposals is issued and only one or no proposals are received.
2. The state legislature has made an appropriation for that particular contractor or contractors via the appropriation bill or other statutes.
3. A quasi-public and/or nonprofit corporation, such as a parish voluntary council on aging, an area agency on aging, or an association of retarded children or equivalent, has been established in coordination with the state to provide the particular service involved in the contract.
4. Local matching funds of greater than ten percent (10%) of the contract amount are required to be contributed by the contractor.

Such matching funds may be in the form of cash, certified expenditures or in-kind contributions, where applicable to the funding source.

5. The nature of the services being provided necessitates that a continuity of contractors be maintained as in but not limited to therapeutic and crisis support to clients and employment and training programs.
6. An emergency exists which will not permit the delay in procurement necessitated by the request for proposal procedure. Such emergency shall be determined by the Director of the Office of Contractual Review or other authorized individual of the subrecipient, as applicable.
7. The total contract amount is less than one hundred fifty thousand dollars (\$150,000) per twelve (12) month period. Service requirements shall not be artificially divided so as to exempt contracts from the request for proposal process.
8. The contract is with another governmental entity or governmental body.
9. Funds are specifically designated by the federal government for a particular private or public contractor or political subdivision.
10. The contract is with a social service contractor who supplies services under a contract in existence as of November 30, 1985, as long as such contractor continues to supply substantially the same services and the using agency certifies:
 - a. The services are satisfactory.
 - b. The intent to continue contracting with that contractor.

E. Cost or Price Analysis

1. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall perform a cost or price analysis in connection with every procurement action, including contract modifications (except for modifications where a determination has been made that they do not have a monetary impact). The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, the awarding agency shall make independent estimates before receiving bids or proposals.
2. A cost analysis is necessary when the offeror is required to submit the elements of the estimated cost (e.g., as in the case of subrecipient relationships), when adequate price competition is lacking, and for sole source procurements, including modifications or change orders.

A price analysis shall be used when 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 (including situations involving inadequate price competition and sole source procurements where a price analysis may be used in lieu of a cost analysis).

The offeror shall certify that to the best of its knowledge and belief, the cost data are accurate, complete, and current at the time of agreement on price.

Awards or modifications negotiated in reliance on such data should provide the awarding agency a right to a price adjustment to exclude any significant sum by which the price was increased because the contractor had submitted data that was not accurate, complete, or current as certified.

3. WIA procurements shall not permit excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities). If profit or program income is included in the price, the awarding agency shall negotiate profit or program income as a separate element of the price for each procurement in which there is no price competition and in all cases where cost analysis is performed.

To establish a fair and reasonable profit or program income, consideration shall be given to:

- a. The complexity of the work to be performed;
- b. The risk borne by the awardee;
- c. The offeror's investment;
- d. The amount of subcontracting/subgranting;
- e. The quality of the offeror's record of past performance;
- f. Industry profit rates in the surrounding geographical area for similar work; and
- g. Market conditions in the surrounding geographical area.

4. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients may charge to the agreement only those costs which are consistent with the allowable cost provisions of CFR 627.435, including the guidelines issued by the Governor, as required at CFR 627.435(l).
5. The cost-plus-a-percentage-of-cost method shall not be used.

F. Oversight

1. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall conduct and document oversight to ensure compliance with the procurement standards, in accordance with procedures set forth in CFR 627.475 for oversight and monitoring.
2. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall maintain an administration system which ensures that vendors and subrecipients perform in accordance with the terms, conditions, and specifications of their awards.

G. Transactions between units of government

1. Except as provided in paragraph (G)(2), procurement transactions between units of state or local governments, or any other entities organized principally as the administrative entity for The Seventh Planning District Workforce Investment Area or substate areas, shall be conducted on a cost reimbursable basis. Cost plus type awards are not allowable.
2. In the case of procurement transactions with schools that are a part of these entities, such as State universities and secondary schools, when tuition charges or entrance fees are not more than the educational institutions's catalogue price, necessary to receive specific training, charged to the general public to receive the same training, and for training of participants, the tuition and/or entrance fee does not have to be broken out by items of cost.

H. Award provisions. The Coordinating and Development Corporation, Division of Workforce Development and subrecipient agreements shall:

1. Clearly specify deliverables and the basis for payment; and
2. In the case of awards to subrecipients, contain clauses that provide for:
 - a. Compliance with the WIA regulations;
 - b. Assurance of nondiscrimination and equal opportunity as found in 29 CFR 34.20, Assurance required; duration of obligation; covenants.
3. In case of awards to vendors, contain clauses that provide for:

Access by The Coordinating and Development Corporation, Division of Workforce Development, the subrecipient, the Department of Labor, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records (including computer records) of the contractor or subcontractor

which are directly pertinent to the charges to the program, in order to conduct audits and examinations and to make excerpts, transcripts, and photocopies; this right also includes timely and reasonable access to contractor's and subcontractor's personnel for the purpose of interviews and discussions related to such documents;

4. In case of awards to both subrecipients and vendors, contain clauses that provide for:
 - a. Administrative, contractual, or legal remedies in instances where contractors/subgrantees violate or breach agreement terms, which shall provide for such sanctions and penalties as may be appropriate;
 - b. Notice of 29 CFR 97.34 requirements pertaining to copyrights (agreements which involve the use of copyrighted materials or the development of copyrightable materials);
 - c. Notice of requirements pertaining to rights to data. Specifically, the awarding agency and the Department of Labor shall have unlimited rights to any data first produced or delivered under the agreement (agreements which involve the use/development of computer programs, applications, or the maintenance of databases or other computer data processing program, including the inputting of data);
 - d. Termination for cause and for convenience by the awarding agency, including the manner by which the termination will be effected and the basis for settlement;
 - e. Notice of awarding agency requirements and regulations pertaining to reporting;
 - f. Audit rights and requirements;
 - g. Payment conditions and delivery terms;
 - h. Process and authority for agreement changes; and;
 - i. Provision against assignment;
5. Additional clauses, as deemed appropriate, for state and subrecipient contracts include:
 - a. Price reduction for defective cost or pricing data;
 - b. Prohibition against awards to debarred or suspended parties - requirement of organizations to self-certify that they are neither debarred nor suspended.

I. Disputes

1. The Coordinating and Development Corporation, Division of Workforce Development and each subrecipient shall have protest procedures to handle and resolve disputes relating to procurements. A protester shall exhaust all administrative remedies with the subrecipient before pursuing a protest at a higher level.
2. Violations of law will be handled in accordance with the requirements contained in 20 CFR 667.600.

- J. The Coordinating and Development Corporation, Division of Workforce Development and each subrecipient shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of agreement type, awardee selection or rejection, and the basis for the agreement price.

III. SELECTION OF SERVICE PROVIDERS

- A. Service providers selected under Title I of the Act shall be selected in accordance with the provisions of Section 122 of the Act.
- B. Determinations of demonstrated performance shall be made in writing and completed prior to the award of all agreements under Title I of the Act.
- C. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall select service providers on a competitive basis, in accordance with the standards established in 20 CFR 663.500, Procurement. When the state and The Seventh Planning District Workforce Investment Area determines that services other than intake and eligibility determination will be provided by its own staff, a determination shall be made of the demonstrated performance of the entity to provide the services. This determination shall be in writing; shall take into consideration the matters listed in paragraph D of this section: and may, if appropriate, be documented and described in the local Plan.
- D. Awards are to be made to organizations possessing the demonstrated ability to perform successfully under the terms and conditions of a proposed subgrant or contract. Where comparable proposals have been received from an offeror which has demonstrated performance and a high-risk recipient/subrecipient, and a determination has been made that both proposals are fundable, the award should be made to the offeror which has demonstrated performance, unless other factors dictate a contrary result. Determinations of demonstrated performance shall be in writing, and take into consideration such matters as whether the organization has:
 - 1. Adequate financial resources or the ability to obtain them;
 - 2. The ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals;
 - 3. A satisfactory record of past performance (in job training, basic skills training, or related activities), including demonstrated quality of training reasonable drop-out rates from past programs; where applicable, the ability to provide or arrange for appropriate supportive services as specified in the ISS, including child care; retention in employment; earning rates of participants; retention in training; training completion; job placement; and rates of licensure;
 - 4. For Title I programs, the ability to provide services that can lead to the achievement of performance standards for participants with identified deficiencies;
 - 5. A satisfactory record of integrity, business ethics, and fiscal accountability;
 - 6. The necessary organization, experience, accounting and operational controls; and

7. The technical skills to perform the work.

- E. In selecting service providers to deliver services in The Seventh Planning District Workforce Investment Area, proper consideration shall be given to community-based organizations. These community-based organizations, including women's organizations with knowledge about or experience in nontraditional training for women, shall be organizations which are recognized in the community in which they are to provide services. Where proposals are evenly rated, and one of these proposals has been submitted by a CBO, the tie breaker may go to the CBO.
- F. Appropriate education agencies in the Workforce Investment Area are shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater potential to enhance the participant's continued educational and career growth. Where proposals are evenly rated, and one of these proposals has been submitted by an educational institution, the tie breaker shall go to the educational institution.
- G. Amounts for service providers. The Seventh Planning District Workforce Investment Area shall ensure that, for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration and supportive services.
- H. When the State or The Seventh Planning District Workforce Investment Area has a policy of awarding additional points to proposals received from such organizations as minority business enterprises and women-owned businesses, and this policy is generally applicable to its other funds, the state, and The Seventh Planning District Workforce Investment Area may apply this policy to the WIA funds.

IV. FUNDING RESTRICTIONS FOR "HIGH RISK" SUBRECIPIENTS

- A. A subrecipient may be considered "high risk" if the awarding agency determines that the subrecipient is otherwise responsible but:
 - 1. Has a history of unsatisfactory performance;
 - 2. Is not financially stable;
 - 3. Has a management system which does not meet the management standards set forth in this part; or
 - 4. Has not conformed to terms and conditions of a previously awarded grant or subgrant.
- B. If the awarding agency determines that an award will be made to a "high risk" subrecipient, then special funding restrictions that address the "high risk" status may be included in the award. Funding restrictions may include but are not limited to:
 - 1. Payment on a reimbursement basis;
 - 2. Requiring additional and/or more detailed financial or performance reports;
 - 3. Additional monitoring;
 - 4. Requiring the subrecipient to obtain specific technical or management assistance; and/or

5. Establishing additional prior approvals.
- C. If the awarding agency decides to impose such funding restrictions, the awarding official will notify the subrecipient as early as possible, in writing, of:
1. The nature of the funding restrictions;
 2. The reason(s) for imposing them;
 3. The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective action; and
 4. The method of requesting reconsideration of the restrictions imposed.

V. PROHIBITION OF SUBAWARDS TO DEBARRED AND SUSPENDED PARTIES

- A. Neither The Coordinating and Development Corporation, Division of Workforce Development nor subrecipients shall make any awards or permit any awards at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs in accordance with the U.S. Department of Labor regulations at 29 CFR part 98.
- B. The Coordinating and Development Corporation, Division of Workforce Development and subrecipients shall comply with the applicable requirements of the U. S. Department of Labor regulations at 29 CFR part 98.

VI. NONDISCRIMINATION ASSURANCE

As a condition to the award of financial assistance from the Department of Labor of Workforce Investment Act (WIA) - Title I and/or Wagner Peyser funds, The Coordinating and Development, Division of Workforce Development assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws: Workforce Investment Act of 1998 (WIA), as amended, including the nontraditional Employment for Women Act of 1991; Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1978, as amended; and all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR Part 37. The United States has the right to seek judicial enforcement of this assurance. This Assurance shall be deemed incorporated by operation of law in the grant, cooperative agreement, contract, or other arrangement whereby Federal assistance is made available, whether or not it is physically incorporated in such document and whether or not there is written agreement between the State of Louisiana, its recipients and/or subrecipients. This Assurance may also be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.