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<b>Policy Number:</b>	2020-2
<b>Subject of Policy:</b>	Procurement
<b>WIOA Citation:</b>	2CFR 200.318
<b>Prior Policy:</b>	This is a new policy;
<b>Action:</b>	Approve this policy to satisfy State and Federal regulations.
<b>Effective Date:</b>	January 28, 2019

**FEDERAL POLICY**

2 CFR 200.211 & 2CFR 200.318 is Local Board Policy. (attached)  
 26 CFR 1.501(c)3-1 is Local Board Policy. (attached)

**STATE POLICY**

PY15-07 Conflict of interest is Local Board Policy. (attached)  
 MRS Title 13-B, §718 is Local Board Policy. (attached)

**PURPOSE**

This purpose of this policy is to satisfy requirements of both Maine’s Workforce Development System, and its public charity operation requirements. This policy is intended to supplement but not replace any applicable State or Federal laws governing conflict of interest.

**POLICY**

**I. RESPONSIBILITY AND AUTHORITY**

**A. GENERAL RESPONSIBILITIES**

1. It is the responsibility of the Central Western Maine Workforce Development Board (CWMWDB) to provide oversight and guidance to the CEO, CWMWDB staff and all subrecipients to ensure compliance and performance requirements are met and to ensure that procurement processes are consistent, fair, and supportive of the goals of funding sources, and are in line with the mission and objectives of the organization.
2. The CWMWDB staff members are responsible for the development, implementation, monitoring, and maintenance of all procurement activities in such a way as to meet the requirements of applicable laws, regulations, policies, and procedures.

**B. STANDARDS**

This policy complies with standards in the following federal and state laws and rules:

1. Workforce Innovation and Opportunity Act (WIOA) of 2014;



2. OMB Super Circular 2 CFR Part 200.317 through 200.326;
3. Workforce Innovation and Opportunity Act, Final Rules; and
4. Training and Employment Guidance Letter WIOA NO. 15-16 Competitive Selection of One Stop Operators.

C. AUTHORITY

The CEO has the ultimate legal authority and liability over fiscal matters involving WIOA funds but has granted the CWMWDB the authority for awarding, withdrawing from, or assigning contracts. The following decision-making matrix has been approved by the CEO and CWMWDB.

D. DECISION MAKING/SIGNATURE AUTHORITY

Disbursement of Funds	CWMWDB Full Board	CWMWDB Executive Committee	CWMWDB Executive Director <sup>1</sup>	CWMWDB County Commissioners
Contracts for ETA or WIOA service providers funded from WIOA annual program allocations	Ratification of Exec. Com. Approval	Approval	Approval	Approval
Contract Modifications by the amount of the modification. <sup>2</sup>	See below	See below	See below	See below
All contracts or modifications greater than \$200,001	Ratification of Exec. Com. approval	Approval	Approval	Approval
All contracts or modifications \$50,001 to \$200,000	Ratification of Exec. Com. approval	Approval	Approval	Informed
All contracts or modifications \$5,001 to \$50,000	Informed	Approval	Approval	Informed
All contracts or modifications \$5,000 and under.	Informed	Informed	Approval	Informed

E. EXCLUSIONS

Purchases of the following items are specifically excluded from this procurement policy:

<sup>1</sup> The CWMWDB Executive Director may delegate authority for contract approval during his/her absence to the CWMWDB Treasurer.

<sup>2</sup> § 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications.



1. On the Job Training (OJT) as covered by the CWMWDB OJT Policy;
2. Individual Training Accounts (ITA) with Eligible Training Providers as covered by the CWMWDB Supportive Services Policy (specific federal requirements are defined in WIOA Law Title 1, Subtitle B, Chapter 3- Eligible Training Providers);
3. Expenses covered by the CWMWDB Travel Reimbursement procedure; and
4. Subcontractor awards given by our contracted service providers under CWMWDB's WIOA contract with the Maine Department of Labor are exempt from this policy if the original grant proposal lists specific providers that are considered "required partners" and such listing is based on services that are competitively bid with responses from at least three similar partners every three years.

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## SECTION II- CONFLICT OF INTEREST

### A. CODE OF CONDUCT APPLICABILITY

This code applies to the CWMWDB Chief Elected Officials (CEOs), CWMWDB Board members, the CWMWDB Executive Committee, and CWMWDB employees, agents, subrecipients, and contractors who shall comply fully with the CWMWDB Code of Conduct as well as with the rules and opinions governing conflict-of-interest situations contained in the following documents: State of Maine Conflict of Interest Policy Number PY15-07; United States Department of Labor (USDOL) laws; Workforce Innovation Opportunity Act, (WIOA) of 2014; and OMB SuperCircular 20 CFR 200.

It is the policy that should federal or state standard, law, rule or regulation differs from this provision that the most stringent applies.

### B. CODE OF CONDUCT CONTENTS

1. CWMWDB Code of Conduct includes an agreement to abide by the conflict of interest provisions as required by:

- a. The Workforce Innovation Opportunity (WIOA) Act of 2014, or
- b. MRS Title 13-B, §718 Director Conflict

2. CWMWDB Code of Conduct includes

- a. Individuals on Local Workforce Development Board
- b. Youth Council and
- c. other Subcommittees
- d. CEOs

3. Restricted Activities.

- a. No member shall cast a vote or participate in any decision-making capacity on any matter under consideration regarding the provision of services by such member (or by an entity that the member represents) or that would provide direct or indirect financial benefit to such member or the immediate family of such member; engage directly or indirectly in any business transactions or private arrangement for profit which accrues from or is based upon his or her official position or authority on the board; participate in the negotiation of or decision to award contracts or grant, the settlement of any claims or charges in any contracts or grants, the certification of any eligible providers or the establishment of any designation of local workforce investment areas or the establishment of any one stop delivery systems, with or for any entity in which he or she has a financial or personal interest.

- b. No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

3. Representation of interest.

No member of the CWMWDB, aka Local Workforce Development Board (LWDB), or any Council or Committee shall represent or act as an agent for any private interest, whether for



compensation or not, in any transaction in which the members have a direct or indirect interest and which could be reasonably expected to result in a conflict or perceived conflict between a private interest of the member and the member's official responsibility to the CWMWDB.

4. Misuse of board facilities and equipment.

No member of board shall use any board equipment, supplies, or properties for his or her own private gain or for other than official designated purposes.

5. Duties of Board Members, CEOs, and staff. It shall be the duty of all Board members, and others covered under this policy to:

- a. Recuse themselves from their official duties if there is a conflict of interest, which is defined as real or perceived.
- b. Advise the board of any potential conflicts of interest that have been raised and the decision;
- c. Ask the board for an opinion if they or any other person subject to these provisions has raised reasonable doubt about a real or perceived conflict of interest.
- d. CEO holds the authority to decide the method and response for appeals or issues involving other decisionmakers.

6. *Violations of the conflict of interest code.*

- a. Any person covered under these provisions may suggest a real or perceived conflict to the Board, or committee of the Board which has an obligation to investigate and report to the CEO their finding with citations as to why it is not a conflict.
- b. Chief Elected Official (CEO) may remove the individual who has violated the code as member of the board.

7. *Conflict of Interest Disclosure*

In order to avoid conflict of interest or the appearance of such conflict, each member shall disclose any potential conflict of interest to the Board/appropriate committee membership. Minutes of meetings shall record the abstentions of members who are prohibited from voting due to conflict of interest. These prohibitions shall apply to regular, special, and committee meetings of the CWMWDB.

### SECTION III- NOTIFICATION AND APPROVAL

Agencies or individuals submitting requested written proposals or quotes shall be notified via electronic mail of CWMWDB' response. No contract award shall be considered final until a written agreement or purchase order is signed by an authorized CWMWDB employee.



## SECTION IV- GENERAL PROCUREMENT REQUIREMENTS

- A. All procurements shall be conducted in a manner that maximizes full and open competition, regardless of the procurement method. Competitive procurements shall not unduly restrict or eliminate competition.
- B. All expenditures must be reasonable, allowable, allocable, and necessary.
- C. All purchases of goods and services will be reviewed.
- D. All construction, remodeling or renovation must have prior written approval from funding source.
- E. All purchases of equipment with a per-unit acquisition price of \$5,000 or more and a useful life of more than one (1) year require written approval from the funding source.
- F. All procurements of service providers, consultants, and large purchases (as defined in Section VI) shall clearly set forth all requirements which bidders or offerors must fulfill and all other factors to be used in evaluating bids or proposals, including a clear and accurate written description of the goods and services being procured; technical requirements for the material, product, or service to be procured; a description of all requirements that must be fulfilled and all other factors used in evaluating bids or proposals; and specific features of "brand name or equal" products.
- G. Where appropriate, an analysis shall be made of lease/rental versus purchase alternatives to determine which approach is most economical.
- H. Consideration shall be given to either consolidating or breaking up procurement actions to maximize competition.
- I. The CWMWDB may procure shared services and common goods by using a competitive bid issued and awarded by another Maine public charity, local government or workforce agency as its procurement method where it fosters greater economy and efficiency.
- J. The CWMWDB will use federal excess and surplus property whenever it is feasible, sanitary and results in cost savings.
- K. The primary consideration in selecting agencies or organizations to deliver services shall be the effectiveness of the agency or organization in delivering comparable or similar services based upon the meeting of demonstrated performance goals, cost, the quality of training, and participant characteristics.
- L. Efforts shall be made to include community-based organizations, small businesses, minority-owned firms, women-owned firms, historically African-American and Native



American colleges and universities, and faith-based organizations in the solicitation process.

- M. CWMWDB funds shall not be used to duplicate facilities or services available in the area, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve performance goals.
- N. In identifying any program income or profit to be earned by the bidder, the following factors shall be considered in determining whether program income or profits are excessive:
  - 1. The complexity of work to be performed as is customary in for its industry in Maine;
  - 2. Risk born by contractor/subrecipient as is customary in for its industry in Maine;
  - 3. The contractor's/subrecipient's investment as is customary in for its industry in Maine;
  - 4. The amounts of subcontracting;
  - 5. The quality of the contractor's/subrecipient's record of past performance as shown by MDOL and other public records.
  - 6. Industry profit rates in the surrounding geographical area for bids with mark ups; and
  - 7. Market conditions in the surrounding geographic area.
- O. The CWMWDB requires accurate and complete reporting of allowable stand-in costs.

## SECTION V - PROCUREMENT PROCESS

### A. Levels

The CWMWDB groups procurement requirements for materials and services into three levels, in accordance with 2 CFR 200.320 and 2 CFR 200.323. The levels are defined as:

- 1. Level 1 – Large purchases and contracts:  
Amounts above \$150,000 which is below the current SAT (Simplified Acquisition Threshold), published in the FAR (Federal Acquisition Regulations):
  - a. Must be procured by competitive proposals, meeting the standards outlined in 200.320(d) for broad publication and solicitation as well as technical evaluation. See also detailed requirements in Section VI below.
  - b. Cost or price analysis must be performed on all bids in this category.
  - c. An independent estimate must be formed in advance of proposals received.
- 2. Level 2 – Small purchases:  
Amounts less than the current SAT published in the FAR but more than \$5,000:
  - a. Price or rate quotations must be obtained from an adequate number of qualified sources.
  - b. Price comparisons must be documented.
- 4. Level 3 – Minor purchases:
  - a. Amounts less than \$5,000:
  - b. Aggregate dollar amount does not exceed \$5,000.



- c. Price deemed reasonable. Written quotes from qualified sources, shared service or common good purchases, catalog or market price reviews, and other means will be undertaken to establish price reasonableness and to foster economy and efficiency in all purchasing decisions.
      - d. Distribute purchases equitably among suppliers.
- B. Cost Estimates
  1. In developing cost estimates for prospective purchases, consider the maximum anticipated need for related items or services over an estimated period of 12 months. If there is any reasonable likelihood that costs may exceed the highest dollar limit of the applicable procurement level, use of the next higher procurement level is strongly recommended.
  2. In relation to contractors of operating services, whether evidenced by lease or not, procurement level procedures shall be followed in terms of items or services over an estimated period of 12 months. The recommended cost or price analysis for the above purchasing levels is considered minimum and can be exceeded. Authorization to use a given procurement method rests with the CWMWDB Executive Director or her/his designee.
- C. Competitive Proposals
  1. Program Services:
    - a. The competitive proposal process is the preferred method for procuring goods and program services costing more than the current Single Acquisition Threshold of \$150,000.
  2. One-Stop Operator

Competitive procurement is the required process for procuring One-Stop Operators (once every four years) and subrecipients to provide WIOA program services (once every three years). Competitive proposal documents should include:

    - a. *Statement of Work or Specifications*, which explains what needs to be accomplished. This is the portion of the solicitation that defines the program goals and objectives. It represents a description of the services to be acquired;
    - b. *A description of the requirements for the time, place, and method for performing services;*
    - c. *Required certifications, assurances, and representations, which may include lobbying, debarment, and suspension; non-discrimination and equal opportunity; drug-free workplace; signature authority; ownership; organization; management capabilities; financial resources; and audit history;*
    - d. *Required forms, units and line items for standardization and comparison;*
    - e. *Submission and preparation instructions;*
    - f. *The evaluation criteria;*
    - g. *The selection process; and*
    - h. *The appeal processes.*
  3. All competitive proposal responses will be evaluated pursuant to the criteria identified in the





proposal document. The following evaluation procedures generally apply:

- a. *Initial Proposal Review: Upon opening proposals, staff will conduct an initial review of proposal packages to determine completeness and adherence to the requirements defined in the document. Incomplete and other non-responsive proposals will be removed from further consideration.*
- b. Technical Evaluation:
  - i. Evaluation criteria and selection methodology will be listed in the procurement document.
  - ii. Staff will develop an evaluation form for use in the evaluation process.
  - iii. While evaluation criteria may change from project to project, most proposal reviews shall consider administrative and technical competence, program design, past experience and demonstrated effectiveness in delivering the same or similar services, organization and staff qualifications, and cost as demonstrated in the response.
  - iv. For Proposal Requests that have more than 10 responses, a short list will be created by the Executive Director.
4. Factor(s) allowed under federal, state or local law in addition to price or cost may be considered in making an award as long as they do not conflict with law or the spirit of WIOA and public charity status.
5. An evaluation committee will be established to discuss ratings and to select a respondent.
6. The evaluation committee may, at its discretion interview any or all proposers to clarify responses and/or elicit additional information by requesting the information from all respondents to assist in making a final determination.
7. Documentation describing the evaluation and selection process will be maintained by staff.

#### D. Other Professional Services and Goods

Competitive procurement is also the preferred method for professional services and other goods and services totaling more than \$50,000 (and may also be used for those less than \$50,000, as deemed appropriate).

1. A Request for Proposals or Bids shall be widely distributed to interested providers and/or contractors and/or advertised in one or more newspapers that will reach the provider and/or contractor audience for a period of no fewer than ten (10) days.
2. A list of interested bidders will be continually updated. A contract or purchase shall be awarded to the most responsive and responsible bidder whose bid, conforming to the requirements of the invitation and subject to negotiation, is reasonable in price. Any or all bids may be rejected when it is in the best interest of WSW.

#### E. Competitive Negotiation



## 1. Notice

Notice elements are to include:

- a. Posting on the CWMWDB website (<http://cwmwdb.org>);
- b. Advertising in one or more papers of general circulation within the workforce area;
- c. CWMWDB Program Staff notification to CWMWDB Board of Directors of upcoming RFP solicitations;
- d. Posting of RFP must be out for solicitation for a minimum of 30 days if procuring One-Stop Operators or for program subrecipients;
- e. Direct local contact, which includes contacting known referrals and entities that have expressed specific interest for inclusion on the CWMWDB contractor list and subrecipient interest list; and
- f. May include direct national solicitation, which may include known referrals and national entities that have expressed interest for inclusion on CWMWDB's contractor and subrecipient provider lists.

## 2. Contractor/Subrecipient List

The CWMWDB shall maintain, where practical, "Contractor/Subrecipient" lists. Such lists are intended to provide an opportunity for potential providers to be included in procurement opportunities. Providers may be purged from the list after two (2) years or after failure to respond to a solicitation, whichever may occur first. All providers and contractors representing small businesses, minority-held and/or female-owned businesses, faith-based and community-based organizations are encouraged to participate in CWMWDB procurements.

## 3. Solicitation Contents

As applicable, Request for Proposals, Request for Qualification, and Request for Bids shall include the following information:

- a. Name and address of awarding agency;
- b. Name and contact information of person to contact;
- c. General description of the sub-grant program, including identification of the applicable federal and state laws and regulations with which the subrecipient must comply;
- d. Scoring parameters;
- e. The population to be served and minimum service levels to specific target groups;
- f. An estimate of the number/range of individuals to be served and expected results in each activity;
- g. Applicable coordinator requirements;
- h. Funding parameters by activity;
- i. A description of the training and/or services to be provided, including the period of performance;
- j. Applicable monitoring and reporting requirements, including, but not limited to, data entry, performance, and financial reporting;
- k. Criteria for performance and fiscal accountability;
- l. Other services or requirements (e.g., responsibility for eligibility determination, responsibility for support payments, audit requirements, etc.);
- m. Prohibition against subcontracting without prior approval;



- n. Line item budget of proposed costs, including any profit to be realized and/or funds to be contributed;
- o. Budget explanation sheet to explain allocated item(s) that are not self-explanatory on the line item budget;
- p. Documentation to be supplied by the proposer to establish programmatic and financial capability to perform work;
- q. Requirements for preparation and submission of the proposal, due date and time, content and format, number of copies, and the location and the person to whom the bid should be submitted;
- r. Process and procedure by which the proposals will be evaluated for competitiveness, including identification of specific criteria to be used;
- s. Description of the procedures for responding to bidder inquiries and a schedule for the receipt of proposals, and approximate dates for review and award;
- t. Appeal procedures for contesting the procurement result;
- u. Assurances that the proposer will comply fully with nondiscrimination and equal opportunity provisions, as well as all the applicable requirements imposed by WIOA laws and regulations, including federal law and grant requirements; and
- v. All significant evaluation factors, including price or cost.

4. Request for Proposals (RFP)

The RFP is a set of documents that includes a description of the product(s) or service(s) desired, enabling a potential contractor/subrecipient to submit a proposal. The RFP will include information necessary to evaluate proposals submitted.

An RFP method is used when:

- a. The service needed precludes developing a specification or purchase description so precise that all proposers would have an identical understanding to approach the requirements; and
- b. Two or more responsible suppliers are likely to be willing and able to complete effectively for the award.

5. Request for Qualifications (RFQ)

An RFQ is used when the same conditions listed under the definition for RFP exist and WSW wishes to solicit several qualified providers who will work as a team to

6. develop the service delivery system. It may also be used to solicit and determine qualified providers from which a Competitive Negotiated Procurement will result.

7. Request for Bids (RFB)

The RFB is a document that includes a brief description of the product(s) or service(s) desired, enabling a potential contractor to submit a proposal. The RFB will include information necessary to evaluate proposals submitted. An RFB differs from an RFP, in that an RFB simply asks for the price based on industry-standard specification generally known or applied industry-wide. An RFB is used to establish the exact specifications desired, and, when evaluated, will determine the successful bidder.



An RFB is appropriate when:

A complete, adequate, and realistic specification or purchase description is available;

- a. Two or more reasonable suppliers are likely to be willing and able to compete effectively for the award; The procurement lends itself to a firm fixed-price contract; and
- b. When selection of a contractor based wholly on price is appropriate and reflective of the nature of the products or service being purchased.

#### D. Proposal Evaluation

##### Procurement Commitment and Awards

When awarding contracts and selecting qualified providers for employment and training services, consideration will be given to such matters as whether the subrecipient has:

1. Adequate financial resources or the ability to obtain them;
2. The ability to meet the program design specifications that consider the WIOA and/or funding source purpose and goals at a reasonable cost, as well as the ability to meet performance goals/standards;
3. A satisfactory record of past performance in job training, basic skills training or related activities, including demonstrated quality of training, retention in training, training completion, reasonable drop-out rates from past programs, participant placements, rates of licensure, retention in employment, and earning rates of participants;
4. The ability to provide services that can lead to the achievement of competency standards for participants with identified deficiencies;
5. A satisfactory record of integrity, business ethics and fiscal accountability;
6. The necessary organization, experience, accounting and operational controls; and
7. The technical skills to perform the work.

#### E. Procurement File Standards

Procurement records and files for large purchases shall include the following at a minimum: a) the basis for subrecipient selection; b) justification for lack of competition when competitive bids or offers are not obtained; and c) a cost or price analysis.

*Procurement records will be retained for three (3) years after final payment on a contract. Records will be located at the office at 77 Winthrop Street, Augusta, Maine or the physical main office successor.*

Records should detail the significant history of procurement.



These records may include, but are not necessarily limited to, the following:

1. Rationale for the method of procurement (small purchase, request for proposal, etc.);
2. The selection of agreement type (cost reimbursement or fixed price);
3. Awardees' selection or rejection;
4. Copy of the solicitation package;
5. Copy of the public notification;
6. Bidders' list to which notices were mailed;
7. List of all organizations/entities that received the RFP;
8. Agenda and minutes of a bidders' conference, if held;
9. Written responses to all clarifying questions received outside of the bidders' conference;
10. Copy of each proposal received;
11. Documentation of the rationale for selection and funding of any proposer that did not receive the highest score/ranking in the evaluation process;
12. Completed cost or price analysis for each selected bidder or purchase; and
13. Copy of any submitted protests and the resolution of each.

#### NONCOMPETITIVE NEGOTIATION (SOLE SOURCE)

Noncompetitive (sole source) negotiation is procurement through solicitation of a proposal from only one provider or contractor. Sole-source procurement may be used when the award of a contract is infeasible under large, small, or minor purchase procedures.

Circumstances under which a sole-source contract may be awarded include the following: the services or goods are available only from a sole source;

- unavoidable urgency for the services or goods will not allow time for a competitive solicitation;
- the funding source authorizes noncompetitive proposals;
- a contractor possesses unique capacity or is uniquely qualified to provide the goods or service;
- or
- after a public solicitation, competition is determined inadequate.

All sole-source purchases shall be documented, including:

- the reason why regular large, small, or minor purchase procedures were infeasible;
- which sole-source rationale was applied;
- a cost analysis; and
- signed authorization for the sole-source award.

#### CLEO, WIOA MOU AND OTHER PARTNERSHIP AGREEMENTS

It is recognized that the CWMWDB is required to enter into cooperative type agreements or memorandum of understandings (MOU) with the Chief Elected Officials for its operation as a fiscal agent and is required to enter into another MOU with its WIOA Workforce System required partner agencies.

These agreements/memoranda of understanding generally relate but are not limited to shared resource and infrastructure costs and their distribution which includes



clarifying relationships/responsibilities and another interagency collaborative undertakings and in-kind work and/or delegating authority for WIOA processes.

END

## DEFINITIONS OF COMMON TERMS

**Acquisition:** The process of purchasing goods and services through purchase, rent, or lease. Includes the establishment of needs, description of requirements, selection of procurement method, selection of sources, solicitation of procurement, solicitation for offers, award of contract, financing, contraction administration, and related functions.

**Capital Equipment:** An article on non-expendable (tangible) personal property having a useful life of more than one (1) year and an acquisition cost of \$5,000 or greater per unit. Items that cost less than \$5,000 or have a useful life of less than one (1) year are considered materials and supplies.

**Competitive Negotiation:** A method for purchasing goods and services, usually of a highly complex and technical nature whereby qualified individuals or agencies are solicited by means of a Request for Proposals. Negotiations are conducted; the best proposal, as judged against criteria contained in the Request for Proposals, is accepted; and an award is issued.

**Contract:** An agreement enforceable by law between two or more parties.

**Contract Administration:** The management of all facets of a contract to assure that total performance is in accordance with contractual commitments and that the contract obligations are fulfilled.

**Contract Modification:** Signed formal written change in the terms of the original contract.

**Contractor:** An individual or agency that has entered into an agreement to provide goods or services.

**Cost Analysis:** A cost analysis must include a documented review and evaluation of each element of cost to determine reasonableness, allocable and allowable. Specific cost analysis methods are further outlined in Section VI of this policy.

**Cost Reimbursement Contracts:** Contracts based on payment by an agency to a contractor or subrecipient of allowable, reasonable, and allocable costs incurred as prescribed in the contract. These contracts may not require completion of the contract work, but rather the best efforts of the subrecipient. The types of cost reimbursement contracts include: (a) cost; (b) cost sharing; (c) cost plus fixed fee; (d) cost plus incentive fee (CPIF); and (e) cost plus award fee (CPAF).

**Davis Bacon Wages:** Wage determinations issued by the Department of Labor, which determines the minimum wage rates to pay on federally funded or assisted construction



projects. The prevailing wage rate corresponds directly to the union wage. This is especially true in urban areas, where union membership tends to be higher.

<http://www.dol.gov/esa/programs/dbra/whatdbra.htm>

**Effective Competition:** A market condition that exists when two or more contractors/subrecipients, acting independently, actively compete for an agency's business in a manner that ensures the agency will be offered the lowest price or best technical design to meet its minimum needs.

**Eligible Provider:** The term "eligible provider," used for (a) training services, means a provider who is identified in accordance with WIOA regulations; (b) youth activities, means a provider who is awarded a grant or contract in accordance with WIOA; or (c) a One-Stop Operator designated or certified under WIOA.

**Evaluation of Bids:** The process of examining a bid after opening to determine the bidder's responsiveness to requirements, responsibility, and other characteristics of the bid relating to selection.

**General Terms and Conditions:** Standard clauses and requirements incorporated into all solicitations (bids/RFPs/RFQs) and resulting contracts that are derived from laws or administrative procedures (also called "boilerplate" or "terms and conditions").

**Informal Solicitation:** A solicitation that does not require a sealed response.

**Informality:** A minor defect or variation of a bid or proposal from the exact requirements of the invitation for bids or the request for proposals, which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.

**Price Agreement:** A written contractual agreement, in which a purchaser contracts with a contractor to fulfill the purchaser's requirements at a predetermined price. Usually involves a minimum number of units, orders placed directly with the contractor by the purchaser, and limited duration of the contract.

**Price Analysis:** The process of examining and evaluating a proposed price by comparing it with other offered prices, market prices or prices previously paid for similar goods or services.

**Procurement:** The procedures for obtaining goods or services, including all activities from the initial planning steps; preparation and processing of a requisition; receipt and acceptance of delivery; processing of a final invoice for payment; closeout, audit, and the resolution of any outstanding issues.

**Professional Services:** Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering, etc.



**Project Manager:** A third party consultant or employee that works for the owner and coordinates the activities of a project. Assists with the development of specific strategies of the project (including bidding and contracting), establishing time frames and benchmarks for the project and assisting the owner in hiring other professional services; reviews plans and drawings and makes recommendations to the owners; monitors the budget of all phases of the project; works with all consultants; monitors the day-to-day work progress of the contractor/subrecipient; and assists the owner in close-out.

**Program Income:** Gross income earned by the contractor/subrecipient that is directly generated by a supported activity or earned because of the award. Program income includes, but is not limited to, income from fees for services performed; the use of rental or real personal property acquired under an award; license fees and royalties on patents and copyrights; and interest on loans made with award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

**Purchase Order:** A document an agency uses to execute a purchase transaction with a contractor. It serves as notice to a contractor that an award was made.

**SAT ("Simplified Acquisition Threshold"):** A dollar amount set by the federal government and published in Federal Acquisition Regulations (FAR). Items valued above this amount are subject to procurement by competitive bid. Items valued below this amount are subject to small or micro-purchase procedures.

**Stand-In Costs:** Non-federal costs that may be substituted for otherwise unallowable costs charged to the funding source. Stand-in costs must be: 1) incurred; 2) incurred in the same grant as the costs that they replace; 3) reported as stand-in cost to the funding source; 4) included on the grantee/subrecipient/contractor financial system; 5) adequately documented; and 6) for allowable activities. Cash match more than any funding source match requirement may be considered a stand-in cost.

**Statement of Work (SOW):** That portion of the contract that clearly and concisely defines requirements of the specific work to be accomplished. Statements of work are tailored to consider the period of performance, deliverable items, if any, and the desired degree of performance flexibility.

**Subcontract:** An agreement between a prime or general contractor/subrecipient and a subcontractor for the execution of a portion of the contractual obligation of the prime contract.

## REVISIONS

These procurement policies, practices, and procedures may be revised from time to time





**CWMWDB Procurement Policy**

Policy #2020-02

January 28, 2020

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without prior notice by the CWMWDB.

END

Adopted 1/28/2020 by the CWMWDB and CEO.