



Workforce Innovation and Opportunity Action (WIOA) Policies and Procedures

Procurement Policies and Procedures

Revised March 2016

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PURPOSE

This policy communicates Workforce Solutions for North Central PA's methods for the procurement of goods and services obtained with Workforce Innovation and Opportunity Act (WIOA) funds and sets forth the requirements provided by 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 200.

BACKGROUND

WIOA Sec. 184(a)(3)(A) requires each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title to comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget (OMB).

OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations; 2 CFR 200 supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, A-133 and the guidance in Circular A-50 on Single Audit Act follow-up. 2 CFR 200, also referred to as the "Super Circular", consolidates the guidance previously contained in the aforementioned citations into a streamlined format that aims to improve both the clarity and accessibility of the guidance.

POLICY

A. Cost-Reimbursement Only [WIOA Sec. 184(a)(3)(B)]

Procurement transactions under this title between local boards and units of state or local governments shall be conducted on a cost-reimbursement basis only.

B. General Procurement Standards (2 CFR 200.318)

Workforce Solutions will use documented procurement procedures that reflect State and local laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in 2 CFR Parts 200.317 through 200.326.

Workforce Solutions will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Workforce Solutions' Conflict of Interest Policy provides standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real, perceived or potential conflict of interest. Conflicts of interest must be disclosed in writing when known in advance or announced to the voting body. The party must excuse themselves from any further discussion and/or vote on the matter in question. Violations of such standards are subject to disciplinary actions provided in Workforce Solutions' Conflict of Interest Policy.

Workforce Solutions' procurement procedures will avoid acquisition of unnecessary or duplicative items and promote cost-effective use of shared services by entering into state and local intergovernmental agreements for procurement or use of common or shared goods and services where appropriate. Workforce Solutions will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Workforce Solutions will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Consideration will be given to such matters as:

- Contractor integrity,
- Compliance with public policy,
- Record of past performance, and
- Financial and technical resources.

Workforce Solutions will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to:

- Rationale for the method of procurement,

- Selection of contract type,
- Basis for contractor selection or rejection, and
- The basis for the contract price.

Time and materials contracts [For major construction only; 2 CFR 200.318(j)]: Workforce Solutions may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

Workforce Solutions will be responsible for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to:

- Source evaluation,
- Protests,
- Disputes, and
- Claims.

C. Competition (2 CFR 200.319)

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards provided in section 200.319 of 2 CFR 200. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded from competing for such procurements.

Workforce Solutions procurement transactions will contain no requirements that unduly restrict competition as specified in 200.319(a) and (b).

Workforce Solutions procurement procedures will ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured in a manner that does not unduly restrict competition; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Workforce Solutions will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free completion. Workforce Solutions will not preclude potential bidders from qualifying during the solicitation period.

D. Methods of Procurement (2 CFR 200.320)

Workforce Solutions may use any one of the following methods of procurement:

1. Micro-purchases (purchases of \$1 - \$3,000): Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (currently \$3,000, see Micro-purchase definition). To the extent practicable, Workforce Solutions will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if Workforce Solutions considers the price to be reasonable.

2. Small Purchases (purchases of \$3001 - \$150,000): Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (as of the publication of 2 CFR Part 200, the Simplified Acquisition Threshold is \$150,000 but is periodically adjusted for inflation.) If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

3. Competitive Proposals (purchases of \$150,001 – and above): The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Purchases over \$150,000 must be approved by the Executive Committee or the Workforce Development Board.
- b. Requests for proposals must be sent to all entities on Workforce Solutions Bidders List, as appropriate and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- c. Proposals must be solicited from an adequate number of qualified sources;
- c. Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- d. Workforce Solutions may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

4. Sealed Bids (Formal advertising) (purchases of \$150,001 – and above):

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) 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. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- a. Purchases over \$150,000 must be approved by the Executive Committee or Workforce Development Board
- b. In order for sealed bidding to be feasible, the following conditions should be present:
 - i. A complete, adequate, and realistic specification or purchase description is available;
 - ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
 - iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- c. If sealed bids are used, the following requirements apply:
 - i. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids for state, local and tribal governments, the invitation for bids must be publically advertised;
 - ii. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - iii. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - iv. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - v. Any or all bids may be rejected if there is a sound documented reason.

5. Noncompetitive Proposals (Sole Source): Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source; or
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
- 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.
- e. Purchases over \$150,000 must be approved by the Executive Committee or Workforce Development Board.

E. Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms (2 CFR 200.321)

Workforce Solutions will take necessary affirmative steps to ensure that minority businesses, women’s business enterprises, and labor surplus firms are used when possible.

F. Contract Cost and Price (2 CFR 200.323)

1. Workforce Solutions will perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000). The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, Workforce Solutions will make independent estimates before receiving bids or proposals.

2. Where applicable, Workforce Solutions will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

3. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for Workforce Solutions under Subpart E – Cost Principles-of the Uniform Administrative Guidance 2 CFR Part 200. Workforce Solutions may reference its own cost principles that comply with the Federal cost principles.

4. The cost plus a percentage of cost and percentage of construction cost methods of contracting are not allowable.

G. Leasing or Renting Non-Expendable Personal Property

Where appropriate, Workforce Solutions will complete an analysis of least/rental versus purchase alternatives to determine which approach is most economical. Leasing may be preferable to purchase depending on administrative requirements. Leasing with an option to purchase may be preferable to straight leasing. Lease-purchase items will be treated as non-expendable personal property (equipment) and Workforce Solutions will obtain approval from Labor and Industry if the total acquisition cost is at \$5,000 or more. These purchases will be tagged, reported and disposed of in accordance with Labor and Industry's non-expendable personal property.

F. Procurement Review (2 CFR 200.324)

1. Workforce Solutions will make available, upon request by the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

2. Workforce Solutions will make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates when the circumstances detailed in 200.323(b) apply.

3. Workforce Solutions is exempt from the pre-procurement review if the Federal awarding agency or pass-through entity determines that its procurement systems comply with this part.
 - a. Workforce Solutions may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.
 - b. Workforce Solutions may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from Workforce Solutions that it is complying with these standards. Workforce Solutions must cite specific policies, regulations, or standards as being in compliance with these requirements and have its system available for review.

H. Bonding Requirements (2 CFR 200.325)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently \$150,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the requirements of 200.325(a) – (c) must be followed.

I. Contract Provisions (2 CFR 200.326)

Workforce Solutions' contracts must contain the applicable provisions described in 2CFR Appendix II to Part 200 – "Contract Provisions for non-Federal Entity Contracts Under Federal Awards".

- Scope of work describing the good(s) and/or service(s) being procured;
- Federal and state employer's tax identification number and nature of the company (non-profit, profit, local government);
- Certifications, assurances, clauses, and conditions required by USDOL, state, or local policies;
- Required budget;
- State of financial, capability-certified financial statements or single A-133 audit report;
- Required performance measures;
- Reporting requirements;
- Applicability and compliance with required statute and/or regulations;
 - Equal Employment Opportunities;
 - Copeland Anti-Kickback Act;
 - Davis Bacon Act;
 - Compliance with all applicable standards, orders, or requirements issued under the Clean Air Act, Clean Water Act, and the Environmental Protection Agency regulations for contracts/grants exceeding \$100,000;
 - Mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act;
 - Patent rights;
 - Copyrights and rights to data;
 - Byrd Anti-Lobbying Amendment; and
 - Debarment and suspension requirements.
- Administrative, contractual, or legal remedies for violations, default, and/or breach of contract;
- Termination for cause and for convenience;
- Ownership and access to records and retention requirements;

- Audit requirements;
- Access by the grantee, federal, and state personnel or any of their duly authorized representatives to any books, documents, papers, and records of the contractors that are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions; and
- Modifications.

J. Subrecipient and Contractor Determinations (2 CFR 200.330)

Workforce Solutions will make a case-by-case determination whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor (see Subrecipient and Contractor in the Definitions section of this policy).

In determining whether an agreement between Workforce Solutions and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of agreement. Workforce Solutions will use judgment in classifying each agreement as a subaward or a procurement contract.

In compliance with 2 CFR 200.330, Workforce Solutions will classify eligible providers of WIOA Adult, Dislocated Worker and Youth services as sub recipients.

K. Post-Award Administration (WSP No. 03-2015, Financial Management Policy, Financial Management Guide (FMG) 201, 10-6 and 7)

Workforce Solutions will provide technical assistance to all sub recipients when appropriate and upon request of a sub recipient. Workforce Solutions will also provide programmatic monitoring, careful analysis of performance, and the review of documentation and reports.

L. Procurement File Standards – Record Retention

Workforce solutions will maintain records and files for all large purchases and shall include at a minimum: a) the basis for subrecipient selections; b) justification for lack of competition when competitive bids or offers are not obtains; and c) a cost or price analysis.

Procurement records will be retained for three (3) years after final payment on a contract and all other matters are closed. Records shall detail the significant history of procurement. These records may include, but are not necessarily limited to, the following:

1. Identification of Service and Supporting Need Documentation
2. Proof of Publication
3. Identification of Potential Providers
4. Request for Proposal
5. Bidder's Conference
6. Responses to Requests for Proposal
7. Evaluation of Responses
8. Requests for Additional Information
9. Related Correspondence
10. Letters of Status Determination
11. Recommendations by Staff
12. Determination by Board

M . Delivery of Career Services-Adult and Dislocated Workers [WIOA Sec. 134(c)(2)(C)]

Career services described in WIOA Section 134(A) for eligible adult and dislocated workers shall be provided through the one-stop delivery system-

1. Directly through one-stop operators identified pursuant to section 121(d), or
2. Through contracts with service providers (subrecipients), which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

N. Training Contracts [WIOA Sec. 134(c)(3)(G)(ii)]

1. Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account (ITA) if-
 - a. The Consumer Choice Requirements [WIOA Sec. 134(c)(3)(F)] are met;
 - b. Such services are on-the-job training (OJT), customized training, incumbent worker training or transitional employment;
 - c. Workforce Solutions determines there are an insufficient number of eligible providers of training services in the local area involved to accomplish the purposes of a system of individual training accounts;
 - d. Workforce Solutions determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve individuals with barriers to employment;
 - e. Workforce Solutions determines that

- i. It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations; and
 - ii. Such contract does not limit customer choice; or
- f. The contract is a pay-for-performance contract.

2. Training services must be directly linked to an in-demand industry sector or occupation in the North Central PA region or the planning region, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that Workforce Solutions may approve training services for occupations determined by the board to be in sectors of the economy that have a high potential for sustained demand or growth in the North Central region [WIOA Sec. 134(c)(3)(G)(iii)].

3. Nothing in this paragraph shall be construed to preclude the combined use of individual training accounts (ITAs) and contracts in the provision of training services, including arrangements that allow individuals receiving ITAs to obtain training services that are contracted this clause [WIOA Sec. 134(c)(3)(G)(iii)].

O. Selection of Eligible Providers of Youth Workforce Investment Activities (WIOA Sec. 107(d)(10)(B) and Sec. 123)

1. Workforce Solutions shall award grants or contracts on a competitive basis to providers (subrecipients) of youth workforce investment activities based on the criteria in the State plan (including such quality criteria as the Governor shall establish for a training program that leads to a recognized postsecondary credential), and taking into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program as described in WIOA Section 116(b)(2)(A)(ii) and in WIOA section 102(b)(2)(D)(i)(V), based on the recommendations of the youth standing committee; and

2. Shall conduct oversight with respect to such providers.

3. Exceptions: Workforce Solutions may award grants or contracts on a sole source basis if Workforce Solutions determines there is an insufficient number of eligible providers of youth workforce investment activities in the North Central PA region involved for grants and contracts to be awarded on a competitive basis.

4. Consistent with section 123, Workforce Solutions may terminate for cause the eligibility of such providers (subrecipients).

P. Selection of One-Stop Operators [WIOA Sec. 121(d)]

Workforce Solutions, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators. To be eligible to receive funds made available under this subtitle to operate a one-stop center, an entity:

1. Shall be designated or certified as a one-stop operator through a competitive process; and
2. Shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection 121(b)(1)), of demonstrated effectiveness.

Workforce Solutions will ensure that in carrying out activities under this title, one-stop operators-

1. Disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;
2. Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training and education services; and
3. Comply with Federal regulations, and procurement policies, relating to the calculation and use of profits.

Q. Grievance and Complaint Procedures

Disputes arising out of any procurement conducted by Workforce Solutions shall be settled at the lowest level of protest as agreed upon by the protesting agent and in accordance to the Workforce Solutions Grievance/Complaint Process. Under this process, WIOA staff, program applicants, participants, recipients of grant awards, contracts, labor unions, service providers, etc., may file complaints alleging violations of the Act, or other federal and state rules. This process may also be used to cover most not covered by Equal Opportunity complaint process. Complaints under this process must be in writing and must adhere to the timelines specified. Complaints for the process must be submitted to:

Workforce Solutions for North Central Pennsylvania
North Central Workforce Development Board
Attention of: Ms. Susan R. Snelick, Executive Director
425 Old Kersey Road
Kersey, PA 15846

Complaints may be filed with the Executive Director and appealed to the WIB Chairman or his/her designee within 180 days of the award date and allow 90 days from Notice to Final Action.

R. Suspension and Debarment (2 CFR 2900)

Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

DEFINITIONS

Contract (2 CFR 200.22): A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor (2 CFR 200.23): An entity that receives a contract as defined in “Contract”, above.

(2 CFR 200.330(b)): A contract is for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a procurement relationship with the contractor (see 200.22 Contract). Characteristics indicative of a procurement contract relationship between the non-Federal entity and a contractor include when the non-Federal entity receiving the Federal funds:

- 1) Provides the goods and services within normal business operations;
 - 2) Provides similar goods or services to many different purchasers;
 - 3) Normally operates in a competitive environment;
 - 4) Provides goods or services that are ancillary to the operation of the Federal program;
- and
- 5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Cooperative Agreement (2 CFR 200.24): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302- 6305:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal government of pass-through entity's direct benefit or use;

(b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Customized Training (WIOA Sec. 3(14):

A. That is designed to meet the specific requirements of an employer (or group of employers);

B. That is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and

C. For which the employer pays a significant portion of the cost of training, as determined by the local board, taking into account the size of the employer and other factors determined by the board and further defined in this part.

Federal Award (2 CFR 200.38): Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

(a)(1): The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

(a)(2): The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

(b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance in paragraph (b) of 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned contractor operated facilities (GOCOs).

(d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal Awarding Agency (2 CFR 200.37): The Federal agency that provides a Federal Award directly to a non-Federal entity.

Federal Financial Assistance (2 CFR 200.40): For grants and cooperative agreements, assistance that non-Federal entities receive or administer in the form of:

- (a) Grants;
- (b) Cooperative agreements;
- (c) Non-cash contributions or donations of property (including donated surplus property);
- (d) Direct appropriations; and
- (e) Other financial assistance.

Fixed Amount Awards (2 CFR 200.45): A type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award.

Grant Agreement (2 CFR 200.51): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;
- (b) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Incumbent Worker Training (proposed CFR 20 680.780): WIOA funded training for incumbent workers is designed to meet the specific requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment and conducted with a commitment by the employer to retain or avert the layoff of the incumbent worker. An ideal incumbent worker training would be one where a participant acquires new skills allowing him or her to move into a higher skilled and higher paid job with the company, thus allowing the company to hire a job seeker to backfill the incumbent worker's position. Incumbent worker training must increase both the participant's **and** the company's competitiveness. **An incumbent worker does not necessarily have to meet the eligibility requirement for career and training services for adults and dislocated workers under WIOA.**

Individual with Barrier to Employment [WIOA Sec. 3(24)]: A member of one or more of the following populations:

- o Displaced homemakers;
- o Low-income individuals;
- o Indians, Alaska Natives, and Native Hawaiians;
- o Individuals with disabilities;
- o Older individuals;
- o Ex-offenders;
- o Homeless individuals (see definition of Homeless Individuals], or homeless children and youth (see definition of Homeless Children and Youth);
- o Youth who are in or have aged out of the foster care system;
- o Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
- o Eligible migrant and seasonal farm workers;
- o Individuals within two (2) years of exhausting lifetime TANF eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
- o Single parents (including single pregnant women); o Long-term unemployed individuals;
- o Such other groups as the Governor involved determines to have barriers to employment.

Local Board (WIOA Sec. 3(33)): A local workforce development board established under WIOA section 107, subject to section 107(c)(4)(B)(i).

Local Plan (WIOA Sec. 3(35)): A plan submitted under WIOA section 108, subject to WIOA section 106(c)(3)(B).

Micro-Purchase (2 CFR 200.67): A purchase of supplies or services using the simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micropurchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and costs. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

Non-Federal Entity (2 CFR 2900): A state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

On-the-Job Training (OJT) (WIOA Sec. 3(44)): Training by an employer that is provided to a paid participant while engaged in productive work in a job that-

- A. Provides knowledge or skills essential to the full and adequate performance of the job;
- B. Is made available through a program that provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided in WIOA section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- C. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

Pass-through Entity (2 CFR 200.74): A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Proposal Costs (CFR 200.460): The costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals.

Simplified Acquisition Threshold (2 CFR 200.88): The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation.

State Plan (WIOA Sec. 3(58)): A unified State plan under WIOA section 102 or a combined State plan under WIOA section 103.

Subaward (2 CFR 200.92): An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient (2CFR 200.93): A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a

beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2 CFR 200.330(a): A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient, characteristics of which support the classification of the non-Federal entity as a subrecipient and include when the non-Federal entity:

- 1) Determines who is eligible to receive what Federal assistance;
- 2) Has its performance measured in relation to whether objectives of a Federal program are met;
- 3) Has responsibility for programmatic decision making;
- 4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- 5) In accordance with its agreement, uses the Federal funds to carry out program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

Transitional Employment (WIOA Sec. 134(5) and proposed 20 CFR 680.830): A transitional job is one that provides a limited work experience, that is subsidized in the public, private, or non-profit sectors for those individuals with barriers to employment because of chronic unemployment or inconsistent work history; these jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment.

Youth Standing Committee [WIOA Sec. 107(b)(4)(A)]: The local board may designate and direct the activities of standing committees to provide information and to assist the local board in carrying out activities under WIOA.

[WIOA Sec. 107(b)(4)(A)(ii)]: The Youth Standing Committee provides information to the local board for the purpose of assisting with planning, operational, and other issues relating to the provision of services to youth. The Youth Standing Committee shall include community-based organizations with a demonstrated record of success in serving eligible youth.

ACTION REQUIRED

Workforce Solutions and its subrecipients of WIOA funds must adhere to the procurement practices outlined in this policy.

REFERENCES

- WIOA, Sections:

- 3-Definitions
- 107(d)(10)(B)-Selection of Youth Providers o 107(h) - Conflict of Interest o 108(16)-Competitive Process in the Local Plan o 108(19) – Training Services in the Local Plan o 134(c)(3)-Training Services Adults and Dislocated Workers o 134(c)(3)(G)(ii)-Training Contracts
- OMB Uniform Guidance 2 CFR Part 200
 - Parts 200.318-200.326
- Final Guidance: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Office of Management and Budget (OMB); Federal Register Vol. 79, No. 244
 - 2 CFR part 2900, Department of Labor
- TEGL 15-14-Implementation of the New Uniform Guidance Regulations
- WIN 0064, Change 1 – Federal Awarding Agency Regulatory Implementation of OMB’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule, 2 CFR 200.

INQUIRIES Direct Inquiries To:

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 814-245-1835

Auxiliary aids and services available upon request to individuals with disabilities
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