

Cumberlands Workforce Development Board (CWDB)

Policy: Procurement Policy

Date: 4-15-2025

Subject: Procurement Guidelines

Purpose: To specify methods for procurement.

Action Required:

Within 15 days of the receipt of this policy, it is the recipient's (e.g. Executive Director) responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

Policy:

All procurements made by the CWDB, involving the expenditure of funds, will be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with the standards of 2 CFR 200.317 to 326. The CWDB shall not engage in procurement practices which may be considered arbitrary or restrictive.

Purchases will be reviewed by the Executive Director/Fiscal Agent to prevent duplication and to ensure that costs are reasonable.

1. Methods for procurement:

All CWDB contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation. The CWDB reserves the right to award contracts on a sole-source basis consistent with all applicable procurement laws and regulations.

Procurements shall be made using one of the following methods: (a) small purchase procedures, (b) competitive sealed bids, (c) competitive negotiations, (d) non-competitive negotiation and shall be made in accordance with procedures set forth by OMB at a minimum.

A. Small Purchases:

For purchases which cost \$10,000 or less, efforts will be made to get the lowest and best price. The Executive Director may make purchases of up to \$3,000 without additional approval from the CWDB. For purchases between \$3,001 and \$10,000, purchases may only be made with PRIOR Executive Committee or Board Chair concurrence.

B. Competitive Sealed Bids:

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services, other than those personal or professional, exceeds \$10,000, an Invitation for Bids (IFB) notice will generally be disclosed for at least fourteen (14) days prior to expiration. The CWDB may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

Bids will be solicited through various print and social media advertisements: additionally, an IFB may be prepared and mailed to qualified vendors. The various print and social media advertisements used must be published at least fourteen (14) days and not more than twenty-one (21) days before the date for receipt of the bids. The bid will describe services needed and identify the factors to be considered in the evaluation of bid, including the reciprocal preference for resident bidders, and the relative weights assigned to each selection factor. The IFB will also state where further details regarding the IFB may be obtained. The IFB will call attention to the same regulations discussed in the bidding process. Requests for bids will primarily include cost as a selection factor.

The Executive Director, or designated staff, shall determine that all firms are responsive and responsible. The CWDB will make the decision as to whom the contract shall be awarded. After the bid award is made by the CWDB, a contract will be prepared for execution by the successful bidder.

The CWDB may cancel an IFB or reject all bids if it is determined that such is in the best interests of the CWDB. Bidders will be notified in writing of such a cancellation or rejection. Bids received after the time set for bid opening shall be returned to the vendor unopened.

Any procurement in excess of \$10,000 requires board action.

C. Competitive Negotiations:

The CWDB will use competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, bidding is not feasible).
2. Sealed bidding is inappropriate because the available sources of supply are limited, the time and place of performance cannot be determined in advance, the price is regulated by law, or a fixed price contract is not applicable; and
3. The bid prices received through sealed bidding are unresponsive or unreasonable as to all or part of the requirements, or are identical or appear to have been the result of collusion.

Competitive negotiations will proceed as follows:

- a. Proposals will be solicited through various print and social media advertisements; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The various print and social media advertisements used must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe

services needed and identify the factors to be considered in the evaluation of proposals, including the reciprocal preference for resident bidders, and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor.

- b. Award must be made to the offeror whose proposal is determined in writing by the CWDB to be the most advantageous to the CWDB. Evaluations must be based on the factors set forth in the RFP and a written evaluation of each response prepared. The review committee, appointed by the CWDB, may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. Written or oral discussion must be conducted with all responsible offerors. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

D. Noncompetitive Negotiations:

Noncompetitive negotiations may be used for procurements in excess of \$10,000 when bidding or competitive negotiations are not feasible. The CWDB may purchase goods and services through noncompetitive negotiations when it is determined in writing by the Executive Director that competitive negotiation or bidding is not feasible and that:

- (1) An emergency exists which will cause public harm as a result of the delay in competitive procedures; or
- (2) There is a single source within a reasonable geographical area of the product or service to be procured; or
- (3) The contract is for the services of a licensed professional, such as an attorney, physician, psychiatrist, psychologist, certified public accountant, registered nurse, or educational specialist; a technician, such as a plumber, electrician, carpenter, or mechanic; or an artist such as a sculptor, aesthetic painter, or musician, provided, however, that this provision shall not apply to architects or engineers providing construction management services rather than professional architect or engineer services; or
- (4) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, such as fresh fruits, vegetables, fish or meat; or
- (5) The contract is for replacement parts where the need cannot be reasonably anticipated and stockpiling is not feasible; or
- (6) The contract is for proprietary items for resale; or
- (7) The contract or purchase is for expenditures made on authorized trips outside of the boundaries of the CWDB; or
- (8) The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids; or
- (9) The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, and unemployment insurance; or
- (10) The contract is for a sale of supplies at reduced prices that will afford a purchase at savings to the CWDB.

For the procurement of certain professional services, an alternative to RFPs may be used. The CWDB may publish a Request for Qualifications (RFQ). RFQs are handled in a similar method to the RFPs with the exception that cost is not a factor in the initial evaluation. The Executive Director or their staff designee will evaluate the responses and rank them by comparative qualifications based on criteria established in advance of the solicitation. The highest scoring person or firm will be contacted and the Executive Director will negotiate cost. If the Executive Director is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The Executive Director will maintain a written record of all such negotiations.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The board of the CWDB must approve all procurements by noncompetitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

E. Qualifications:

Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance of at least one million dollars and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performances and financial and technical resources in awarding contracts.

2. Contracts:

Generally, all procurement in excess of \$1,000 will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared. All contracts will contain language which allows the CWDB to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with WIOA (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the CWDB (on request) or any other documented matter which could cause a hardship for the CWDB if a claim should arise or the work not be completed on schedule at the specified cost.

All contracts will also contain language which allows the CWDB the opportunity to cancel any contract for convenience upon notification to the contractor of 60 days.

3. Documentation:

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is not feasible to maintain individual procurement files, source documents will be filed and maintained

in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is being employed, the purpose of this section is to ensure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost (including the issue of reasonableness of cost), rationale for method of procurement and selection of contract type, and basis for payment.

4. Locally Owned, Minority Owned, Female Owned and Small Businesses:

Efforts will be taken to solicit participation of locally owned, minority owned, female owned, veteran owned and/or operated businesses and small businesses.

5. Code of Conduct:

A. Conflict of Interest:

No CWDB employee, consultant, elected official, appointed official or designated agent of the CWDB will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the CWDB, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

B. Acceptance of Gratuities:

No CWDB, employee or designated agent of the CWDB shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. Penalties:

Any CWDB employee or designated agent of the CWDB who knowingly and deliberately violates the provisions of this code will be open to civil suit by the CWDB without the legal protection of the CWDB. Furthermore, such a violation of these procurement standards is grounds for dismissal by the CWDB or such sanctions as available under the law (if an elected official or board member).

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from all future transactions with the CWDB.

References:

- Workforce Innovation and Opportunity Act, Pub. L. 113-128
- KRS 45A