



RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY

POLICIES & PROCEDURES

Date: January 1, 2003

Number: 18-01

SUBJECT: PROCUREMENT STANDARDS

PURPOSE: To provide the Riverside County Economic Development Agency (Agency) staff and Subrecipients with state, federal and local guidance that meets or exceeds the requirements of the Workforce Investment Act Final Rule, August 11, 2000, and the Welfare-to-Work Grant Interim Rule, November 18, 1997, regarding the Procurement of goods and services. This policy covers the purchase of supplies, equipment and administrative services, as well as the selection of service providers and providers of supportive services

REFERENCES: Chapter 7, Title 41 at United States Code (USC) 41, Sec. 403(6)

Office of Management and Budget (OMB) Circular A-102, 1 d., 2 h. and 2 i.,

OMB Circular A-110 Subpart C, Sections .41 - .46

Riverside County Purchasing Manual, General Services Agency, Purchasing and Material Services, August 9, 2000

Title 20 Code of Federal Regulation (CFR) Welfare-to-Work (WtW) Grants Interim Rule, Sections 645.230(a)(1) and (2), 645.230(d) through (g), 645.300(b)(1)(I)

Title 20 Code of Federal Regulations (CFR) Workforce Investment Act (WIA), Final Rule Sections 667.200(a)(3) and (4), (c)(6) (d)-(g)

Title 29 CFR Part 95 Sections 95.40 through 95.48 (Non-profit Organizations, Institutions of Higher Education, Hospitals, and Commercial Organizations)

DISTRIBUTION: WDB; SP; ADMIN; PPD; FISCAL; PROG.COMP.; CUST.SERV.

Title 29 CFR Part 97 Section 97.36 (States and Other Governmental Grantees and Subgrantees)

WtW Directive WD01-3, June 7, 1999

WIA Directive WIAD00-2, August 24, 2000, Grant Agreement Award Notification, Department of Labor, Agreement # Y-6779-8-00-81-60

SUPERCEDES: Riverside County Economic Development Agency Field Memorandum Number F01-02, dated July 1, 2001, and any addenda.

LOCALLY IMPOSED REQUIREMENTS:

As allowed in 29 CFR Parts 97 and 95 referenced above, the County will impose a more restrictive Procurement policy, which will be followed by all staff and any Subrecipients when conducting any Procurement activities. All locally imposed requirements are indicated in ***bold italic type***.

EFFECTIVE DATE: January 1, 2002

BACKGROUND:

The Welfare-to-Work Grant Interim Rule, Title 20 CFR Part 645, and the Workforce Investment Act Final Rule, Title CFR Part 667, provide guidance for the administration of these programs. The guidance includes specific directions regarding Procurement and refers Subrecipients and Subgrantees to additional regulatory sites, which include Title 29 CFR Parts 95 and 97 (as applicable). Although the format and wording varies slightly between Parts 95 and 97, the intent is to ensure that Procurement polices provide full and open competition and must secure the best possible price and value.

DEFINITIONS: These terms are capitalized throughout the document and are defined as indicated below.

1. **“Agency”** means the Riverside County Economic Development Agency (EDA).
2. **“Claim,”** as used in this Memorandum, means a written grievance by one of the responders to a solicitation for goods or services arising from decisions made by the Agency during the Procurement process.
3. **“Day,”** as used in this Memorandum, means a business day unless otherwise specified.
4. **“Equipment”** means tangible, non-expendable, personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more, PER UNIT.
5. **“Procurement”** includes all stages of the process of acquiring property or services, beginning with the process for determining a need for property or services and ending with contract completion and closeout.
6. **“Service Provider”** means any individual, company or organization that provides

- job training or other related services required by the Agency. The term includes public and private organizations, not-for-profit and for-profit organizations, and Subrecipients.
7. **“Subgrantee”** means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee (state or federal government).
 8. **“Subrecipient”** is a legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. Characteristics of a Subrecipient are when the organization receiving a federal award performs the following activities:
 - Has its performance measured against the objectives of the program
 - Has responsibility for programmatic decision making
 - Has responsibility for adherence to applicable program compliance requirements (for example, the regulations)
 - Uses the funds to carry out a comprehensive program as opposed to providing goods or services
 9. **“Supplies”** means all items purchased in support of the day- to-day operations of a business that will be expended in less than one year or will be outdated or obsolete within one year. For example, office supplies or minor equipment costing \$100 or less, computer software not expected to be upgraded within a year and other consumables.
 10. **“TEGL”** is the acronym for Training Employment Guidance Letter. These guidance documents issued by the federal government (Department of Labor, Employment and Training Administration) address multiple issues within the employment and training community.
 11. **“TEIN”** is the acronym for Training and Employment Information Notice. These are distinguished from TEGL in that the TEIN documents provide information regarding policy change, etc., as opposed to guidance procedures.

POLICY: The Agency will conduct all Procurement of goods, services and training/employment related services considered both necessary and appropriate to accomplish activities contemplated by the regulations defined above. ***The Workforce Development Administrator will have the authority and the responsibility of managing the Procurement process and administering Agency funds in the accomplishment of Agency goals and objectives.***

Agency employees and/or Subrecipients shall secure the most current "List of Parties Excluded from Federal Procurement or Nonprocurement Program" from the General Services Administration directly or from its website at <http://www.arnet.gov/epls/>. The Agency shall not award funds to any contractor that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549.

The Agency shall make every effort to award a fair share of contracts to small and minority business firms, women’s enterprises and procure goods and services from labor surplus area firms.

Preference will be given in Procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) guidelines.

All announcements of the awarding of contracts with an aggregate value of \$500,000 or more shall specify the amount of federal funds that will be used to finance the acquisition.

PROCEDURES:

Procurement will be conducted on an ongoing basis, with the Agency having the discretion to initiate and conduct Procurement processes at any time during the program (fiscal) year. Procurements will be conducted at intervals of not less than once every three years for any defined and/or previously awarded activity. The Agency reserves the right to extend the contract term of any awarded program for up to three years for any state-funded activity and up to five years for any federally-funded activity. The Board of Supervisors shall approve any additional funding required for the extended term.

CODE OF CONDUCT

No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. A conflict would arise when the employee, officer, agent, or a) any member of his or her immediate family or, b) his or her partner, or c) any close friends employ or are about to employ any of the above or has a financial interest in the firm or firms that may be selected for award.

The officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Exceptions are only when the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state, local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by officers, employees, agents, by contractors or their agents.

No person involved in the Procurement process will divulge any information regarding any Procurement prior to the release of the Procurement documents. No proposal will be accepted after the submission deadline.

SOLICITATION PROCEDURES:

- A. Consumable Goods, Minor Equipment or Professional Services (short term): The following procedure is used where the "per transaction" value of the Procurement is \$5,000 or less AND has a useful life of under one year. The Riverside County Board of Supervisors has adopted a local preference policy for business located within Riverside County. Those vendors should be given a five percent (5%) price preference over non-Riverside County business during the competitive bid process.

If the dollar range of the purchase is between \$200 and \$4,999, then the following procedures shall be utilized:

1. Consumable goods

- A minimum of three (3) bids obtained via telephone quotes, facsimile or informal written bids is required prior to purchase.
- All bids must be submitted along with the invoice received from the vendor and must be kept on file and made available for monitoring visits.
- A justification of why the lowest bid was not used must be included with the three (3) bids.

2. Minor Equipment

- A minimum of three (3) bids obtained via telephone quotes, facsimile or informal written bids is required prior to purchase.
Note for Subrecipients: A written request for purchase of the Minor Equipment must be submitted to the Agency contract representative for approval prior to purchase. The request must include the three (3) bids and the purchase requisition signed by someone other than the purchasing agent. A copy of this documentation and the vendor invoice must be submitted to the Agency fiscal department along with the request for reimbursement.
- A written justification indicating why the lowest bid was not used must be included with the request.
- All bids must be submitted along with the invoice received from the vendor and must be kept on file and made available for monitoring visits.

3. Professional Services (short-term need)

A minimum of three (3) bids obtained via telephone quotes, facsimile or informal written bids is required prior to contracting for professional services, unless an emergency precludes delay (for example, a flood at the local day care center or the safety of a client requires the immediate acquisition of services). Documentation of the action taken and the reasons must be documented and forwarded to the Agency within 48 hours.

- B. Capital Equipment and Professional Services The following procedure is used where the “per transaction” value of the Procurement is \$5,000 or more AND has a useful life of over one (1) year. The Riverside County Board of Supervisors has adopted a local preference policy for business located within Riverside County. Those Vendors should be given a five percent (5%) price preference over non-Riverside County business during the competitive bid process.

If the dollar range of the purchase is between \$5,000 and \$24,999, then the following procedures shall be utilized:

1. Equipment

A minimum of three (3) formal (written quotes on the Vendor's letterhead) bids is required prior to purchase.

Note for Subrecipients: A written request for purchase of capital (over \$5000) equipment must be submitted to the Agency contract representative for approval prior to purchase. The request must include the three (3) formal bids and a recommendation to the Agency on which vendor should be chosen. Justification for choosing other than the low bidder must be included. The Agency will determine if the request must be submitted to the regulating authority and will notify the Subrecipients in writing within ten (10) days. If the item can be purchased without this approval, the Agency will issue approval to the Subrecipients within ten (10) days of receipt of the required documentation.

2. Professional Services

A minimum of three (3) formal (written quotes on the Vendor's letterhead) bids is required prior to purchase unless an emergency precludes delay (for example, a flood at the local day care center or the safety of a client requires the immediate acquisition of services). Documentation of the action taken and the reasons must be documented and forwarded to the Agency within 48 hours. The Riverside County Board of Supervisors has adopted a local preference policy for business located within Riverside County. Those Vendors should be given a five percent (5%) price preference over non-Riverside County business during the competitive bid process.

Any desired goods or services whose value is \$25,000 or more either per item or per transaction (i.e. one invoice or contract) must be procured using a publicly advertised formal process to insure fair and open competition. The following methods are the most commonly used by the Agency and shall be adopted by all Subrecipients when subcontracting any goods or services required for the performance of any grant authorized activities.

- C. Requests for Quotation (RFQ) are publicly solicited and are generally awarded to the lowest bidder resulting in a fixed-price (either lump sum or unit price) contract. In order for this process to be used, four (4) conditions must be met. 1) A complete description and standard specification are established and can be made part of the solicitation; 2) The result expected from the procurement would be quotes based on a standard that will not vary between vendors; 3) There is reasonable assurance that a publicly advertised RFQ will result in at least two (2) vendors responding; and, 4) The selection will be made principally based on price. The Riverside County Board of Supervisors has adopted a local preference policy for business located within Riverside County. Those Vendors should be given a five percent (5%) price

preference over non-Riverside County business during the competitive bid process.

1. Notifications of pending RFQs are published in a publication of general circulation within specified regions of Riverside County.
2. Evaluations of responses are limited to price and quality.

D. Requests for Proposal (RFP) are used when there is reasonable expectation of more than one (1) bidder and where the lowest price is not necessarily the determining factor for award, and either a fixed-price OR cost-reimbursement agreement will be awarded. The RFP method is appropriate when the agency seeking goods or services is looking for a variety of methods that may be employed to achieve the results. Often the evaluation factors will focus on approach, program design, innovation, coordination, and experience. The following requirements apply:

1. Notifications of pending RFPs are published in a publication of general circulation within specified regions of Riverside County.
2. The RFP must contain the specifications for the proposed goods or services and will identify all the evaluation factors and their relative importance or weight in selection of successful bidders.
3. Unless there are compelling reasons that are justified in a memo to the file, the RFP must provide for an adequate bidder response time to ensure a fair and open competition, depending on the complexity of the goods or services requested.

All Procurements will be conducted in a fair and equitable manner in full compliance with all applicable county, state and federal guidelines and policies. Failure to adhere to proposal instructions may cause the rejection of the proposal. Additional criteria or clarifications may be established as deemed necessary by the Agency and will be addressed and outlined in an award letter to the successful bidder. These additional criteria will be negotiated prior to contract execution to the satisfaction of the Agency and the bidder. The Riverside County Board of Supervisors has adopted a local preference policy for business located within Riverside County. Those Vendors should be given a five percent (5%) price preference over non-Riverside County business during the competitive bid process.

E. Non-Competitive Procurement (Sole Source): This method is the solicitation of a proposal from a single source, or, after solicitation of a number (more than one) of sources, competition is determined inadequate to fulfill the requirements of the funding agency. Non-competitive Procurements are allowable under part 97.36, but they are considered a “last resort” option and only used when there is a documented reason for sole source selection. Grantees and their Subrecipients should exercise caution when using non-competitive Procurements and ensure the competitive process is open and fair. If this method is used, the following requirements apply:

1. The award is infeasible under one (1) of the methods discussed above,

- and one (1) of the following conditions apply;
2. The item is available from only one (1) source;
 3. Public emergency precludes delay (for example, a flood at the local day care center requires the immediate acquisition of additional services);
 4. The awarding agency authorizes the specific, non-competitive Procurement (upon a formal request for approval); *or*
 5. Competition is determined inadequate. This usually occurs after a competitive process has been used, and there are insufficient bidders.

If this method is necessary, a cost analysis is still required. This entails verification of the proposed cost data and evaluation of the specific elements of costs and profits. Profit must be separately negotiated in the award. Cost plus profit agreements are not allowable.

The County of Riverside and their contracted agencies may be required to submit the non-competitive Procurement to their awarding agency(s) for approval.

FAILED COMPETITION

The Agency has determined that competitive Procurement has occurred when at least two (2) proposals were received in response to any Procurement. If only one (1) responsive proposal is received, then the competitive process has not been fulfilled (failed). The Agency reserves the option to either reissue the Procurement or enter sole-source Procurement. The sole-source Procurement will follow the standards of non-competitive Procurements as outlined in "E" above.

REVIEW PROCESS

Neither the solicitation of proposals nor the subsequent review process should be construed as an offer to enter into any contract or other agreement or engage in any negotiation pursuant to any statute, ordinance, rule or regulation. The recommendation of any proposal for funding shall not be construed as an obligation to enter any contract or other agreement until such contract or agreement is fully negotiated and agreed upon between the successful bidder and the Agency. The Agency reserves the right to withdraw its recommendation for funding if the terms and conditions or requirements of the contract cannot be agreed upon within a reasonable time as determined by the Agency.

1. Agency staff will evaluate all data contained in the proposals, including price comparisons cost analysis, program design and will determine if the proposer has included services that are duplicative of available services from other agencies.
2. Agency staff shall include an analysis of the bidder's history in providing the services or products being procured. Any issues identified will be discussed with the bidder individually prior to the reviews being conducted. The results of the discussion will be shared at the group evaluations, and any risks identified shall be mitigated if possible. The Agency reserves the right to reject any bidder's proposal based on the historical evaluation and will be referred to the Agency's Procurement Appeals process if elected by the bidder.

3. The Agency reserves rights to conduct a pre-award and/or pre-contractual site visits to evaluate the bidder's ability to provide proposed services.
4. Agency staff and others involved with any procurement action will be required to execute a conflict of interest statement prior to reviewing any proposal submission. These statements will be maintained in the procurement files.
5. Agency staff, along with representatives from the Workforce Development Board (WDB), will compare and score each proposal using criteria extracted from the original Procurement document which shall be applied to all proposals in a like manner. The Agency reserves the right to reject proposals that are incomplete, do not meet minimum submission requirements, or do not conform to program goals.
6. Agency staff will review results and recommendations to fund or not fund a proposal that will then be submitted to the appropriate committee of the WDB. Committee recommendations are then forwarded to the WDB Executive Committee for approval. The recommendations submitted may include a reduction or increase in the requested amount of funding, a reduction or increase in the targeted number of participants to be served, or other recommendations that reflect the intended program design components. The WDB Executive Committee will reject, modify or approve the recommendations.
7. Letters reflecting the decisions of the WDB Executive Committee will be mailed, certified, and return receipt requested to all bidders within two (2) working days of the WDB's decisions. Bidders shall have five (5) days from receipt of the letter in which to file an appeal of these decisions. The appeal must be filed in accordance with EDA Policy and Procedures 18-02, "Procurement Grievance and Appeals Process"; a copy of which is attached to all RFP documents
8. If any bidder files an appeal, all recommendations will be held for the 30-days appeal period described in the aforementioned Policy and Procedures. The recommendations of uncontested bidders will be forwarded to the Riverside County Board of Supervisors for approval on the first date available after the appeal period expires.

PROCUREMENT FILES RETENTION

Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three (3) years from the date of submission of the quarterly or annual financial report, as authorized by the federal awarding agency.

POST AWARD ACTIVITIES

1. Notification: Successful/unsuccessful bidder notifications shall be mailed within three (3) days of the Board of Supervisors' decisions.

2. Post Award Conferences: Post Award conferences shall take place within two (2) weeks of the notification of award. The agenda for the conference should include an explanation of the contracting process, explanation of the fiscal requirements and a discussion of any operational requirements.

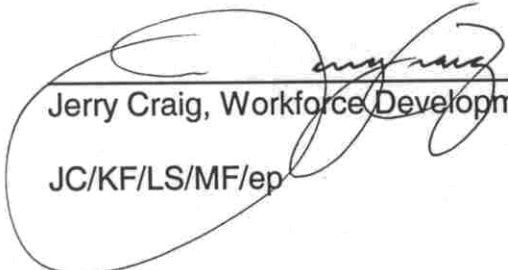
CLOSEOUT ACTIVITIES

Closeout activities and requirements may vary according to the Grantee instructions issued at the expiration of any grant funding. Subrecipients shall comply with these instructions within 30 days of receipt of the "closeout package." At a minimum, closeout activities will include cash status, summary of expenditures, Subgrantee (Subrecipient) release form, Subgrantee (Subrecipient) assignment of refunds, rebates and credits, tax certification, inventory and supplies accounting, as well as other activities as dictated by the closeout package.

POLICY UPDATES

This policy may be updated from time to time through the issuance of a new policy or by reference addendum to any Information Bulletins, TEG, TEIN, directive or other official written requirements as dictated by all regulatory agencies. The Agency, all Subrecipients and contractors shall comply with these updates and shall be considered policy upon notification.

Please direct any questions or concerns regarding this Policy and Procedure to EDA Workforce Development Division's Program Planning and Development Unit.



Jerry Craig, Workforce Development Administrator
JC/KF/LS/MF/ep