

# Procurement Policy

## Purpose

The purpose of these procurement policies and procedures is to describe the processes to be used to select service providers and/or purchase employment and training activities, services, supplies and programs under the direction of the San Benito County Workforce Development Board.

## Policy

1. All procurement of employment and training activities, services and programs, including the selection of service providers, shall be conducted through an open and competitive process.
2. All AJCC procurements shall have documentation showing the rationale for:
  - a. the method of procurement,
  - b. the selection of the contract type,
  - c. contractor selection or rejection, and
  - d. the basis for the contract type. Such records shall be maintained by AJCC for three years following the submission of final grant reports impacted by the procurement process.
3. All procurements shall be conducted in compliance with requirements set forth in the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards 2 CFR 200, also referred to as the 'Super Circular'. In addition, procurements shall conform with the standards of the County of San Benito, unless they are superseded by either Federal or State regulations, policies or directives, as amended.
4. All procurements shall be conducted in accordance with the AJCC Workforce Development Board's Conflict of Interest Policy. AJCC employees must adhere to the Ethics code on Conflict of Interest under County of San Benito Municipal Code 2.08.250 which states:

No county employee shall participate directly or indirectly in a county procurement when the employee knows that:

- a. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
- b. The employee or any member of the employee's immediate family is negotiating or has an employment arrangement which is contingent upon or will be affected by the procurement.
- c. Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the procurement.
- d. No person shall offer, give or agree to give any county employee any gratuity or offer of employment in connection with a procurement by the county. No county employee shall solicit, demand, accept or agree to accept from any other person a gratuity or an offer of employment in connection with a procurement by the county.

5. All contracts for grant-funded training and supportive services shall follow the “County of San Benito Delegation of Procurement Authority” procedures. Contracts shall be signed by a representative of the County of San Benito as outlined in the procedures as well as a representative of the provider agency.
6. The selection of vendors for other than training or supportive services shall be made in accordance with the County of San Benito's Purchasing Procedures, including signatory authority.
7. All procurements shall have a price analysis performed at a minimum. If price reasonableness cannot be determined due to lack of adequate price competition, then a cost analysis shall be performed. A cost analysis is required for sole source procurements and for contract modifications, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in sufficient quantities to the general public or based on prices set by law.
8. AJCC will obtain the State's approval prior to charging WIOA grant funds for purchases of property (hardware and software) with a per unit acquisition cost of \$5,000 or more per the parameters outlined in WSD14-13.
9. All procurements shall take into consideration the option of leasing versus buying. The decision to lease or buy personal property must be governed by considerations of economy. Consideration may differ by property type and according to market conditions. The length of the contract period of the lease should also be considered. Leasing with an option to purchase is generally preferable to straight leasing.
10. AJCC will consider on-hand quantities and in-house capabilities as well as program requirements for any item of service to be purchased to prevent the procurement of excess or duplicative volumes.
11. AJCC 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.
12. AJCC will maintain oversight to ensure that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders.

## **METHODS OF PROCUREMENT, PROCEDURES and APPEALS**

### ***1. Micro-purchases (\$1 - \$3,000):***

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, AJCC will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if AJCC considers the price to be reasonable.

### ***2. Small Purchases (\$3,001 - \$50,000):***

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$50,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

### ***3. Competitive Proposals (\$50,001 and above)***

An open and competitive procurement process shall be conducted at intervals which may not exceed **three** fiscal years in duration for the procurement of employment and training activities, services and programs under the AJCC Workforce Development Board. AJCC will largely use a Request for Proposal process for selection of activities, services and programs.

**A. Request for Proposal (RFP)**

The selection of major employment and training activities, services and programs (defined as those of more than \$5,000 per transaction), including service providers, shall be primarily conducted through a Request for Proposals (RFP) process.

- The RFP process will reflect minimally the following elements: the technical capacity of the bidder to provide the desired services, including design specifications and goals; the past performance of the bidder in the provision of the desired services; sufficient information to determine the reasonableness, necessity, allocable and allowable nature of all proposed costs; and administrative capacity of the bidder, including financial resources and accounting controls. For organizations that provide training, such performance measures as entered employment rate, training-related entered employment rate, retention in training, completion of training, employment retention, job placement, average wage at placement and rates of licensure will be taken into consideration.
- The RFP will contain instructions which inform bidders of the general and specific conditions governing the procurement process. This information shall include, but not be limited to, the scope of the RFP, including a clear and accurate description of the technical requirements for program design, the structure of the RFP, the review and evaluation process to be utilized, the appeals methodology and the anticipated contract methodology. The technical requirements shall not contain features, which unduly restrict competition.
- The standard RFP process will include the notification of bidders based upon the Bidder's List as maintained by AJCC, the public notice of the availability of funds and the RFP process, the availability of the RFP with reasonable time for completion, the provision of technical assistance as appropriate, a technical review and cost/price analysis by staff of submitted proposals, the initial review of eligible proposals by the designated committee of the WDB, the final approval of the WDB and the concurrence of the administrative entity.
- An RFP for the selection of major services, including service providers, shall be conducted at least once every two years. However, the WDB may conduct an RFP as often as desired and as appropriate to the availability of funds.

**B. Request for Concept Papers**

- The WDB may also utilize the Open Request for Concept Papers (RFCP) process for the selection of innovative, custom or unique employment and training activities, services and programs throughout the fiscal year.
- The RFCP allows the WDB to review new and innovative employment and training activities, services and programs on an on-going basis, subject to the interest of the WDB and the availability of funds. The RFCP calls for the submission of a concept paper relative to the proposed services. If the WDB is

interested in a further review, then the bidder would submit a full proposal and be subject to the conditions as discussed under the RFP above.

### **Appeals Procedure**

- (1) Each bidder shall have the opportunity to review the technical review report prepared by AJCC staff.
- (2) Each bidder shall have the right to meet with the designated committee of the WDB to review its funding recommendations.
- (3) Each bidder shall receive a copy of the committee's recommendations to the WDB.
- (4) Each bidder shall have the opportunity for written and verbal response to the WDB relative to the WDB's funding decisions.
- (5) Decisions of the WDB are final.
- (6) If a bidder believes that any Local, State, or federal regulations have been violated in the procurement process, it may pursue the matter through access to AJCC grievance procedures.

### ***Sole Source***

Sole source procurements may be conducted only when the award of a contract is infeasible under another purchasing method and one of the following applies:

- (1) the item is available only from a single source;
- (2) the emergency for the item will not permit a delay resulting from competitive solicitation;
- (3) the awarding agency authorizes noncompetitive proposals;
- (4) after solicitation of a number of sources, competition is determined inadequate.

In addition, the WDB may utilize the sole source procurement process only if the source of funds so allows such a process, and it is clear that an RFP would serve no purpose in determining the appropriate provider of services. The proposal would still be subject to the conditions of review and approval as discussed under the RFP above.

### **CONTRACTING PROCEDURES**

1. It is the intention of the WDB to enter into performance based cost reimbursement agreements whenever possible, for other than ITA contracts.
2. All standard contracts shall be approved as to form by the County Counsel Office of the County of San Benito.
3. If agreements are performance based cost reimbursement, subagents shall receive payments relative to the successful attainment of negotiated benchmarks. The benchmark payments shall initially be allocated by AJCC to the appropriate cost categories based upon the final budget as negotiated. However, the subagent shall be required to maintain a system of cost allocation, which allows for the charging of actual costs incurred to the appropriate cost categories. AJCC will review such cost allocation at the end of the contract term and adjust its records as necessary. All provider contracts, unless specifically and solely for the purpose of an administrative

function as defined under WIOA, shall be charged to the WIOA Program cost category.

4. If agreements are line item cost reimbursement, the subagent shall be reimbursed in accordance with a line item budget. Subject to funding source limitations, line item agreements may have limited flexibility, not to exceed 10% of the identified line item and/or cost category. All cost reimbursement agreements shall also contain performance standards, the failure of which to maintain may result in termination of the agreement.
5. The various agreements shall contain all required general and specific conditions reflective of the various federal, State and local requirements.
6. The AJCC WDB will not enter into any agreements with any agencies who are currently of a debarred or suspended status, or whose debarred status has not been resolved. AJCC's Procurement Coordinator will verify contractor's status through the SAM System (System for Award Management) website - [www.sam.gov](http://www.sam.gov)
7. With regard to documentation of rationale for method of procurement, a procurement will be assumed to be small purchase unless documented otherwise.
8. The AJCC Deputy Director or Program Manager shall be responsible for the administration of AJCC's various procurement systems and the required documentation therein, including issuance of solicitations.