CDO WORKFORCE INVESTMENT BOARD

POLICY #07-03: Local Procurement of Goods and Services

DATE: November 14, 2007

APPLIES TO: Use of WIA Title I-B funds

REPLACES CDO Workforce Investment Board Procurement Policy, dated 9/30/05

History
The Workforce Investment Act (WIA), Section 184(a)(3)(A), references Office of Management and Budget (OMB) Circulars that detail procurement requirements for recipients of WIA Title I-B funds. Specifically, OMB Circulars A102, A110 and WIA regulations establish the requirements by which goods and services may be purchased under WIA.

The CDO Workforce Investment Board’s procurement policy, effective 9/30/05, was reviewed by New York State Department of Labor (NYSDOL) for federal, state and local compliance of rules and regulations. Changes to the policy were recommended as a result of this review.

Purpose
The purpose of this policy is to replace the CDO Workforce Investment Board’s procurement policy, dated 9/30/05, to reflect changes in the Local Workforce Investment Area’s (LWIA) grant recipient and to include Request of Qualifications as a method for procuring services.

Provision
It is intended that all procurement transactions of the Chenango-Delaware-Otsego Workforce Investment Board (CDO WIB) shall be conducted in a manner that provides, to the maximum extent possible, for open and free competition. Policies and procedures governing procurement shall ensure that all goods and services are obtained in an effective and efficient manner which is consistent and in compliance with the provisions of all applicable and relevant Federal, State, local laws, rules and regulations. Such policies procedures shall not restrict or eliminate competition. When purchasing equipment, supplies, etc, the CDO WIB will follow the most restrictive guidelines, either of the Federal Government or the LWIA Grant Recipient.

Procurement Authority/Delegation of Responsibility
The authority for the procurement of all goods and services rests with the CDO WIB. The responsibility for all procurement transactions is delegated to the staff of the WIB.

Code of Conduct
This code of conduct is intended to set forth certain standards governing performance of WIB staff and/or Youth Council and Board members engaged in the award administration of contracts supported by Federal Funds. These standards are designed to protect said individuals from accusations and/or implications of official misconduct, unethical behavior and conflict of interest, either real or apparent.
Except as otherwise permitted or provided by Federal, state, local laws, rules and regulations, or by the Workforce Investment Board the following provisions apply:

1. No WIB staff or Youth Council or Board Member shall:
   a. Participate or cast a vote in the selection or in the award of a contract supported by Federal funds if a conflict of interest, real or apparent, is involved. Such a conflict shall arise when:
      i. the member, officer, Youth Council or Board member;
      ii. any member of his or her immediate family;
      iii. his or her partner; or
      iv. an organization which he or she belongs to or employs any of the above, has a financial or other interest in the firm selected for an award.
   b. Neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to any sub-agreements.
   c. Not use any knowledge gained through their position for personal profit or the profit of family or friends.

2. The grant recipient or consortium is not eligible to participate in competitive procurement/bidding to provide any Youth program services other than the framework component.

Methods of procurement
Procurement shall be made by one of the following methods, as described herein:
   A. purchases
   B. non-competitive negotiation (sole source)
   C. competitive negotiations/sealed bid

The method of procurement selected shall be based upon the type and aggregate cost of the goods and services to be obtained.

A. Purchases
   All WIB purchases of services, supplies or equipment which will:
   1. exceed $10,000.00 in the Program year shall be formally bid;
   2. cost $10,000.00 but greater than $5,000.00 in aggregate in a Program Year will require three written quotes from three vendors;
   3. cost $5,000.00 or less, are left to the discretion of the Purchaser; and
   4. equipment purchases that exceed $5,000.00 will require NYSDOL approval.

B. Noncompetitive Negotiations
   Noncompetitive Negotiations may be used when the award of a contract under competitive negotiation or small purchase procedures is infeasible. Circumstances under which a contact may be awarded by noncompetitive negotiation are limited to the following:
   1. The goods and services to be procured are only available from one source;
2. Public emergency, when the urgency for the requirements will not permit a delay incident to competitive solicitation;
3. After the solicitation of a number of sources, competition is determined to be inadequate.
4. USDOL authorizes specific noncompetitive procurement.

Except when directed by the Board, no solicitation of written proposals or quotations shall be required for Acquisition of professional services costing less than $30,000.00.

1. Competitive Procurement
The CDO Workforce Investment Board utilizes three (3) general types of solicitations to procure employment and training services:

- Request for Applications (RFA)
- Request for Proposals (RFP)
- Request for Qualifications (RFQ)

The CDO Workforce Investment Board receives funding under the Workforce Investment Act (WIA) to provide employment and training services to eligible individuals in the Chenango, Delaware, Otsego Workforce Investment Area.

Authority for the solicitation of service providers is vested with LWIAGrant Recipient.

The CDO WIB solicits proposals from organizations and individuals as specified under Section 663.410 of the Final Rule to perform services as specified in its published solicitations for services. All WIA solicitations are in accordance with the Workforce Investment Act, USDOL and NYSDOL Regulations, CDO WIB policies, and in accordance with LWIA Grant Recipient requirements.

If the Grant Recipient invokes the exemption to competitive procurement, allowable under Section 20 CFR 664.405 (a)(4), then the Grant Recipient or consortium is not eligible to participate in competitive procurement/bidding to provide any Youth program services other than the framework components.

COMPETITIVE BIDS (Specifics)
The solicitation utilized for the competitive negotiation process shall contain the following:
  1) A description of the good and/or services to be procured;
  2) All technical requirements and specification which vendors must fulfill; and
  3) The factors to be used in evaluate the bids or proposals.

The WIB staff and/or a designated Review Committee shall review all proposals received in response to solicitation offers. Youth proposals shall be reviewed by an ad hoc Review Committee (Youth Council members, Board members and others community leaders) and approved by the Youth Council. Approved proposals or applications will be recommended for negotiation to the CDO Workforce Investment Board for final approval.
Maintenance of Bidder’s List
A Bidder’s List containing the names and addresses of potential providers who have made a written request to be placed on such a list shall be maintained. Solicitation invitations shall be sent to all potential service providers on the Bidder’s list, as appropriate according to the type of goods and services being sought. Respondents to invitational letters shall be sent Requests for Proposal packages (RFP), Request for Qualifications (RFQ), etc.

Invitations for the solicitation of proposals shall be sent to potential Offerors contained on the established Bidder’s List, as appropriate according to the type of goods and services to be procured. Complete RFP packages shall be sent to all respondents submitting a letter of interest. Proper notice of the solicitations shall also be published in newspapers within the Workforce Investment Area for an appropriate period of time giving organizations and individuals the opportunity to respond.

As a part of the solicitation process instructions will be included in the notice, which gives appropriate information on the following:

- Title(s) and Program(s) in which the proposals are being accepted;
- Special instruction(s)
- Solicitation or bidders conference(s): location/date(s); and
- Closing date for receipt of proposal with location and time.

Application Information And Requirements
The CDO WIB utilizes appropriate procurement instructions in the solicitation of vendors, sub-recipients and service provider contractors who will provide services for the CDO WIB and to eligible individuals served by CDO WIB under WIA. In order for organizations to be considered for WIA funding, all proposals must be submitted no later than the due date indicated in the solicitation. Any proposal received after the due date and time indicated will be disqualified. No exceptions will be made. All CDO WIB programs are “AN EQUAL OPPORTUNITY PROGRAM.”

The following is a sample listing of sections to which respondents to a solicitation will be expected to respond:

I. Background Information
II. General Instructions
III. Proposal format and Instructions
IV. Supplemental Information

***Subheadings are included in each of the above four primary sections***
Conditions for Submission Of Applications And Other Requirements
To facilitate the application process, CDO WIB will provide a solicitation package containing a timeline for the sequence of events and critical dates.

The information that respondents supply in their proposals must provide a full description of all services to be performed. The proposal must enable the CDO WIB to understand completely how the program respondent intends to use WIA funds, provide services or supplies. From the information provided, evaluators will determine the extent to which the proposal is consistent with the requirements of the CDO WIB, the regulations under WIA and all other federal, state and local government requirements pertaining to the program. Proposals will be evaluated to determine potential effectiveness of the program or service(s) in comparison with competing proposals, established vendor-pricing structures and the needs of the CDO WIB.

Assistance to Applicants
The CDO WIB will utilize the solicitation conference (Bidders Conference) or an open period of time for questions to provide assistance and answer any technical questions concerning the solicitation(s). Questions and Answers will be posted on the CDO Workforce website at www.cdoworkforce.org.

Selection Criteria
All proposals/bids received will be evaluated in accordance with procedures established by the CDO WIB, and when appropriate provided in the solicitation. All Youth proposals recommended for negotiations will necessitate the approval of the CDO Workforce Investment Board and WIB Youth Council.

Proposals will be judged on overall quality of content and responsiveness to the CDO WIB requirements and specifications. The completed response package shall be returned with original signatures. Required attachments must be included and be reviewed and considered in the proposal evaluation process. No other attachments or addenda other than those specifically requested need be included.

Except as otherwise noted, those proposals that do not contain complete information, as required, will be deemed non-responsive and will not be evaluated. Separate and complete solicitation packages are required if bidders are proposing services under different WIA grants.

Qualified proposals which meet all technical requirements and specifications shall be evaluated taking into account the following general criteria and any additional specific requirements outlined within a specific solicitation.

1. Application is complete, containing required signatures, information and supporting detail.
2. Demonstrated experience and capacity to provide the services outlined in the solicitation;
3. Demonstrated experience in meeting specified terms, performance standards, contract terms, goals and objectives and budget;
4. Final accountability and management of award;
5. Thoroughness and appropriateness of the program (e.g., design, content, sequence of activities, linkages, etc.); and
6. Reasonableness and cost effectiveness of budget. All selected offerors will be required to participate in negotiations with WIB staff and any appropriate review committee members.

Opening of Proposals
No proposal will be opened until such time as the deadline has passed.

Responsiveness Threshold: Disqualifications
Any proposal received after the due date will be disqualified from consideration. The offeror assumes all responsibility for submission of the proposal and meeting all required deadlines. Also, failure to submit a complete proposal package will result in disqualification of the proposal.

Line Item Budget by Cost Category
Each proposal submitted in response to an RFP must contain a line item budget. All costs indicated in the offeror’s proposal must be legal, reasonable, necessary, allowable, allocable and chargeable to the different WIB cost categories, non-defective and non-fraudulent.

Signature Authorization Certificate
The proposal shall be signed by an agency official authorized to bind the organization. The proposal shall also provide the name, title, address and telephone number of the individual(s) with authority to negotiate during the period of the proposal evaluation and contract negotiation on behalf of the Board of Directors or Company Owners. Verification of authority and cost shall be retained by the CDO WIB or their authorized agents in accordance with Federal Truth in Negotiation Act, False Statements/False Claims Act, and all other applicable Federal and State of New York Laws and Regulations.

Review of Proposals
The information that offerors supply in their proposals must provide a full description of all services to be performed. The proposal must enable the CDO WIB to understand completely how the proposing agency intends to use WIA funds. The proposing agency shall certify that all costs upon which the price is based are:

1. Accurate;
2. Current;
3. Complete;
4. Properly allocated and classified to benefit WIA projects being proposed;
5. Non-defective;

From the information provided, evaluators will determine the extent to which the proposal is consistent with the requirements of the regulations under WIA, and all other federal, state and local government requirements pertaining to the program. Proposals will also be used to
evaluate the potential effectiveness of the program in comparison with established standards of performance and the potential effectiveness demonstrated by competing proposals.

The selection of a proposal for negotiation and consideration of contract award will be made after a careful evaluation of the responsive proposals received. Each proposal will be evaluated and ranked consistent with the criteria published in the RFP.

Proposals will be reviewed by WIB staff for completeness, and evaluated by members of an ad hoc Review Committee. The Review Committee will rank the proposals based upon the percentage of the total possible score assigned. The Committee ranking will be used to develop a list of offerors with whom negotiations may be conducted. The Review Committee’s recommendation of offerors to be considered for award will be made to the CDO WIB.

The award of any contract shall be contingent upon satisfactory completion of negotiation, and the execution of contract and conditions with thirty (30) days.

Unsuccessful Offerors will be notified in writing within thirty (30) days of the final decision of the WIB.

**Contract Negotiation**

The award of contracts shall be contingent upon the satisfactory completion of negotiation, and execution of Contract and conditions within Thirty (30) days. CDO WIB funds are based on availability. The WIB reserves the right to cancel an award immediately if new WIA regulations, policies or a reorganization of the CDO WIB make it necessary to change the program purpose or content substantially, or prohibiting such a program. Further, the CDO WIB reserves the right to make changes to a solicitation as deemed necessary, to accept or reject any or all proposals received as a result of a solicitation, to negotiate with all qualified sources, or to cancel in part or in its entirety a solicitation, if found to be in the best interest of the Workforce Investment Area.

Contract will not be final until the CDO WIB and the prospective sub-contractor/vendor have executed a mutually satisfactory agreement

The CDO WIB reserves the right to use the non-competitive negotiation method, if fewer than two (2) proposals are submitted that meet the solicitation and program requirements.

**Right to Make No Awards**

The CDO WIB reserves the right to cancel an award immediately if new WIA regulations, policies or a reorganization of the CDO WIB make it necessary to change the program purpose or content substantially or prohibit such a program.

**Complaints and Protests**

Complaints and/or protests regarding all contractor problems including selection actions shall be limited to violation of Federal, state, local laws, rules and regulations. WIA law requires a grievance procedure. Complaints and/or protests shall be reviewed by the WIB staff and
appropriate Committee of the WIB (i.e. Youth Council in the case of Youth services procurement and/or contracts).

Once selections are made, offerors will be notified in writing of the results. Failed offerors have a right to protest the decision. If offerors disagree with the “Notice of Review” and feel their rights were not adhered to in the solicitation or selection process, and/or their proposal was rejected, protests must be filed within seven (7) days with CDO WIB. They may appeal as indicated below:

**APPEAL PROCESS**
If the offeror disagrees with the “Notice of Award” and is of the opinion that the award was improper, the offeror may file a written appeal with the CDO WIB, stating the reason for the appeal within seven (7) calendar days from the date of the action. The appeal must be filed with the Executive Director of CDO WIB. The appeal will be conducted in accordance with the grievance procedure established by the CDO WIB.

**Suspension/Debarment Certification and Lobbying Certification**
Federal regulation at 663.410 set forth requirements for these certifications. All proposals must include a debarment certification or statement of compliance. Lobbying certifications are required for all proposals as a part of the CDO WIB solicitation process. Contracts must have a signed Debarment Certification.

**WIA Regulations**
Respondents to a CDO WIB RFP are expected to be familiar with the Workforce Investment Act, its regulations, and appropriate SDA directives governing the program.

**Pell Grants and Other Funding Sources**
WIA funds shall not be used to duplicate or offset the use of other funds directly for specific uses.

**Key Staff Qualifications**
As a part of the solicitation, information concerning the applicant staff’s qualifications and licensing and/or certification necessary to provide services is required. This will include but not be limited to resumes and job descriptions for personnel to be hired for the services to be provided.

**Services Definition**
The solicitation must contain a precise description of the Services to be provided. It must also set forth the time period for the training and establish acceptable levels of performance. It is important that the offeror provide complete and accurate information relative to these sections of the solicitation.

**Contract Policy**
The organization’s written procurement procedures shall contain contract policy, which describes the type of agreements used in awards. The contract policy should also include the way in which cash advances, if allowed, will be handled.
The type of contact used is determined in the negotiation process. The type of contract or agreement form selected for a given procurement shall reflect the characteristics of the products or services to be acquired. It should also provide suitable assurances that costs incurred are reasonable and necessary, given the value provided; the risk entailed in the contract’s performance and current market conditions.

**Type Of Contract**

**Cost Reimbursement Contracts**

Cost reimbursement agreements are process oriented to ensure performance and are designed to measure output. Individual line items are established during negotiation. Invoices, supported by documentation, are submitted for payment after costs are incurred.

Goods and services purchased from another governmental or publicly funded agency should be on a cost reimbursement basis.

**Performance Based Contracts**

Performance based agreements are oriented to pay the Contractor based on performance of services as defined within the agreement. Reimbursement is based on per unit of performed services.

**Subcontracting**

Offerors must include any plans for subcontracting in their proposals. The offeror shall include, in any subcontract, all applicable CDO WIB terms and conditions. All subcontracts and or plans to subcontract must be submitted in the proposal. It is also understood that the contractor is responsible for the proper procurement, reasonable pricing, monitoring, audit, and any rebuttal, disallowed costs resulting from unsatisfactory accomplishment of the services or activities included in all subcontracts. In order to receive funding, all bidders must accept the CDO WIB’s standard cost-reimbursement contract provisions, which are incorporated into this RFP.

**Equal Opportunity**

It is the policy of the CDO WIB to encourage and support equal opportunity in employment and training. “No person shall, on the grounds of race, color, religion, sex, handicap, national origin, age, citizenship, sexual orientation, marital status, political affiliation or belief, be denied employment or benefits or be discriminated against as a participant, administrator, or staff person under any program or activity receiving funds under the Workforce Investment Act.”

**Union Concurrence**

The offeror shall obtain concurrence from the appropriate bargaining agent (labor organization) where a collective bargaining agreement exists with an employer covering occupations that effect the bargaining agreement, such as wages and benefits. Written concurrence shall be obtained prior to entering into a training contract with a training facility. If no response is received from the bargaining agent within 30 days after written notification, the offeror may proceed. Deadline for responses must be included in the written notification to the bargaining agent.
Linkages
Linkages and coordination are an important component in the delivery of services to individuals that qualify for WIA services. In order not to duplicate services, organizations must develop agreements with organizations that can and will enhance services to eligible WIA participants.

Program Funding and Participant Enrollment Goals
The CDO WIB solicitation will show the amount of funds available under the WIA grant and state when appropriate participant enrollment goals.

Period of Performance
The maximum period of the performance of any project under a solicitation is as negotiated between the parties. Most WIA Title I-B funded programs and/or services shall be expected to begin on or about July 1 and end June 30. Based on performance and other compliance factors, the CDO WIB reserves the right to extend contracts based upon the type of solicitation:
- RFA, contract extension for up to two years;
- RFP, contract extension for up to one year; and
- RFQ, contract extension on an annual basis.

Rejection of Proposal
The CDO WIB reserves the right to cancel a solicitation and reject all proposals submitted if in the best interest of the CDO Workforce Investment Board.

Unsuccessful offerors will be notified in writing within thirty (30) days of the final decision of the WIB.

Provision of Services
The CDO WIB reserves the right to extend and/or increase/decrease any contract awarded as a result of a solicitation. The issuance of a solicitation does not commit the CDO WIB to award a contract, to pay the cost incurred for the preparation of proposals, or to procure or contract for services.

Contract Administration
All Contractors for the provision of program services will be required to submit performance reports and invoices in accordance with the schedule provided for in the contract. The CDO WIB Staff has a system of internal monitoring and review which is designed to ensure that contractors perform in accordance with terms, conditions, and specifications of the contract. Monitoring reports and corrective action, as appropriate, are provided.

Records Keeping
Records of all procurement transactions will be maintained. Records will include mailing lists, responses, solicitations, contracts, communications, rejection notices, and any other pertinent information. All records shall be maintained for a period of six (6) years following final payment and closure of all pending matters.

Termination of Awarded Contracts
Contracts/contractors found violating or not performing to the expectations of the solicitation and awarded proposal (enrollment, invoices, performance standards, marketing, reporting) shall be first notified in writing of corrective actions required. Contractors failing to amend or modify program activities or actions with the guidelines outlined, and failing to do so following a second notice will be notified in writing of a formal review by the WIB of formal proceedings for review and/or termination.