

**SOUTHEAST ARKANSAS WORKFORCE DEVELOPMENT BOARD
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Procurement Policy

Purpose

The purpose of this policy is to describe and redefine the regulations concerning the procurement of goods, services and subrecipients, in accordance with the rules and regulations of Workforce Innovation and Opportunity Act of 2014 (WIOA), the WIOA Final Rule, Arkansas State Law, and policies of the Arkansas Workforce Development Board (AWDB) and the Southeast Arkansas Workforce Development Board (SEAWDB).

Reference:

Office of Management and Budget- 2 CFR Part 200

<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200.pdf>

Policy:

The SEAWDB and all subrecipients thereunder shall adhere to the standards set forth under Subsections 200.318 “General Procurement Standards,” 200.319 “Competition,” 200.320 “Methods of Procurement to be followed,” 200.323 “Contract Cost and Price.”

Specifically, the SEAWDB primary choice of procurement for the One Stop Operator will be a professional Request for Proposal (RFP) process. The SEAWDB reserves the right to reject any or all responses received during the process. For successful respondents, the SEAWDB will negotiate details of all contracts and agreements. Further, the SEAWDB reserves the right to extend the subrecipient agreement for an additional three (3) years after the initial award (using a year-by year, extension process), provided that the subrecipient has satisfied the terms of the agreement and has successfully provided the required services.

SEAWDB affiliates must adhere to board policies and procedures.

Competitive Procurement Process for WIOA Youth, Adult, and Dislocated Worker Programs and One-Stop Operator

To ensure full and open competition for provision of services under the Workforce Innovation and Opportunity Act (WIOA), the Southeast Arkansas Workforce Development Board (SEAWDB) has established the processes outlined below. These processes comply with 29 CFR (Code of Federal Regulations) 95, 95.40 through 95.48; TEGL 09-00; and TEGL 35-10;

The Draft for Request for Proposals will be presented to eligible SEAWDB Members for their review prior to release to the public; this may be done either electronically or during regular board meetings.

Advertisement/Notification/Solicitation of Bidders:

To foster competitive procurement in accordance with WIOA guidelines, the SEAWDB will maintain a list of potential bidders who receive the Request for Proposals either in hard copy or electronic format. That list will be updated periodically as the SEAWDB becomes aware of new/different organizations that might have an interest in providing services. The notice of Request for Proposals will be posted on the SEAWDB website. The full procurement process will align with provisions of the Arkansas Freedom of Information Act and Sunshine Law. (WIOA secs. 101(g) and 107(e))

Proposal Response Time:

The notice of Request for Proposals is posted, and correspondence to potential bidders is sent 30 days prior to the grant submission deadline. With the announcement of solicitation for proposals, the board will provide potential bidders a brief background on the service delivery area; a scope of work, the projected amount of funds available for the WIOA program(s) we are soliciting proposals on; instructions for completing the proposal; attachments that must be included with the proposal; the application submission address and deadline; and instructions for questions regarding the Request for Proposals and/or process.

Proposal Evaluation:

SEAWDB members will develop an evaluation (score) sheet based on criteria required for successful performance of the WIOA program. Evaluation factors considered include completeness and timeliness of proposals (all the required elements are addressed/attached and the proposal was received prior to deadline expiration); reasonableness of costs; performance targets; probability of achieving proposed targets; compliance with WIOA; and past performance (if applicable), and other relevant criteria deemed necessary by the board.

Conflict of Interest Policy:

Each SEAWDB member, and WIOA subcontractor staff member is required to adhere to a Conflict of Interest/Standards of Conduct policy.

It is the practice and expectation of the SEAWDB that its members will fulfill the fiduciary duties applicable to their service as members of the SEAWDB. Due to the legal and statutory structures of the SEAWDB, it is expected that conflicts of interest will arise and this clause is intended to

provide a framework that will allow the work of the SEAWDB to be achieved without the fact of or appearance of impropriety.

The intent of the clause is to prevent any obvious or perceived conflicts of interest in selection of WIOA providers and conduct of business at board meetings. Each SEAWDB member is also required to complete and sign a disclosure of interest statement declaring conflict(s) of interest as appropriate.

Discovery of Actual or Potential Conflict of Interest

Upon discovery of an actual or potential conflict of interest, a SEAWDB member, WIOA staff Member/program operator shall immediately notify their supervisor or board chairperson and withdraw from further participation in the transaction involved. Further, should a SEAWDB member or WIOA staff Member/program operator reasonably believe an undisclosed conflict or potential conflict exists for another party, it is the duty and obligation of that person to make the matter known immediately to the Workforce Development Board Director, Board Chairperson or other appropriate official.

Violations of any provision of this policy by Board Members, staff, or program operators may be cause for immediate dismissal. All are subject to any penalties, sanctions, or other disciplinary measures set forth in applicable federal, state, or local laws.

Standards of Conduct

Under the Uniform Guidance at 2 CFR 200.318 and 200.319, the SEAWDB has adopted written standards of conduct, to ensure the fairness and objectivity during all phases of the procurement process. The ethical standards of persons with fiduciary responsibility for public funds are expected to be above reproach and such that they are able to withstand any public scrutiny.

a. Persons and entities involved in the competitive process to select a one-stop operator using Federal funds must be free of apparent or real conflicts of interest. Under the Uniform Guidance at 2 CFR 200.318(c)(1), conflicts of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated has a financial or other interest or a tangible personal benefit from a firm considered for a contract.

b. Consistent with WIOA sec. 121(d)(4)(A), disclosure of any real or apparent conflict of interest, whether individual, or organizational. The process for recusal of individuals or organizations that are members of the SEAWDB who disclose a real or apparent conflict of interest, includes signing a disclosure form, abstaining from votes and removing themselves from activity or business where a direct conflict of interest may be.

c. As specified in 20 CFR 678.610(c) and in conformity with 20 CFR 679.430 for demonstrating internal controls and preventing conflict of interest, the use of firewalls will be used to mitigate conflict of interest in circumstances including, but not limited to, situations where an entity acts in more than one role in the one-stop delivery system or performs more than one function in the procurement process, as well as situations where the non-Federal entity uses a sole source selection.

d. Information contained in the proposals submitted by offerors/bidders is maintained in a manner that is confidential, to avoid the use of the information to another offeror/bidder's advantage and to prevent collusive bidding.

e. No entity that develops or drafts specifications, requirements, statements of work, IFBs or RFPs, and evaluation of proposals may compete under that procurement (2 CFR 200.319(a)).

Firewalls

Proper firewalls must be in place to ensure the transparency and integrity of the procurement process and demonstrate to the public and to the Department of Labor that the selection process was impartial and that no preferential treatment was given to the awardee. A "firewall" is an established policy or procedure that acts as a barrier or protection against an undesirable influence, outcome, or authority. Examples of firewalls include but are not limited to organizational arrangements that provide clear separation of duties and responsibilities, including confidentiality and disclosure agreements.

Review of Proposals:

For the One-Stop Operator, the SEAWDB members and/or a designated committee receive RFP guidelines, the proposals received in response to the RFP, and the proposal evaluation sheet after the submission deadline. Committee members who represent an agency which has submitted a proposal for consideration are not included in this distribution. SEAWDB committee members independently review and score each proposal.

When the proposals are reviewed by the SEAWDB, the board reserves the right to close that portion of a business or special meeting.

Award Recommendation:

During a meeting of the board and/or review committee, those members discuss and review evaluations; a vote is cast in committee meetings to recommend subcontractor(s) to the full board for a contract award vote.

Award/Non-award Notification:

Each organization that responds to the RFP with a written proposal is notified via letter of award/non-award based on majority vote at the board meeting.

In the event of no response to a Request for Proposals:

The competitive procurement process identified in 29 CFR (Code of Federal Regulations) 95, 95.40 through 95.48; TEGL 09-00; and TEGL 35-10 will be followed in every instance of service provider procurement. In the event that the SEAWDB receives no response to a Request for Proposals after following Department of Labor competitive procurement procedures, the SEAWDB reserves the right to solicit proposals from existing service providers or to appoint an existing service provider as contract awardee. In addition, where certain criteria are met, a one-stop operator may be selected by noncompetitive proposals (sole source) (2 CFR 200.320(f)).

Sole-Source

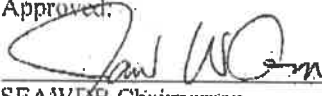
The Uniform Guidance identifies procurement by noncompetitive proposals as permissible in certain circumstances discussed below. As noted in 20 CFR 678.605(c), the Department interprets references to "noncompetitive proposals" in the Uniform Guidance at 2 CFR 200.320(f) to be read as sole source procurement for purposes of competitively selecting a one-stop operator. Non-Federal entities, including subrecipients of a State (such as Local WDBs) may select a one-stop operator through sole source selection when consistent with local procurement policies and procedures which conform to the Uniform Guidance set forth at 2 CFR 200.320. The Uniform Guidance states, at 2 CFR 200.320(f), that procurement by noncompetitive (sole source) proposals is procurement through solicitation of a proposal from only one source which may be used only when one or more of the following circumstances apply:

- a. The item or service is available only from a single source;
- b. The public exigency or emergency for the item or service will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- d. After solicitation of a number of sources, competition is determined inadequate, whether for reasons of number or quality of proposals/bids.

Entities that make a sole source selection must prepare and maintain written documentation of the entire process of making a sole source selection (20 CFR 678.610(b)).

Procurement details concerning competitive purchasing, sealed bids and all other procurement activity is described in the Financial Procedures Manual approved by the SEAWDB.

Approved:


SEAWDB Chairperson

11-22-19
Date

Amended:

SEAWDB Chairperson

Date