

Upper Cumberland
Local Workforce Development Board
POLICIES AND PROCEDURES

Title: PROCUREMENT POLICY
Date of Adoption: 05-29-19

PURPOSE: This policy communicates methods of the Upper Cumberland Local Workforce Development Board (hereinafter referred to as “UCLWDB”) in the procurement of goods and services obtained with Workforce Investment 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; State of Tennessee Procurement Procedures Manual; and the WIOA Supplementary Financial Guide.

BACKGROUND: WIOA Section 184(a)(3)(A) requires that each State (including the Governor of each State), local area (including the chief local elected official), and provider receiving funds under this title 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:

Section I - Appropriate Use of Funds

Section I.I - General Standards of Ethical Conduct

The UCLWDB is almost entirely grant funded, requiring most of the funds received be for specific, limited purposes or are subject to restrictions by a governing body. The UCLWDB uses all funds, regardless of type, in a manner consistent with applicable federal and state laws and regulations, UCLWDB policies, and other restrictions or designation governing their use. Funds received by the UCLWDB will be expended for ordinary and reasonable business-related expenses that support the UCLWDB's mission.

Section I.II – Conflict of Interest

Any attempt to realize personal gain through public employment, inconsistent with the responsible discharge of that public employment, is a violation of public trust. It shall be a breach of ethical standards for any employee, in the performance or his or her official duties, to participate directly or indirectly in any matter pertaining to the award of a contract or subcontract in which he or she may have a conflict of interest. The UCLWDB's 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/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 recuse himself/herself from any further discussion and/or vote on the matter in question. Violations of such standards are subject to disciplinary actions provided in the UCLWDB's Conflict of Interest Policy. *(See UCLWDB Conflict of Interest Policy)*

Section II - Purchasing and Procurement

Section II.I – General Procurement Guidelines

The UCLWDB, the fiscal agent for the Upper Cumberland Local Workforce Development Area (LWDA), adheres to the following guidelines to procure good and/or services. All procurement policies follow federal and state guidelines and fiscal staff are trained on allowable and unallowable costs. All purchases are made in accordance with Workforce Services Policy- WIOA (Allowable and Unallowable Costs, Including Food) and Workforces Services Policy- Workforce Services (Property Management)-WIOA.

The UCLWDB 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.

The UCLWDB's 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. The UCLWDB will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Section II.II - Methods of Procurement:

- (1) Small Dollar Purchases- Non-recurring purchases totaling less than \$10,000.00 cumulatively in expenses may be made without documenting quotes or proposals from multiple vendors. All small dollar purchases should be approved prior to purchase by the UCLWDB Fiscal and Executive Directors.
- (2) Informal Competitive Solicitations- Purchases totaling less than \$50,000.00 in expense may be based upon written, telephone or electronic bids. For purchases totaling \$10,000.00-\$49,999.99, quotes must be solicited from at least three (3) vendors. A current website, electronic quote, catalogue, price list, or price available at retail to the general public may count as a quote. Quotes must be sufficiently documented within the procurement file. The selected quote must be approved by the UCLWDB Executive Committee prior to purchase.
- (3) Formal Competitive Solicitations- A formal sealed bid solicitation process shall be used when the estimated aggregate total of the expense is \$50,000 or more, including renewal terms of multi-year awards. This formal competitive process will be conducted by issuing a Request for Proposals (RFP). UCLWDB procurement professionals should consult the UCLWDB Procurement Manual when conducting a formal solicitation process. **All awarding contracts must be approved by majority vote of UCLWDB members.**

Excepted from the above are:

- (1) Cost-Reimbursement Only- Procurement transactions between UCLWDB and units of state and local government which shall be conducted on cost-reimbursement basis only. (WIOA Sec. 184(a)(3)(B))
- (2) Sole Source Purchase- A Sole source purchase available from only a single supplier. Written justification and supporting documentation for Sole Source purchases must be submitted for approval by the Executive Director.
- (3) Emergency Purchases- Emergency purchases do not include conditions arising from neglect or indifference or failure to anticipate normal needs. Request for an emergency purchase should be made to the UCLWDB Budget Committee by the Executive Director accompanied by detailed documentation of the need for emergency request.

Section II.III - Competitive Procurement

All competitive procurement transactions will be conducted in a manner providing full and open competition consistent with the standards provided in 2 CFR 200.319. 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. The UCLWDB procurement transactions will contain no requirements that unduly restrict competition as specified in 2 CFR 200.319(a) and (b).

The UCLWDB procurement procedures will ensure that all solicitations:

- 1) incorporate a clear and accurate description of the technical requirements for the material, product(s), or service(s) to be procured in a manner that does not duly restrict competition, and
- 2) identify all requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The UCLWDB will ensure that all prequalified lists of persons, firms, or products, that are used in acquiring goods and service are current and include enough qualified sources to ensure maximum open and free competition. The UCLWDB will not preclude bidders from qualifying during the solicitation period.

When conducting competitive proposals, the following requirements apply:

- 1) Requests for proposals must be publicized on the UCLWDB website as well as applicable legal publications and identify all evaluation factors and their relative importance. Efforts will be made to make the RFP as widely available as possible. Any response to publicized requests for proposals must be considered to the maximum extent feasible;
- 2) Proposals must be solicited from an adequate number of qualified sources;
- 3) The UCLWDB will follow the TDLWD's methods for conducting technical evaluations of the proposals received and for selecting recipients;
- 4) Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- 5) UCLWDB procurement professionals will follow the UCLWDB Procurement Manual in conducting procurement processes and procedures.

All Requests for Proposals (RFPs) that contain requests for One-Stop Operators and Career Service Providers must include the duties set forth in 20 CFR 678.620 which are adopted in the State of Tennessee's Regional and Local Planning policies, as well as the State's One-Stop Delivery and Design System policy. Both the selection of One-Stop Operator and Career Service Provider must be competitively procured, either as one combined or two separate RFPs. The UCLWDB will follow all federal, state, and local competitive procurement requirements in this selection process. Additionally, The UCLWDB will follow the Tennessee State Guidelines for Local Workforce Development Boards One-Stop Operator and Career Services Provider Procurement as well as the Evaluator Training Guide developed and provided by the Tennessee Central Procurement Office.

All efforts will be made to actively solicit goods and services from minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses when possible.

Section III - Contracts and Invoicing

Section III.I – General contractual guidelines

The UCLWDB will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. A contract management system will be maintained to monitor all UCLWDB contracts. The UCLWB 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:

- 1) contractor integrity;

- 2) compliance with public policy;
- 3) record of past performance; and
- 4) financial and technical resources.

The UCLWDB will maintain records sufficient to detail the history of procurement. These records will include but are not limited to:

- 1) rationale for the method of procurement;
- 2) selection of contract type;
- 3) basis for contractor selection or rejection, and
- 4) the basis for the contract price.

Section III.II – Contract Method and Financial Reporting

The financing of the WIOA program will be on limited advance or reimbursement basis, in accordance with procedures established by the Tennessee Department of Labor and Workforce Development. **The Sub recipient or contractor shall not retain funds which exceed immediate cash needs.**

- A. All claims reimbursements (drawdowns) will be submitted via Grants4TN. Drawdown requests must be received by the TDLWD by noon on Friday two weeks prior to the expected payment date.
- B. Disbursements will be processed and credited to the appropriate bank by ACH transfer or journal voucher, depending on the entity requesting the funds.
- C. In order to report WIOA program costs, local grant recipient or contractor shall prepare the Monthly Accrual Expenditures Report in accordance with the procedures established by the TDLWD. These reports must be submitted on an accrual basis to conform to requirements and negotiated items set forth in the contract.
- D. Accurate and timely submittal of information is critical to UCLWDB and TDLWD financial functions. All required reports, to include drawdown request, monthly ACCRUAL expenditure reports, contract closeout packages, and other required reporting must be submitted timely. Failure to meet reporting requirements may result in remedies for noncompliance (2 CFR 200.338) including but not limited to:
 - i. Temporary withholding of cash payments pending correction of the deficiency
 - ii. Disallow all or part of the cost of the activity or action not in compliance
 - iii. Whole or partial suspension of the award

Section III.III– Sub-Contractor Financial Management

Sub-contractors who have received an award from the UCLWDB will exercise sound financial systems to allow for effective control and accountability of all funds, property, and other assets to ensure they are used solely for authorized purposes.

- A. Accounting systems shall meet and follow generally accepted accounting principles.
- B. Accounting systems shall be supported by source documentation, which identifies the source and use of contract funds.

- C. Accounting systems shall follow consistent rules for aggregation of detailed data to summary level.
- D. Written procedures shall be in place for determining reasonableness, allowability, and allocability of contract costs.
- E. Accounting records may be maintained on a cash or accrual basis. If the records are maintained on a cash basis, the grantee or subgrantee must maintain a set of linking records, typically accrual spreadsheets, so that the reported costs are traceable during monitoring or auditing to the official accounting records or books of account. For reporting purposes only, financial data shall be submitted on an accrued expenditure basis. An accrued expenditure is expenses incurred for services and (or) products used, but an invoice has not been received or payment is not made to the supplier of services or products by the end of the reporting month

Section IV - Allowable Costs

Section IV.I – General Cost Requirements

Expenditures of WIOA Title 1-B funds are allowable only for those activities permitted by the WIOA regulations. For the Adult and Dislocated Worker programs, allowable activities include basic career, individualized career, and training services. Basic career and individualized career services are described in the WIOA Title 1-B Workforce Investment Activities and Providers. Training Services are described in WIOA Title 1-B Use of Funds for Employment and Training Activities Section 134. In addition, allowable activities include youth services that are provided as a requirement of the WIOA Title 1-B Section 129 Use of Funds for Youth Workforce Investment Activities.

The UCLWDB and subrecipients must comply with the federal allowable cost principles that apply to their organization (CFR 97.22). When utilizing WIOA funds, all costs must be considered reasonable and necessary. The reasonability of costs shall be determined based upon the limitations of funds and applicable federal cost principles as set forth in *Tennessee Department of Workforce Services Policy-WIOA Allowable and Disallowed Costs, Including Food (TN WIOA 17-1)*. Per CFR 200.403, costs must meet the following general criteria in order to be allowable under Federal awards:

- (A) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (B) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amounts of cost items.
- (C) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (D) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (E) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

- (F) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (G) Be adequately documented. See also §200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

When determining if WIOA funds should be expended, the following questions should be asked:

Reasonability of the cost:

- (1) Do I have the capacity to use what I am purchasing? (Subrecipient must provide a narrative on efficient and effective use when requesting WIOA funds and draw-downs from TDLWD)
- (2) Did I pay a fair rate?
- (3) Do I have documentation to support a fair rate was paid? (documentation must be submitted)
- (4) If I were asked to defend this purchase, would I be comfortable doing so?

Necessary:

- (5) Is this item or service needed to meet grant goals?
- (6) Is this the minimum amount I need to spend to meet my need?]
- (7) Repetition and frequency
- (8) Costs are similar to that which would be incurred by a reasonable and prudent person

Section IV.II – Travel

The costs of meetings and conferences (examples could include lodging, facilities, food, beverages, materials, and supplies) where the primary purpose is to provide technical assistance and is necessary and reasonable for successful performance under the federal award is allowable.

Section IV.III – Food and Beverages

The cost of food and beverages will not be considered an allowable cost unless the cost serves a public purpose. Alcoholic beverages are disallowed under any circumstance. When attending meetings and conferences, UCLWDB employees may be reimbursed the costs of meals if the costs is of a type generally recognized as ordinary and necessary.

When sponsoring a meeting or conference, the UCLWDB may provide light refreshments to employees and members attending. The costs of a “working lunch” with external customers and other colleagues, is only considered reasonable and necessary when there is adequate documentation for the necessity of having a meeting during a meal time instead of during normal business hours. The validating documentation should specify which subjects were discussed, a list of participants, and an itemized and dated receipt for meal costs.

Section IV.IV – Procurement Restrictions

- (1) WIOA Title 1-B funds must be expended on only American-made equipment and programs as required by the Buy American Act.
- (2) Sub-awards or contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal programs or activities are prohibited.

Section IV.V – Disallowed Costs

All costs associated with an unallowable activity are considered disallowable cost, regardless of their permissibility under other circumstances. Examples of unallowable activities include, but are not limited to:

- (1) Legal expenses
- (2) Construction costs or capital expenditures
- (3) Public service employment, except where authorized under Title 1 of WIOA
- (4) Employment-generating activities
- (5) Wages of Incumbent Workers during participation in economic development provided through the state workforce system
- (6) Foreign travel or first-class airline tickets
- (7) Employment or training programs for sectarian activities
- (8) Expenses prohibited under any other federal, state, or local law or regulation
- (9) Costs of entertainment (tickets to shows or sporting events, gratuities, etc.)
- (10) Contributions, donations and sponsorships

Section IV. VI - Suspension and Debarment (2 CFR 2900)

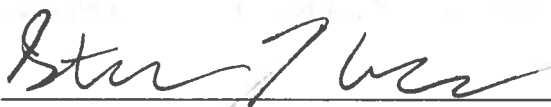
The UCLWDB and its contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from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

ATTACHMENTS: None

EFFECTIVE DATE: May 29, 2019

DURATION: Indefinite

CONTACT: For questions regarding this policy, contact Becky Hull, Executive Director, Upper Cumberland Local Workforce Development Board at bhull@ucworkforce.org



Board Chairperson, UCLWDB