

**WORKFORCE INVESTMENT BOARD  
OF TULARE COUNTY  
PROCUREMENT POLICY MANUAL**

**Revised May 2010**

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## INTRODUCTION

The purpose for procurement requirements is "to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders." The Workforce Investment Act (WIA) and its implementing regulations seek to ensure that the best value is received for each WIA dollar spent, but not necessarily that the lowest price is always obtained. Additionally, the regulations seek to provide "a level playing field" for all potential competitors/bidders or proposers.

This manual provides the Workforce Investment Board of Tulare County (WIB) and its subrecipients policy related to the procurement of goods and services under the Workforce Investment Act (WIA) and its implementing regulations. This document covers the purchase of supplies, equipment, administrative services, and programmatic services from service providers, vendors, and independent contractors. Additional, or more detailed, guidance to providers and vendors will be included in any Solicitation/Request for Proposal (RFP) issued by the WIB.

The WIA regulations at 20 CFR 652 provide guidance for the administration of the program. For procurement, the guidance includes specific direction and referral to 29 CFR 95 for institutions of higher education, hospitals and other nonprofit and commercial organizations, and to 29 CFR 97 for states and local governments. While the format and wording of Part 95 and Part 97 vary slightly, the intent of the federal government is consistent: procurement policies must ensure free and open competition and secure the best possible price.

This manual is not a stand-alone guide since procurement affects and is affected by other areas in the WIA regulations and Parts 95 and 97 of the Code of Federal Regulations.

This document assumes that service providers and WIB staff have read and are familiar with the citations listed in "REFERENCES" below.

### References

This manual references, and makes every attempt to be consistent with Federal, State and local rules, regulations and policies, including but not limited to:

- Workforce Investment Act (WIA) of 1998, Sections 111(f), 112(b)(13) and 5117 (d)(2)(B)
- WIA Regulations, Title 20 Code of Federal Regulations (CFR) 663.410, 667.200
- New Restrictions on Lobbying, Title 29 CFR 93
- Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit and Commercial Organizations, Title 29 CFR Part 95, Sections 95.40 through 95.48

- Administrative Requirements for Grants and Agreements with State and Local Governments, Title 29 CFR Part 97, Section 97.36
- Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), Title 29 CFR 98
- Government Code 8100-91014
- California's Strategic Five-Year Plan
- Department of Labor "The WIA Youth Program RFP Guide"
- WIB Contracts with Subrecipients (Service Providers)

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Executive Director

Approved: by WIB Executive Committee June 9, 2010,

## PART I GENERAL REQUIREMENTS

The Workforce Investment Act (WIA) and the Welfare-to-Work (WtW) *Grant Program* requires that the Local Workforce Investment Area have procurement procedures that ensure:

1. Procurements will be conducted in a manner providing full and open competition;
2. The use of sole source procurements is minimized to the extent practicable, but in every case shall be justified;
3. Procurements will include an appropriate analysis of the reasonableness of cost and price;
4. Procurements will not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be used in determining whether such income or profit is excessive, such as—
  - a) The complexity of the work to be performed;
  - b) The risk borne by the contractor; and
  - c) Market conditions in the surrounding geographical area;
5. Procurements will clearly specify deliverables and the basis for payment; and
6. Procurement contracts and other transactions between Local Boards and units of State and local governments will be conducted only on a cost reimbursement basis. No provision for profit will be allowed.

This procurement manual shall be used by the Workforce Investment Board of Tulare County (WIB) and its service providers and subcontractors to purchase all goods and services with WIA funds. It shall provide for:

1. Open and free competition. This includes the requirement that any individual who develops specifications, Request for Proposals, evaluates or makes recommendations on such proposals, or participates in any manner in the procurement of goods and services with WIA funds shall **NOT** be eligible to compete in the procurement. This applies to all types of contracts or grants.
2. Consideration of both price and the service provider's potential ability to meet specifications;

3. Purchasing unnecessary or duplicative goods or services;
4. Consideration of small businesses, minority-owned and women's business enterprises and labor surplus area firms when possible (29 CFR Part 97 (e)(iii)).

### **Responsibility**

The WIB shall use the County of Tulare Purchasing Department Procedures for supplies, equipment, and other services (independent contractor services) provided in the WIB/LEO Agreement for purchase of goods and services and the procedures described in this manual. Other procurement responsibilities of the WIB include:

- Approval of all property purchased by WIB service providers prior to its purchase. Monetary limitations are stated in the contract document with the respective service providers.
- Purchasing training services from service providers, vendors, and independent contractors.
- Approving contracts for services and training. (The WIB Chair is authorized to sign contracts on behalf of the WIB.)
- Approving contract amendments. (The WIB Chair shall sign amendments on behalf of the WIB.)
- Providing technical assistance to service providers.
- Procurement activities will be conducted in a confidential manner. Staff/or WIB Directors involved in procurement must not divulge advance purchasing information, specific proposal/offer evaluation criteria, negotiations with bidders or in-house discussions regarding a procurement.

### **Full and Open Competition**

All procurement transactions by the WIB, its service providers and subcontractors will be conducted in a manner providing full and open competition consistent with standards of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" which is codified at 29 CFR part 97 and the "Uniform Administrative Requirements for Grants and Agreements Awarded to Institutions of Higher Education, Hospitals, other Non-Profit Organizations, and Commercial Organizations" codified at 29 CFR part 95. To the extent possible, bidders/proposers or offerors must have an equal chance to secure a contract. The requirements specified in the

procurement must bear a relationship to the need being procured. Some of the situations considered to be restrictive of competition include but are not limited to:

1. "Placing unreasonable requirements on firms or organizations in order for them to qualify to do business"--Requiring a business to have an office within the boundaries of the Workforce Investment Area may be unreasonable unless it had a detrimental effect on the delivery of services.
2. "Requiring unnecessary experience and excessive bonding"—Any requirement that is unrelated to the delivery of service described in the proposed procurement.
3. "Noncompetitive awards to consultants that are on retainer contracts" -- The services of a consultant on retainer must be procured competitively. This provision applies to such consultant services as managerial, organizational or program effectiveness.
4. Non-competitive pricing practices between firms or between affiliated companies,
5. Organizational conflicts of interest,
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement.
7. Any arbitrary action in the procurement.

Competitive negotiation requires that at least two responsive proposals for the same scope of work and service area are received in response to the RFP. If only one responsive proposal is received, then there has been a failed competition and the WIB has the option to recomplete the procurement or proceed. The WIB's definition of a failed competition and their rights and options in the event of such a failure will be included in the RFP. The WIB will consider a competition to have failed when less than two responsive proposals have been received to a solicitation, i.e., Request for Proposal or Request for Quote.

### **Procurement Documentation**

When conducting a procurement, i.e., Request for Proposal (Issuance of a solicitation), Request for Quote, or Small Purchase, documentation will be maintained sufficient to detail the significant history of a procurement, these records will include the following, as applicable:

- Rationale for procurement type, i.e. RFP, small purchase, etc.;

- Rationale for selection of contract type;
- A copy of the solicitation package (the RFP);
- A copy of the public notification(s);
- Bidders' list to which notices were mailed;
- Agenda and minutes of the bidders' conference, if a conference was conducted;
- Written responses to all clarifying questions received outside of a bidders' conference;
- A copy of each proposal received; (funded and those not funded);
- Rating and scoring sheets completed in the evaluation process, (for the protection of the identity of readers, summary sheets will be made available upon request, original copies will not be provided);
- Rationale for selection or rejection of any offeror;
- Determination of demonstrated performance/capability of the selected bidder;
- Documentation of the rationale for selection and funding of any offeror that did not receive the highest score/ranking in the evaluation process;
- Completed Memorandum of Negotiations for each contract as appropriate;
- A copy of any submitted protests/grievances and the resolution of each; and
- Price/cost analysis as appropriate.

## **Contract Certifications**

### **Prohibition of Subawards to Debarred and Suspended Parties**

The WIB nor its subcontractors and subrecipients shall make any awards at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs in accordance with the Department of Labor regulations at 29 CFR part 98. Each entity that is awarded funds in excess of \$25,000 is required to self-certify that it and none of its principal staff is neither debarred nor suspended. The awarding agency is not required to do a verification of the certification.

### **Lobbying**

WIB will require all subcontractors and subrecipients receiving \$100,000 or more in WIA funds to certify that no federal funds will be used for lobbying activities in accordance with 29 CFR 93 of the Department of Labor regulations.

## **PART II PLANNING**

A description of how employment and training needs will be met in Tulare County is included in the content of the Local Workforce Investment Area (LWIA) Five-Year Plan. The content and time frames outlined in the Plan dictate procurement for programmatic services and identifies funds available for employment and training needs. The Workforce Investment Board of Tulare County (WIB) strives to provide the maximum level of services directly to the client population. The planning process will include:

1. Identification of training or services that are consistent with the Five-Year Plan designed to meet the needs of participants.
2. Review of labor market information for demand occupations.
3. Review of demographic information with emphasis on non-traditional employment for women.
4. Targeting hard-to-serve youth and adults.
5. Reviewing the Plan with a focus on performance, i.e. placement, wage rates, retention, skill attainment, and training needs.
6. Identification of other procurement needs, i.e. consultants, equipment, furniture, space, etc., that may be required for program operation.

Procurements shall be conducted by the WIB at intervals of not less than once every three years.

### **Contract Type Selection**

Selection of contract type will be made using a combination of factors including experience, size and complexity of the procurement and complexity of the service delivery as described in the Statement of Work. Further, when selecting the contract type the following will be considered:

- a. Price Competition – Effective price competition will produce a basis for pricing fixed price contracts.
- b. Price Analysis - The degree to which price analysis, with or without competition, provides a reasonable pricing standard for fixed price contracts.
- c. Cost Analysis – The cost estimate made by contractors will be considered, particularly in the absence of effective competition. The type of

organization i.e. CBO, Private for Profit or Public Agency is a factor for cost reimbursement contracts.

d. Risk Assessment – An analysis of the risk level associated with the potential contractor or existing contractors. (WIBD-01-9)

Only cost reimbursement contracts will be used when dealing with local governmental agencies and community based organizations.

A determination will always be made prior to issuance of a contract and the determination documented in the contract file.

### **Preparing for a Competitive Procurement**

The process for a competitive procurement includes the following:

- Prepare a Request for Proposal/Quote (RFP/RFQ) including response timelines ensuring sufficient time for all phases of the procurement process to be carried out. Establish proposal evaluation procedures.
- Issue a public notification of the procurement through an announcement in a local public medium (e.g., newspaper) or media that, minimally, covers the entire service area. Provide a copy of the RFP/RFQ to any party requesting it. Make notification through dissemination of RFP/RFQ to entities included on the current, applicable proposal list.
- Make a record (e.g., log) of all inquiries received regarding the procurement and the submission requirements. Respond in writing to all inquiries, except those, which are clearly answered in the solicitation, and distribute copies of all inquiries and written responses on a timely basis to all parties to whom the solicitation has been distributed. Issue clarification updates on a weekly basis to ensure that timely and accurate information is distributed to all potential bidders.
- Hold a proposers' conference after the distribution of the RFPs. When such a conference is held, all parties to whom the solicitations have been distributed will be notified of the date, time and place of the conference. This notification will be included in the RFP itself. Document in writing each question answered at the conference and provide this information as an addendum to the solicitation package to any subsequent requesters of the RFP.
- The date and time proposals are received will be noted in order to ensure that only proposals received by the due date and time qualify for the evaluation process.

## **PART III CODE OF CONDUCT**

The Workforce Investment Board of Tulare County (WIB) and its staff will take every reasonable course of action in order to maintain the integrity of the procurement of goods and services using funds provided under the Workforce Investment Act (WIA). The WIB and its staff shall conduct all acquisitions in an impartial manner, free from personal, financial or political gain. The WIB Board of Directors and staff will avoid all situations that may give rise to a suggestion that any decisions were influenced by prejudice, bias, special interest or personal gain.

During the procurement of goods, training or other services, WIB Board members and staff will not disclose proposal or procurement solicitation information, including:

- Procurement plans,
- Advance solicitation information prior to release of Request For Proposals (RFP),
- Proposal technical and cost/price information,
- Relative scores or standings of offerors prior to award,
- Confidential or proprietary information, or
- The disclosure of information to one or more offerors that is not made to all offerors in order to maintain confidentiality and objectivity when dealing with offerors, contractors, proposers or service providers.

Further, WIB Board members agree to be bound and governed by the Standards of Conduct adopted in its bylaws and contained in this document, and the grant or Subgrant Agreement with the State of California that provides funds for use by the Local Workforce Investment/Sub State Area, (LWIA/SSA).

The Tulare County WIB and its staff will take every reasonable course of action in maintaining fairness and objectivity in the proposal review process. The WIB and its staff shall conduct all proposal reviews in an impartial manner, free from personal, financial or political gain. The WIB Board of Directors and staff will avoid all situations in this process that may give rise to a suggestion that any decisions were influenced by prejudice, bias, special interest or personal gain.

The following actions by offerors, bidders, vendors or service providers, its executive or management staff, employees, and Board of Directors are strictly prohibited:

1. Payment of gratuities to agency staff or board members;

2. Receipt, solicitation or offering of kickbacks;
3. The obtaining of or attempts thereof to obtain confidential procurement information not made available to all offerors, bidders, or proposers;
4. Improper communication with WIB staff or board members, i.e., attempts to influence procurement/funding decisions.

## **Conflict of interest**

This section addresses the need to maintain a written code of standards of conduct governing the performance of persons engaged in the award and administration of WIA contracts and subgrants. No WIB/Youth Council director shall engage in any activity, including the participation in the selection of service providers, vendors or independent contractors, the award of, or administration of a contract funded with WIB/WIA funds if a conflict of interest, real or apparent, would be involved. A conflict of interest would arise when:

1. The WIB/Youth Council Director;
2. Any member of the WIB/Youth Council Director's immediate family;
3. The Director's business partner; or
4. An organization, that employs the WIB Director, or is about to employ the Director,

has a financial or other interest in the business or organization selected for the award.

The officers, employees, or agents of the awarding agency will neither solicit nor accept gratuities, favors, or any monetary value from service providers or vendors, independent contractors or other providers of services.

During the procurement process, i.e., after offers have been made or proposals have been submitted, WIB Directors or staff shall not communicate with current service providers or vendors, potential service providers, vendors or independent contractors regarding the procurement. This could lead to a breach of the procurement and be cause for elimination of the prospective service providers, vendor, contractor or other providers of service, which could fatally damage the integrity of the procurement process.

## **Confidentiality**

A seal of confidentiality must be maintained around all procurements. Offerors are required to submit sealed bids or proposals, which are securely handled and stored. People involved in any aspect of a procurement must not reveal or disclose information to anyone outside of the official group involved in reviewing offers and making contract award decisions.

Confidentiality also applies to other actions, before the review and award phases. No information should be disclosed to anyone about the Statement of Work, the funds

available, or related data until that information is made know to all offerors, through publicizing the intent to solicit or disseminating the RFP. Information must be given to all offerors and potential offerors equally.

### **Voting**

Each WIB Director shall be entitled to one vote and shall have the privilege of participating fully in the voting procedure, except that a Director shall not cast a vote on, participate in, or in any way attempt to use his or her official position to influence:

- (1) Any decision on the provision of services by that Director (or any organization that the Director represents, or
- (2) Any decision or matter that would provide financial benefit to that Director, or in which that Director has reason to know that he/she, or any member of that Director's immediate family, will receive financial benefit.

### **Violations and Sanctions:**

1. If a violation of Part IV, Methods of Procurement, is alleged the WIB Chair shall conduct a review or cause a review to be conducted to determine whether a violation has occurred.
2. If a determination is made that a violation has occurred and the procurement or a portion thereof has been tainted, the WIB will cancel the procurement or the portion impacted and the proposal/ offeror involved will not be permitted to participate in the procurement.

Further, if it is determined that a WIB Director or staff member was involved in or contributed to the violation those individuals will not participate further in the procurement.

Other remedies may include an administrative penalty of up to \$2,000 for each violation (Gov. Code 91005(b) and 91005.5) (California Political Reform Act of 1974 as amended).

## **PART IV METHODS OF PROCUREMENT**

The following methods of procurement shall be used when purchasing goods and services with Workforce Investment Act (WIA) funds. Local procedures may be used if compatible; however, minimum standards must follow procedures established in this document.

### **Small Purchases**

Small purchase, as defined in State Directive WIAD00-2 (<http://www.edd.ca.gov/wiadir.htm>) entitled "Procurement," means the acquisition of goods or services that do not cost more than \$50,000 in the aggregate.

The process provides for relatively simple and informal methods that are sound and appropriate for the specific type of procurement involved. If small purchase procurements are used, price or rate quotations will be obtained from an adequate number of qualified sources.

The following guidelines for small purchases will apply:

1. \$0 to \$5000 requires more than one verbal quote or price.
2. \$5,001 to \$10,000 requires, at a minimum, three (3) documented verbal quotations and must be documented in writing and on the back of the Check Request/Purchase Order Requisition form.
3. \$10,001 to \$50,000 requires, at a minimum, three written quotations. The documentation for each quote must include the Request For Quotation (RFQ) and the written response (signed and dated) of the vendor. A FAXed response may be considered sufficient documentation. NOTE: A purchase order through County Purchasing may be used in lieu of the process described above.

For small purchases, a Request for Quote (RFQ) should be prepared specifying the quantity, timeframes and all the requirements of the product or service. The RFQ will be retained in the procurement file. Quotes will be solicited from vendors that can reasonably be expected to provide the goods or services needed. The identification of sources and solicitations of quotes shall be supported by documentation.

For the "one quote or price" and "three documented quotes", verbal or written, the documentation can include product or service catalogs, current price lists, sales receipts, and telephone contacts with the prospective vendors to obtain quotes (i.e., memo which reflects the oral quotations by source and is signed by a staff person of the service provider or the Workforce Investment Board of Tulare County (WIB)).

A proposed small purchase or contract for an amount above the simplified procurement threshold may not be divided into several purchases or contracts for lesser amounts in order to circumvent the threshold limits described above.

### **Competitive Sealed Bids**

In this type of procurement bids are publicly solicited for which a firm fixed price (lump sum or unit price) arrangement is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation for Bid (IFB), is the lowest price. Competitive sealed bids are most effective when the specifications in the procurement can adequately describe and define the item or service. If competitive sealed bids are used, the following procedural requirements will apply:

- a. To promote reasonable competition that is consistent with the nature and requirements of the procurement, proposals will be current and solicited from an adequate number of qualified sources.
- b. Reasonable effort will be made to publicize the IFB to the widest practicable area of circulation.

### **Competitive Negotiation**

Competitive negotiation is a method of soliciting proposals from a number of sources through a publicly announced Request for Proposal (RFP) or Request for Quotation (RFQ), and guided in its specifics by the particular solicitation issued. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursement type contract is awarded. If competitive negotiation is used, the following procedural requirements will apply:

- a. The solicitation of competitive offers will follow a process for advertising, evaluation and award in accordance with the competitive standards contained in this policy. Reasonable effort will be made to publicize the solicitation to the widest practicable area of circulation.
- b. To promote reasonable competition that is consistent with the nature and requirements of the procurement, proposals will be current and solicited from an adequate number of qualified sources.
- c. The solicitation will identify all significant evaluation factors, including price or cost where required, and their relative importance.
- d. A technical evaluation of proposals received, including review by staff and/or Local Workforce Area committees will be completed and documented.

- e. Contract awards will be made to the responsible, responsive bidder whose proposal is most advantageous to the WIB. In making an award, price and other factors will be considered and documented. Unsuccessful offerors will be notified promptly.

### **Non-Competitive Negotiation (Sole Source)**

Procurement by noncompetitive negotiation is the solicitation of a proposal from only one source, or after solicitation of a number sources, competition is determined inadequate. It is established as policy by the WIB that procurement by noncompetitive negotiation may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive negotiation proposals and one or more of the following circumstances applies:

1. The public exigency or emergency need for the item or service does not permit a delay resulting from competitive solicitation.
2. The item or services is available from a single source.
3. The State of California authorizes a sole source procurement.
4. After solicitation of a number of sources, competition is determined inadequate.
5. The solicitation yields no more than one respondent.

The action must be documented in WIB minutes and/or committee minutes requesting that this process be used. Staff may also initiate a request following these guidelines to be presented to the WIB for consideration.

Noncompetitive procurement will be minimized to the extent practicable.

### **Exclusions**

The following exclusions to the competitive process will apply :

On- The-Job Training (OJT): The competitive provisions of this policy will not apply to OJT employers, except in the procurement of OJT brokering services.

Individual Training Accounts (ITA): The delivery of classroom training from vendors through an ITA as described in 20 CFR 663.410 is excluded if the cost falls within the guidelines of the small purchase procedures, i.e., three quotes are provided through the ETPL provided by the State. The classroom training will be described in the vendor's published catalog, price list, schedule or other form regularly maintained by the vendor and made available for inspection by buyers, i.e., the general public.

When purchasing commercially available training packages please refer to the WIB Directive on ETPL Policies and Procedures (WIBD-00-3 ETPL).

### **Prequalified List of Bidders**

WIB will ensure that the list of potential contractors, including vendors, is updated every three years and includes enough qualified sources to ensure maximum open and free competition.

### **Subrecipient versus Vendor**

It is not possible to determine if a particular entity is treated as a vendor or subrecipient for procurement purposes unless it is known under what circumstances the entity is providing the goods and/or services to the WIB, lower tiered subrecipient, or a participant. For example, a school can provide a training class to participants and be a vendor in one instance and a service provider in another. The determining factor would be whether or not the entity was accountable to the higher tier subrecipient for the use of its funds. A subrecipient's performance is measured against meeting the objectives of the Federal assistance award. A vendor provides goods and services to many different purchasers within normal business operations. Program compliance requirements do not pertain to the goods and services provided and the vendor is not subject to the statutory and regulatory requirements of WIA or this manual.

The definition of both subrecipient and vendor can be found in Chapter VII, "Definitions," of this manual.

### **Selection of Service Providers**

The primary consideration in selecting agencies or organizations to deliver services within a service delivery area shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants.

Funds provided to the WIB under the WIA will not be used to duplicate facilities or services available, with or without reimbursement, from Federal, State, or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the WIB's performance goals.

Educational agencies in the WIB service area are provided the opportunity to provide educational services that are consistent with the needs of participants served by the WIB. Alternative agencies or organizations may also be used if it can be shown to be more or as effective or would have greater potential to enhance participant continued occupational and career growth.

The WIB will not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines and/or goals established by the WIB.

### **Proposal Evaluation**

After receipt, proposals are reviewed by staff to determine if the submissions are responsive to the solicitation. This will include a determination as to their completeness and compliance with the solicitation requirements. Further, proposals will be distributed to the WIB Directors that are appointed to conduct reviews, ratings, and to selected Administrative staff with instructions that:

- a. The number and names of offerors will not be disclosed during the proposal evaluation and review process.
- b. Technical or cost/price information from proposals will not be disclosed to anyone, not officially involved in the procurement, while the procurement is in progress. Disclosing such information to competing offerors/proposers could fatally damage the integrity of the procurement process. Technical or proposal information that the offeror has designated as a trade secret, will not be disclosed to other offerors, even after the award is made and publicized.
- c. The WIB Program Committee has the responsibility for proposal review, rating and development of funding and slot level recommendation(s) to the full WIB. Other WIB Directors may participate in this confidential process; however, they must be appointed by the WIB Chairperson; and it must be ensured no conflict of interest exists and/or must be minimized. Representatives of agencies or organizations, that have submitted proposals, may be invited, at the discretion of the Committee or WIB, to answer specific questions as needed. To prevent violation of the procurement process, individuals, directors, and staff not designated by the WIB Chair are excluded.
- d. The Program Committee will, after review and rating of the proposals, prepare recommendations to be submitted to the WIB for approval.

The proposals will be rated systematically using a standard developed and approved by the WIB as described in each specific solicitation. This includes, but is not limited to, program cost, performance, demonstrated administrative capability of the organization, previous experience in delivering the training or services, ongoing performance if a current service provider/vendor or a combination of these factors.

## Evaluation Criteria

Potential offerors will find rating criteria published as a part of the solicitation package. The evaluation criteria should tell offerors which aspects of a proposal will be important to the WIB in selecting a service provider, vendor or contractor. Some areas to be evaluated may be, but are not limited to:

### 1. Qualifications of Agency Personnel:

Education and past experience affect an individual's ability to perform professional work. The success of WIB funded programs is often dependent on individual abilities. Consequently, this is a common factor used in evaluation of proposals for WIB funded awards. This factor may be expressed as "Key Personnel," "Qualifications of Personnel," "Staffing," or "Staff Capability."

### 2. Experience, Management & Administration:

Every WIB activity (e.g., enrollment, training, and job placement) has its own set of problems and pitfalls. Successful performance often requires knowledge of where those problems are likely to occur and a familiarity with ways to solve them. This applies to both individuals and to organizations. Experience is often the best teacher. Thus, the familiarity of the organization with the type of work to be performed can be important to success. In addition to whether an organization has done this type of work, one may also want to consider how well they have performed on similar projects. A good track record does not guarantee success; but it may be an important indicator. Such factors are usually expressed as "Organizational Experience," or "Past Performance."

The structure of an organization can affect its ability to get work done. How the Service Provider plans to organize for the effort can be important. Quality control and quality assurance planning within the organization can have a significant impact on performance. Whether the lines of communication and control within the organization will be able to report problems, so that appropriate assistance can be given, may be important. Procedures for record-keeping, support service payments, and reporting to the WIB should also be evaluated.

### 3. Past Performance

For Offerors Who Have NOT Contracted with the WIB Previously—

- Has the offeror demonstrated previous successful experience in operating

similar programs, and is this documented.

- Does the offeror have previous successful experience serving the targeted population, as specified in the RFP, and is this documented?
- Are administrative procedures in place and are they being used?

For Offerors Who Have Been Awarded Previous Contracts with the WIB—

- Do the results of the offeror's most recent contract(s) demonstrate successful performance? List positive completion, Entered Employment rates, and/or narrative information?
- Do monitoring reports on file indicate that corrective action was necessary?

If yes, were appropriate improvements made in a timely fashion that did not impede service delivery?

Are administrative procedures in place and are they being utilized?

Are there audit issues? Are there relevant audit issues and have those issues been resolved?

#### 4. Program Objectives

- Has the offeror clearly outlined the goals and objectives of the program, as specified in the RFP with projected numbers of clients to be served and positive outcomes?
- Has the offeror adequately addressed all target groups, as specified in the RFP? If applicable.
- Is there clear demonstration of collaboration to maximize service opportunities and resource use?

#### 5. Program Design Considerations –Rating See Solicitation Sheets.

#### 6. Budget Considerations

- Have such costs been determined as reasonable? (Attach any cost analysis back-up.)
- Does the offeror access other funds/in-kind resources to offset costs being requested from the WIB?

- List the cost per participant and state whether this cost is reasonable and within the WIB's range of affordability.
- List the cost per positive outcome and state whether this cost is reasonable and within the WIB's range of affordability.

### **Contract Pricing**

Price Analysis: A price analysis is the process of examining and evaluating a price without looking at the estimated cost elements and proposed profit. It is used when price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulations.

Price analysis includes a number of techniques:

1. Comparison of competitive price quotations.
2. Comparison of prior quotations and contracts with current quotations for the same or similar items.
3. Use of yardsticks or parametric relationships to point up apparent gross differences. Examples are: cost per placement, price per instruction hour, price per participant/training hour, etc.
4. Comparison of prices on published price lists with published market prices of commodities, together with discount or rebate schedules.
5. Comparison of proposed prices with independent estimates of cost developed by WIB Administrative staff.

There are instances when price analysis may not be required. If the WIB receives three or more offers/proposals, competing for the same contract, it will be considered sufficient and a comparison of the final price will be used after comparing the price with the independent price analysis. If, however, there are wide ranges among proposed prices, an analysis must be conducted.

**PRICE ANALYSIS WORKSHEET**

Proposal Number \_\_\_\_\_

Offeror \_\_\_\_\_

**PART I -- General**

- 1. Proposed price is a catalog price Yes No
- 2. If yes to 1 above, was price verification made Yes No
- 3. If yes to 2 above, give date of catalog or price list. \_\_\_\_\_
- 4. How was verification performed: \_\_\_\_\_  
\_\_\_\_\_
- 5. Was discount offered? — Yes No
- 6. Will discount be sought? Yes No

**PART II -- Primary Comparison (with other offerors to this RFP)**

	This Offeror Name	Offeror 2 Name	Offeror 3 Name	Offeror 4 Name
1. Price per participant	\$ _____	_____	_____	_____
2. Total price	\$ _____	_____	_____	_____
3. Price per instruction hr.	\$ _____	_____	_____	_____
4. Price per participant /instruction hr.	\$ _____	_____	_____	_____

**PART III -- Secondary Comparison**

	This Offeror Name	Offeror 2 Name	Offeror 3 Name	Offeror 4 Name
1. Price per placement:	\$ _____	_____	_____	_____
2. Total unit price:	\$ _____	_____	_____	_____

Note: In using past contracts, be sure that past prices were competitive and evaluations reasonable.

**PART IV -- Narrative**

1. Give a brief narrative judgement about reasonableness of offeror's proposed prices. Justify your judgement. If you developed an independent agency cost estimate, describe how offeror's proposed prices compare to your estimate.

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Price proposed is too high, develop new price objectives for negotiations and justify.

Proposed new price: \$ \_\_\_\_\_  
Rationale: \_\_\_\_\_  
\_\_\_\_\_

**PART V -- Signatures**

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Cost Analysis: Cost analysis will differ from price analysis in the level of review conducted. Price analysis examines the total price as the single pricing factor under consideration, cost analysis segregates the total price into various cost elements, and these diverse component parts are individually assessed. This review includes analysis and evaluation of (1) the supporting data submitted by the offeror, (2) the cost elements, and (3) the factors the offeror considered in projecting from that data to develop the estimate of cost to perform the specified work. The method and degree of cost analysis are dependent on the facts surrounding each procurement.

Cost analysis is required when price analysis alone is not sufficient to determine that price is fair and reasonable for a product or service and must be performed and documented on every cost reimbursement procurement.

The offeror will certify that to the best of its knowledge and belief, the cost data are accurate, complete, and current at the time of agreement on price. Contracts or modifications negotiated in reliance of data provided by the offeror may be adjusted if it is discovered data is not accurate, complete, or current.

#### Elements of Cost Analysis

In performing cost analysis, the assigned staff must perform discreet functions. First, they must verify the cost and pricing data submitted and evaluate the cost elements in that data. This includes judging the necessity for and reasonableness of proposed costs. It also includes evaluating the offeror's cost trends on the basis of current and historical cost or pricing data. This function also includes conducting a technical appraisal of the estimated labor, material, and other requirements proposed.

A second element of cost analysis is comparison of costs proposed by offerors with other data. This data includes actual costs incurred by the same offeror in the past. Cost analysis can also compare the current proposed costs with previous cost estimates from the same offeror or from other offerors for the same or similar items. It is quite appropriate and helpful to compare an offeror's costs with those proposed by other offerors in the same procurement. Another important comparison that can be made is with the WIB's independent cost estimate.

A cost analysis will be performed on all contracts awarded on a sole source basis and for all contract modifications where additional funds are obligated.

After costs are identified, they are evaluated to determine allowability of individual items. Necessity, reasonableness, allocability, application of applicable contract cost principles and the WIA statute and regulations are considered. The cost principles for specific types of entities can be found at:

- |      |   |
|------|---|
| A-21 | Cost Principles for Educational Institutions                    |
| A-87 | Cost Principles for State, Local, and Indian Tribal Governments |

### **Relation of Cost Analysis and Price Analysis**

While there are similarities between the two types of analysis and they often are performed together, there are distinct differences. Cost analysis focuses on what the work "should" cost a particular offeror, assuming reasonable economy and efficiency. The method necessarily involves a review of costs as they impact on the offeror's proposal.

Price analysis per se is not concerned with any single offeror's methods or situations. It focuses on a comparison between the amount proposed and a benchmark amount that is considered fair and reasonable for successfully accomplishing the work. Price analysis also deals with a question of what the work "should" cost - but it is in a more normative or prescriptive context. Here, it is used in the sense of, "What amount reflects a going rate for the goods or services in the market, in general?" Price analysis focuses on what the buyer should pay to ensure that reasonable value is received as opposed to the cost analysis focus on how much a proposer needs to receive to ensure that it recovers its costs and commercial agencies makes a fair profit.

The WIB or service providers will not use a "cost plus percentage of cost" contract when procuring goods or services using WIA funds.

Profit: The following factors will be consider in determining whether income or profits are excessive:

1. Complexity of work to be performed;
2. The risk borne by the contractor;
3. The contractor's investment;
4. The amount of subcontracting;
5. The quality of the contractor's record of past performance;
6. Industry profit rates in the surrounding geographical area;
7. Market conditions in the surrounding geographic area.

# Cost Analysis Worksheet

Procurement (Proposal No.) \_\_\_\_\_

Offeror \_\_\_\_\_

**PART I -- General**

	<u>Yes</u>	<u>No</u>
1. Proposer's Computations Checked & Verified	_____	_____
Problems/Comments _____		
_____		
_____		
2. All Necessary Cost Elements Included	_____	_____
Problems/Comments _____		
_____		
_____		
3. Proposer's Supporting Documentation & Justification Complete	_____	_____
Problems/Comments _____		
_____		
_____		

**PART II -- Specific Costs**

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
1. Staff Costs	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
2. Fringe Benefits (For tax-based elements, be sure that rates & bases are current)	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
3. Materials Training/ Program	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
4. Materials - Office Supplies/ General	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
5. Facilities	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
6. Staff Travel	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
7. Accounting/ Audits	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
8. Legal Services	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
9. Supportive Services	<u>Yes</u> <u>No</u> <input type="checkbox"/> <input type="checkbox"/>	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
10. Indirect Costs (When proposed, be sure that audit agreement & proposal are attached; ensure that costs not duplicated in direct costs)	<u>Yes</u> <u>No</u> [ ] [ ]	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost Element</b>	<b>Necessary/ Reasonable</b>	<b>Basis for Judgement (Check One or More)</b>
11. Subcontracts (Review Subcontractor cost/price proposal)	<u>Yes</u> <u>No</u> [ ] [ ]	Independent Agency Estimate Compared/Other Current Offers Compared/Past Offers Verified Market Price or Quota Other (Specify) _____

Comments/Concerns/Problems:

<b>Cost</b>	<b>Necessary/</b>	<b>Basis for Judgement</b>
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## **Independent Estimate**

A valuable tool available for cost and price analysis is an independent estimate. This is an in-house estimate of what the likely costs and price of the procurement will be. This should be completed for all procurements including small purchases.

An independent agency estimate is a cost estimate prepared by the awarding agency in advance of issuing the solicitation or at least prior to receipt of proposals - written or verbal.

To develop this estimate, a number of services may be used. One source is past and current contracts for the same or similar services. Another useful source is contractor financial reports. This information can be used to develop estimates of labor, materials, and other direct costs for each segment of the proposed procurement. If using a pre-approved vendor list, the estimate may not be necessary providing the listings are current.

Where multiple awards will be made, it is imperative that these prices are estimated before the cost and price analysis is completed. This will make the analysis easier to perform, as well as helping determine if the offerors' proposed price is unreasonable.

# INDEPENDENT COST ESTIMATE

RFP ( ) REQ (small purchase) ( ) Sole Source ( )

Goods/Services Purchased

## Part I -- General

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1. Proposed services prices is for i.e., Training/Services Yes No  
Comments:
2. Will discount be sought if not offered? Yes No  
Comments:
3. Will a written report or computer software be developed as a part of the services being requested? Yes No  
Comments:

**Part II -- Primary Comparison** (Items that may be used: past & current contacts; contractors financial report; market rates and/or catalog prices.)

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- |  | Comments |
|--|----------|
| 1. Price(s) paid for previous services<br>(May include price per unit, per hour, per participant or placement) | \$ _____ |
| 2. Estimate for this proposed service/item   | \$ _____ |

## Part III -- Narrative

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1. Give a brief narrative judgement about cost estimate. Justify your judgement.

## Part IV --Signatures

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\_\_\_\_\_  
Date

### ESTIMATE BUDGET WORKSHEET

Agency Name:		Contract No.:
		Contract Term:
Activity Name:		Mod Number:

#### ADULT PROGRAM BUDGET SHEET

	LINE ITEM	PROGRAM COSTS	% OF WIA PROGRAM	NON WIA Resource	Total
<b>STAFF COSTS</b>					
	STAFF COSTS				
1	Salaries				
2	Fringe Benefits				
3	<b>SUB-TOTAL STAFF COSTS</b>				
<b>OPERATING COSTS</b>					
4	Advertising				
5	Building Maintenance				
6	Building Rent				
7	Conference				
8	Duplicating/Printing				
9	Equipment Maintenance				
10	Equipment Purchases				
11	Equipment Rental				
12	Instructional Supplies				
13	Insurance				
14	Office Supplies				
15	Telephone				
16	Vehicle Expense				
17	Other Operating Expenses				
18	<b>SUB-TOTAL OPERATING COSTS</b>				
19	<b>TOTAL STAFF &amp; OPERATING COSTS (Line 3 + 23)</b>				
	(Add lines 3 and 18)				
<b>PARTICIPANT COSTS</b>					
20	Participant Wages (Work Exp. & Intern.)				
21	Support Services				
22	Other Participant Program Costs				
23	OJT Employer Reimbursement				
24	<b>SUB-TOTAL PARTICIPANT COSTS</b>				
25	<b>TOTAL CONTRACT AMOUNT (19+24)</b>				
	(Record on Proposal Cover Page)				
	Percentage by Cost Category				
<p>Note: All program costs must be identified in the format above at the time of proposal submission.                      Any services or equipment not identified will not be considered during the contract year.</p>					
This budget was prepared:					
Manually		Program Name			
On Computer Spreadsheet Software		Version			
By:					
Name			Title		

				Contract Term:		
Program Name:				Mod Number:		
<b>YOUTH BUDGET COVER SHEET</b>						
		PROGRAM COSTS				
LINE ITEM		IN SCHOOL PROGRAM	OUT OF SCHOOL PRG.	Total	% OF GT	NON WIA RESOURCE
<b>STAFF COSTS</b>						
STAFF COSTS						
1	Salaries					
2	Fringe Benefits					
3	SUB-TOTAL STAFF COSTS					
<b>OPERATING COSTS</b>						
4	Advertising					
5	Building Maintenance					
6	Building Rent					
7	Conference					
8	Duplicating/Printing					
9	Equipment Maintenance					
10	Equipment Purchases					
11	Equipment Rental					
12	Instructional Supplies					
13	Insurance					
14	Office Supplies					
15	Telephone					
16	Vehicle Expense					
17	Other Operating Expenses					
18	SUB-TOTAL OPERATING COSTS					
19	TOTAL STAFF/OTHER OPERATING COSTS (Line 3 + 18)					
<b>PARTICIPANT COSTS</b>						
20	Participant Wages (Work Exp, Intern)					
21	Support Services					
22	Other Participant Program Costs					
23	OJT Employer Reimbursement					
24	SUB-TOTAL PARTICIPANT COSTS					
25	GRAND TOTAL (GT) (Line 19 + 24)					
<b>30% OR MORE OF ALL YOUTH FUNDS MUST BE SPENT ON OUT-OF-SCHOOL YOUTH ACTIVITIES</b>						
(Out of School Youth does not include Alternative Education)						
Note: All program costs must be identified in the format above at the time of proposal submission. Any services or equipment not identified will not be considered during the contract year.						
This budget was prepared:						
Manually		Program Name				
On Computer Spreadsheet Software		Version				
By:						
Name:		Title:			Phone:	

## **PART V PROTEST PROCEDURES**

The Workforce Investment Act (WIA) final regulations, Title 20 CFR 652, provide guidance for the administration of the WIA program. The guidance includes specific direction and referral to Title 29 CFR Part 97 for states and local governments. Part 97, in paragraphs 12-13 provides instruction on the federal grantee's responsibility to have protest procedures in place to handle and resolve disputes relating to procurements.

Each proposer responding to a Request for Proposal issued by the Workforce Investment Board of Tulare County (WIB) shall have an opportunity to appeal the funding decision of the WIB.

All proposers will receive a written or faxed notice from the WIB informing them of the Board's funding decision(s). Should a proposer wish to appeal the WIB's decision, the proposer must provide written notice within five (5) working days of the postmarked date of the registered mail/return receipt requested letter of award status to the Administrator of the WIB, requesting an appeal based upon one or more of the four (4) criteria for appeal noted below. The appeal must specifically detail the nature of the violation and provide clear and substantive evidence supporting the appeal. Listed below are acceptable criteria to form the basis of an appeal.

1. Clear and substantial error or misstated facts relied upon by the WIB in their decision;
2. Unfair competition in decision making process;
3. Any illegal or improper act or violation of law; *or*
4. Other legal basis that may substantially alter the WIB's decision.

To be considered for review, the appeal must contain the following information:

1. The full name, address, and telephone number of the appealing party;
2. A full and complete statement of the reasons for appeal, including the issue(s) in dispute and the legal authority or other basis for the protestors' position; and
3. A statement of relief sought.

Proposers must make their appeal as specific as possible and must fully identify the procedural issue being contested.

Once the Administrator of the WIB has received the appeal, the following process shall be followed:

1. An Appeal Review Panel comprised of the WIB Chair, WIB Administrator, members of the Program Committee, and other designees as selected by the WIB Chair will convene. At the discretion of the Appeal Review Panel the appellant may be requested to meet. The Appeal Review Panel will issue a decision

regarding the appeal. The Appeal Review Panel will forward their recommendation to the full WIB.

2. The appeal decision is final and there is no other local administrative action afforded the appellant.

Proposals disqualified for not meeting the deadline for submission and final decisions based on the above process are not eligible for appeal.

Ratings and scoring by either the Review Workgroup or the Program Committee are NOT subject to appeal.

## **Part VI**

### **CONTRACTING PREREQUISITES**

In order to contract with the Tulare County Workforce Investment Board, Inc. (WIB), an agency must:

1. Be legally capable of entering into contracts and be able to provide proof of ability to operate programs (i.e., previous experience operating employment training programs or other related service programs and/or staff experience).
2. Be able to have the proposed program operational within 30 days of the beginning of the contract period. NOTE: This applies to new program activities only.
3. Have current fiscal audits/monitoring reports that indicate the agency's ability to adequately account for WIB funds. If compliance problems have been identified, the WIB Administrator prior to funding must approve a corrective action plan. For new service providers/vendors a pre-award survey shall be conducted prior to funding.
4. Be an Affirmative Action/Equal Employment Opportunity (AA/EEO) employer. If selected for funding, an agency will be required to submit its AA/EEO Plan for review prior to entering into a contract. Agencies without an approved AA/EEO Plan may adopt the plan of the WIB.
5. When applicable, provide a certificate of insurance for comprehensive general public liability insurance with combined single limit coverage of at least \$500,000 and workers compensation insurance--with the County of Tulare and the Workforce Investment Board specified as additional insureds prior to contract approval.
6. Be capable of demonstrating good standing with the appropriate governmental agencies responsible for either their corporate standing or licensure.

## **PART VII DEFINITIONS**

Allowability is a term that means that an expense can be charged to a contract, either as a direct or an indirect charge.

Bilateral modification means a change to a contract, that requires the agreement and signature of both parties involved.

Breach of contract means the nonperformance of any contractual duty of immediate performance

Catalog price is a price published in a catalog, price list, schedule or other form regularly maintained by a manufacturer or supplier and is published or made available for inspection by buyers. To represent a valid indicator and serve as a point of reference, the prices must be those that a substantial number of purchasers in the general public are currently paying.

Cost analysis is the review and evaluation, element by element, of the cost estimate supporting an organization's proposal for the purpose of pricing a contact.

Cost reimbursable (sometimes referred to as cost reimbursement contract) where the awarding agency reimburses all reasonable, allowable, and allocable costs incurred in performing the work up to a predetermined ceiling that the awardee may not exceed (except at its own risk) without the approval of the Contracting/Agency.)

Fixed price agreement is an agreement where the price and payment is contingent on delivery of the specified goods or service.

IFB (Invitation For Bid) A document which invites bids in a competitive environment to provide goods or services for a lump sum or unit price.

Market price is the price currently established in the usual and ordinary course of trade between buyers and vendors (sellers) and for which the parties free to bargain. The price must be established from sources independent of the vendor.

Price analysis is the process of examining and evaluating a price without looking at the estimate cost elements and proposed profit of the offeror whose price is being evaluated.

Procurement: For purposes of this policy, the term "procurement" includes any acquisition action which obligates WIA funds for the purchase of equipment, materials, supplies, and program or administrative services beginning with the process for determining the need and ending with contract completion and closeout. Non-WIA procurement will be governed by either the requirements specific to federal or state granted funds or California Law for the public trust corporations, as appropriate.

Program income is income received by the recipient or service provider directly generated by a grant or contract supported activity, or earned only as a result of the grant or contract.

Program Income Includes:

- Income from fees for services performed and from conferences;
- Income from the use or rental of real or personal property acquired with grant or subgrant funds;
- Income from the sale of commodities or items fabricated under a grant or subgrant;
- Revenues earned by a governmental or private non-profit service provider under either a fixed-price or reimbursable award that are in excess of the actual costs incurred in providing the services; and
- Interest income earned on advances of subgrant funds.

Program Income Does Not Include:

- Rebates, credits, discounts, refunds, etc. or interest earned on any of them,
- Taxes, special assessments, levies, fines, and other such governmental revenues raised by a recipient or subrecipient;
- Income from royalties and license fees for copyrighted material patents, patent application, trademarks, and inventions developed by a recipient or subrecipient; or
- Proceeds from the sale of WIA purchased property

Reasonableness is a term that means that a cost or price is not greater than what one would expect an ordinarily competent and prudent person to charge when conducting business in a competitive environment.

Request for Proposal (RFP): The document that invites offers from service providers for the delivery of a specific type of service. It includes a description of the product(s) or service(s) desired that enable a potential contractor to submit a proposal. The RFP will include information necessary for an objective evaluation and comparison to similar proposals. The RFP is the specific term applied to a solicitation where negotiation is used.

This method is the most commonly used form of solicitation when:

1. The nature of the service needed precludes developing a specification or purchase description so precise that all proposers would have an identical understanding or approach to the requirements; and
2. Cost is not the only factor considered in making an award.

Request for Quotation (RFQ): A document that is used to acquire the price(s) and pertinent information needed from a vendor/supplier. Since the quotation is not a formal offer, the awarding agency must reach a bilateral negotiated agreement before a binding contract exists. A RFQ differs from an RFP in that it simply asks for a price based on standard specifications that are generally known or apply industry wide.

It is appropriate to use an RFQ when:

1. A complete, adequate and realistic specification or purchase description is available; and
2. There are at least two responsible vendors who compete effectively for the award; and
3. The procurement lends itself to a firm fixed-price contract and selection of a contractor based wholly on price that is appropriate and reflective of the nature of the products or service being purchased.

Responsible entity is one that has been determined to: (1) have adequate financial resources to perform the contract or the ability to obtain such resources; (2) be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and business commitments; (3) have a satisfactory performance record; (4) have a satisfactory record of integrity and business ethics; (5) have the needed organization, experience, accounting, operational control and technical skills or ability to obtain them; (6) have adequate production, construction or technical equipment and needed facilities or the ability to obtain them; and (7) be both qualified and eligible to receive the award under applicable law and regulation.”

Responsive proposal is the term used for a proposal or bid that meets all requirements of the solicitation adequately; and the submitted document does not constitute a substitute or counter offer. When a bidder substitutes a “like item,” the submittal is considered non-responsive when the like item fails to meet published specifications. The same principle holds when the proposal is a substitute or counter offer.

Service provider means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, employment or supportive services to WIA participants. Awards to service providers may be made by subgrant, contract, subcontract, or other legal agreement.

Solicitation: The practice of distributing an Invitation for Bid, Request for Proposal, or any other document, such as a Request for Quotation, issued by a purchasing agency for the purpose of soliciting offers to perform a contract.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money made under a grant by a grantee to an eligible subrecipient. The term includes financial assistance when provided by contractual legal agreement, but does not include

procurement purchases, or does it include any form of assistance that is excluded from the definition of Grant in this part.

Subrecipient means an entity to which a subgrant is awarded and that is accountable to the recipient (or higher tier subrecipient) for the use of the funds provided. DOL's audit requirements for States, local governments, and non-profit organizations provides guidance on distinguishing between a subrecipient and a vendor at 29 CFR 99.210.

Unilateral modification means a modification made and signed solely by the contracting agency without consideration to the service provider/vendor.

Unilateral right means a legal action that may be taken by the contracting agency without consideration to the service provider/vendor.

Vendor is an entity responsible for providing generally required goods or services to be used in the WIA program. Distinguishing characteristics of a vendor include items such as: providing the goods and services within normal business operations; providing similar goods or services to many different purchasers, including purchasers outside the WIA program; and operating in a competitive environment. Any entity directly involved in the delivery of program services not available to the general public, with the exception of an employer providing on-the-job training, shall be considered a subrecipient rather than a vendor.

Vendors are not subject to the statutory and regulatory requirements of WIA. The vendor's responsibility is to meet the requirements of the award, as stated in the contract services called for by the agreement have been delivered and accepted.