



## **WORKFORCE INNOVATION AND OPPORTUNITY ACT(WIOA) PROGRAM POLICY NOTICE NO. 6, Rev. 2**

**EFFECTIVE DATE: 9/15/2025**

**SUBJECT: PROCUREMENT AND CONTRACTING**

### **PURPOSE**

To provide policy regarding procurement and contract requirements

### **BACKGROUND,**

Section 184 of WIOA requires that each State (including the Governor of the State), local area (including the chief elected official for the area), and providers receiving funds under Title I of WIOA to comply with applicable uniform cost principles, and the appropriate uniform administrative requirements for grants and agreements applicable to the type of entity receiving WIOA Title I funds. In addition, all entities that receive federal funds are bound by the procurement requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Grant Guidance). These procurements and contracting requirements establish standards to ensure open and fair competition exists for prospective providers, and federally funded programs obtain goods and services in the most cost-effective manner. It is recommended that all local area boards utilize [www.ecfr.gov](http://www.ecfr.gov) to ensure current Uniform Grant Guidance is followed.

**The Uniform Guidance, 2CFR 200.318** requires general standards for procurement which include but are not limited to the items below:

- Every non-federal entity receiving federal awards must have documented procurement procedures that reflect federal law, Uniform Grant Guidance standards, and any state regulations.
- Entities should focus on the most economical solution during the procurement process and must avoid using federal funds for the acquisition of unnecessary items. Organizations are encouraged to consider the use of shared services and intergovernmental agreements to foster greater economy and efficiency.

Written conflict-of-interests policies are required. No employee or agent of the entity may participate in the selection, award or administration of a contract funded by federal grant dollars if he or she has an actual or apparent conflict of interest.



- The organization must document the procurement steps and activities required to be completed. This includes the basis for the type of procurement, contract type, and the basis for the contractor selection and price.
- Ultimately, the recipient of federal awards must maintain an appropriate level of oversight to ensure that contractors perform in accordance with the terms of their contract.

**The Uniform Guidance outlines five methods of procurement:** The NALWDB, as a local workforce development board responsible for adult, dislocated worker, and youth funds, is required to have written procurement procedures in place to ensure all programs and services delivered are procured in accordance with these established federal, state and local guidelines. This policy outlines the requirements for procurement and contracting for all funds provided through the NALWDB. This policy includes attachments that provide additional information and examples for developing and conducting solicitations, contracting and monitoring of contracts, and checklists for procurement and contract files.

## DEFINITIONS

### Allocation

The process of assigning a cost, or group of costs, to one or more cost objectives in reasonable proportion to the benefit received or another equitable basis.

### Award

A contract, grant, sub-contract, sub-grant, or other type of legal instrument that conveys funds from a grantor to a recipient.

## AWARDEE TYPES

### Grantee

The direct recipient of grant funds from the U.S. Department of Labor under a grant or grant agreement. In New Mexico, the State Administrative Entity designated by the Governor, New Mexico Department of Workforce Solutions (NMDWS), serves as the grantee for WIOA funds.

### Sub-Grantee

An award provided by a pass-through entity to carry out part of a federal award. Sub-grantees determine eligibility of participants, make programmatic decisions, are accountable for performance outcomes, and use awarded funds to operate WIOA programs. Local Workforce Development Boards (LWDBs) are considered sub-grantees, not contractors.

**Sub-Recipient**

A public agency, nonprofit organization, or private for-profit entity that delivers direct services to participants (also known as a service provider). Sub-recipients determine eligibility, have programmatic decision-making authority, are measured by program performance, and use federal funds for a public purpose.

**Contractor**

An entity that provides goods or services within normal business operations, operates in a competitive environment, and is not primarily engaged in programmatic decision-making. Contractors differ from sub-recipients in that they provide required goods or services for the use of the program but do not carry out program functions.

**Chief Procurement Officer (CPO)**

An individual designated within a local public entity's central purchasing office who is responsible for overseeing the procurement of tangible personal property, services, or construction, and is registered as such with the New Mexico General Services Department (GSD) in accordance with 1.4.1 NMAC.

**Contract**

A legal instrument by which an entity purchases property or services needed to carry out a project or program under a federal award.

**Contracting Officer**

An authorized individual empowered to procure goods and services on behalf of a non-federal entity.

**Cost Analysis**

The examination and evaluation of the separate cost elements and profit in a contractor's proposal to determine whether they are allowable, allocable, and reasonable in accordance with **2 CFR Part 200, Subpart E**.

**COST TYPES****Administrative Costs**

Personnel and non-personnel (direct or indirect) costs associated with the administrative functions of WIOA, such as accounting, budgeting, financial management, payroll, personnel, and travel related to overall program oversight.



### **Direct Participant Training Costs**

Payments made on behalf of participants for training and instruction, including Individual Training Accounts (ITAs), On-the-Job Training (OJT), and customized training contracts.

### **Program Costs**

Personnel and non-personnel costs associated with the programmatic functions of WIOA operations, such as participant tracking, performance reporting, provider monitoring, and youth or adult program services.

### **Service Provision Costs**

Personnel and non-personnel costs incurred by service providers for direct participant services, such as case management, career services, and training activities.

### **Supportive Services Costs**

Costs of services necessary to enable an individual to participate in WIOA-authorized activities, including transportation, childcare, housing, or other supportive payments.

### **System Costs**

Costs required for the operation of the workforce system, including rent, utilities, office supplies, equipment, and facility maintenance.

## **DISALLOWED COSTS**

Charges to a federal award that the awarding agency or pass-through entity determines to be unallowable under applicable statutes, regulations, or the terms and conditions of the award.

### **Disbursement**

The transfer of cash from a grantee to a sub-grantee, contractor, or other payee, either by check, voucher, or electronic funds transfer.

### **Equipment**

Tangible personal property (including information technology systems) with a useful life of more than one year and a per-unit acquisition cost equal to or greater than the lesser of the entity's capitalization level or \$5,000, as defined in **2 CFR §200.1**.

### **Expenditure**

A charge made by a non-federal entity to a project or program for which a federal award was



granted, consistent with 2 CFR §200.34.

### **Immediate Family Member**

Includes one party with any of the following relationships to another:

- Spouse or domestic partner.
- Parent, child, sibling, grandparent, or grandchild (including spouses of these relatives); or
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship.

### **Local Administrative Entity**

The entity designated by the Local Workforce Development Board (LWDB) to administer WIOA funds and oversee program operations within the local workforce area.

### **Local Workforce Development Board (LWDB)**

A board established under WIOA Section 107 to set policy for the local workforce development system in partnership with the Chief Elected Official.

### **Obligation**

A legally binding commitment by the grantee or sub-grantee to pay for goods or services, such as through contracts, purchase orders, or sub-grants. Obligations occur when a legal commitment to pay exists and do not include encumbrances, plans, or budget estimates.

**Procurement** – The process of acquiring goods and services in compliance with the **Uniform Guidance (2 CFR §§200.318–200.327) and the New Mexico Procurement Code (NMSA 1978, §13-1-125 et seq.)**.

Procurement may occur through formal, informal, or non-competitive methods, depending on the total purchase value and applicable regulations.

The formal procurement process is required for purchases exceeding \$60,000 and must be conducted through competitive solicitation, such as a Request for Proposal (RFP) or Invitation for Bid (IFB), to ensure full and open competition. The informal procurement process, or small purchase method, applies to purchases under \$60,000 and requires obtaining a minimum of three written competitive price quotes to ensure cost reasonableness and transparency. A non-competitive procurement, also referred to as a single-source or sole-source procurement, may only be used under limited, well-documented circumstances as defined in **2 CFR §200.320(c) and the New Mexico Procurement Code**, such as when goods or services are available from only one responsible source or in cases of genuine public emergency.



Compliance Note: All procurement actions must be properly documented in accordance with **2 CFR §200.318(i)**, including the rationale for the procurement method, the selection of contract type, the basis for the contractor selection or rejection, and the determination that the price is fair and reasonable. These records must be retained for monitoring and audit purposes.

## COMPETITION

According to (**2 CFR §200.319**), the procuring entity must establish procurement procedures which promote and maximize the competitive procurement process.

### **At a minimum, the procurement process must:**

- Appropriately target resources in alignment with approved job training and workforce development plans.
- Be conducted impartially and free from bias or favoritism.
- Be based upon demonstrated performance and the ability to meet program goals.
- Include a documented determination of cost and price reasonableness; and
- Comply with all applicable federal and state laws, regulations, and policies.

All procurement transactions must be conducted in a manner that ensures full and open competition, consistent with the standards established under **2 CFR §200.319**.

Situations that may be considered restrictive of competition include, but are not limited to:

- Placing unreasonable requirements on firms or organizations to qualify to do business.
- Requiring unnecessary experience or imposing excessive bonding requirements.
- Engaging in noncompetitive pricing practices between firms or affiliated entities.
- Issuing noncompetitive awards to consultants on retainer contracts.
- Allowing organizational conflicts of interest to influence award decisions.
- Specifying only a brand-name product instead of allowing for "equal" products that meet required performance standards; and
- Taking arbitrary or unjustified actions that limit fair competition in the procurement process.

All procurement activities must adhere to the principles of open and fair competition and be conducted without bias or preference, as required under **2 CFR §200.320** (Methods of Procurement to be Followed) and **1.4.1.45 NMAC** (Competitive Procurement). Documentation of each procurement, including cost and price analyses and justification for procurement methods used, must be maintained in accordance with **2 CFR §200.318(i)** and **1.4.1.57 NMAC** (Record Retention).

- **Grantees and subgrantees** must conduct all procurement activities in a manner that prohibits the

use of statutorily or administratively imposed in-state or local geographic preferences when evaluating bids or proposals. Exceptions may only be made when federal statutes or regulations expressly mandate or encourage geographic preference, in accordance with **2 CFR §200.319(b)**.

- **Grantees and subgrantees** must ensure that any pre-qualified lists of persons, firms, or products used in the acquisition of goods and services are current and contain enough qualified sources to promote maximum open and free competition. Additionally, grantees and subgrantees may not preclude potential bidders or offerors from qualifying during the solicitation period, in accordance with **2 CFR §200.319(d)**.

## **Procurement Standards**

The **Northern Area Local Workforce Development Board (NALWDB)** shall conduct all procurement activities in accordance with the standards and requirements outlined in **2 CFR §§200.317–200.326**, the Workforce Innovation and Opportunity Act (WIOA), and the New Mexico Administrative Code (NMAC) Title 1, Chapter 4 – Public Finance: Procurement Code Regulations (1.4.1 NMAC). All purchases must be for goods or services that are necessary, reasonable, and allowable for the proper and efficient administration of federally funded programs.

It is the policy of the NALWDB to fully comply with all applicable federal and state laws and regulations governing procurement. All procurement shall be conducted in a fair, open, and competitive manner, free from conflicts of interest or the appearance of improper or preferential business relationships.

### **General Principles:**

The **Northern Area Local Workforce Development Board (NALWDB)** shall adhere to the following general principles in all procurement activities to ensure fairness, transparency, and compliance with federal and state regulations:

1. **Clear and Accurate Solicitations** – All solicitations must include a clear, accurate, and complete description of the technical requirements for the materials, products, or services being procured.
2. **Open and Fair Competition** – Specifications must not be unduly restrictive and should promote full and open competition. All requirements that offerors must fulfill, as well as the evaluation factors that will be used in assessing bids or proposals, must be clearly identified.
3. **Samples and Testing** – Samples shall be required or requested only when necessary to test or evaluate a product that is the subject of a bid or proposal. Free samples must **never** be obtained or retained for the personal use of NALWDB employees or Board members.

4. **Ethical Conduct and Prohibition on Gifts** – Under no circumstances may an NALWDB employee or Board member solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Any such gifts must be promptly returned to the donor. If returning a gift is not feasible, it shall be turned over to the Executive Director for proper disposal. Awards or memorial plaques of nominal value given in recognition of distinguished service are permissible.

5. **Prohibition on Meals and Entertainment** – At no time may a potential, current, or former bidder or offeror pay for the meals, entertainment, or related expenses of NALWDB employees or Board members who are directly or indirectly involved in the procurement process. Such conduct may create an appearance of favoritism or impropriety and is strictly prohibited.

#### **Compliance Statement:**

These principles are established in accordance with **2 CFR §200.318(c)(1)**, which requires that employees and agents of non-federal entities avoid real or apparent conflicts of interest in procurement, and **1.4.1.8 NMAC (Code of Conduct)** under the **New Mexico Procurement Code**, which sets forth ethical standards for all public purchasing activities. Violations of these standards may result in disciplinary action, termination of contracts, or other sanctions as permitted under federal and state law.

#### **Procurement Methods**

The methods of procurement to be followed as provided in **2 CFR §200.320** and New Mexico Administrative Code (NMAC) 2.40.2 are as follows:

#### **Threshold Levels**

**Small Purchases** – As defined under the New Mexico State Procurement Code and **2.40.2 NMAC (Procurement Code Regulations)**, small purchases are categorized into tangible goods, services, and professional services. Each category has specific dollar thresholds and procedural requirements designed to ensure open competition and compliance with state procurement standards.

##### **1) Procurement levels for tangible goods:**

- Less than \$10,000 for small purchase (Best obtainable price)
- \$10,000 to \$20,000 for Informal Procurement (3 valid quotes)
- \$20,000 or greater for the Formal process
  - **Procurement levels for services are:**
    - Less than \$10,000 for Small Purchase (Best obtainable price)
    - \$10,000 to \$20,000 for Informal Procurement (3 valid quotes)
    - \$20,000 or greater for the Formal process
- Procurement levels for professional services are:



- Less than \$60,000 for Small Purchase
- \$60,000 or greater for the Formal Process

**Note:** In accordance with **2 CFR §200.318(a)** and **2.40.2 NMAC (Procurement Code Regulations)**, any governmental entity or organization subject to more restrictive state or local procurement thresholds or requirements must adhere to the most restrictive applicable policy. When both federal and state procurement standards apply, the **stricter standard** shall govern to ensure full compliance with all funding and regulatory requirements.

## **TYPES of COMPETITIVE PROCUREMENT**

According to **2 CFR §200.319** and **1.4.1.45 NMAC (Procurement Under the State Procurement Code)**, all procurement transactions must be conducted in a manner that ensures full and open competition and results in the acquisition of goods or services at a fair and reasonable price.

**Non-competitive procurement** may only be used under the limited circumstances described in Section II Non-Competitive Procurement, when justification and documentation requirements are fully met.

The primary types of competitive procurement recognized under federal and state regulations include the following:

**Small purchase** procedures are informal procurement methods used to obtain services, supplies, or other property that do not exceed the Simplified Acquisition Threshold (SAT) established in the Federal Acquisition Regulation (**FAR**) at **48 CFR Subpart 2.1** (currently set at **\$250,000**). These procedures are designed to streamline procurement while maintaining competition and cost reasonableness.

When using small purchase procedures, price or rate quotations must be obtained from an adequate number of qualified sources to ensure open and fair competition, in accordance with **2 CFR §200.320(b)** and **1.4.1.51 NMAC (Small Purchases)**.

**Procurement by sealed bids (formal advertising)** involves publicly soliciting bids and awarding a **firm fixed-price contract** (either lump sum or unit price) to the bid responsible, whose bid conforms to all material terms and conditions of the Invitation for Bids (IFB) and offers the lowest price.

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

- Two or more responsible bidders are willing and able to compete effectively for the business.
- The procurement lends itself to a firm fixed-price contract, and the selection of the successful bidder can be made principally based on price.

**When the sealed bid method is used, the following requirements apply:**

- The **Invitation for Bids (IFB)** must be publicly advertised, and bids must be solicited from an adequate number of known suppliers, allowing sufficient time for response before the bid opening date.
  - The IFB, including all specifications and relevant attachments, must clearly define the items or services to be procured so that bidders can prepare responsive bids.
  - All bids must be publicly opened at the time and place specified in the IFB.
  - A firm fixed-price contract must be awarded in writing to the lowest responsive and responsible bidder. When specified in the bidding documents, factors such as discounts, transportation costs, and life-cycle costs may be considered in determining the lowest bid. Payment discounts may be used only when prior experience indicates such discounts are routinely taken.
  - Any or all bids may be rejected if there is a sound, documented reason for doing so.
  - This method shall be conducted in accordance with **2 CFR §200.320(c)** and **1.4.1.45 NMAC**, ensuring open and fair competition and adherence to all state and federal procurement requirements.
- **Requests for Proposals (RFPs)** **Requests for Proposals (RFPs)** must be publicly advertised and clearly identify all evaluation factors and their relative importance. All responses to publicized requests must be honored to the maximum extent practicable and evaluated fairly in accordance with the criteria stated in the solicitation to ensure transparency, fairness, and open competition, in compliance with **2 CFR §200.320(d)** and **1.4.1.46 NMAC (Competitive Sealed Proposals)**.
  - Proposals will be solicited from an adequate number of qualified sources to ensure full and open competition. Solicitations must be distributed broadly enough to attract meaningful participation from responsible and capable offerors, including small, minority-owned, women-owned, and disadvantaged business enterprises whenever possible. All solicitations must allow sufficient response time and include clear instructions, evaluation criteria, and submission requirements to promote fairness and transparency in the selection process. All

solicitation and procurement documentation, including copies of Requests for Proposals (RFPs), distribution lists, advertisements, received proposals, evaluation materials, and award justifications—must be **retained in accordance with 2 CFR §200.318(i) and 1.4.1.50 NMAC (Record of Procurement)** to ensure accountability and audit compliance.

- **Grantees and subgrantees** must establish a standardized method for conducting technical evaluations of all proposals received to ensure an objective, fair, and transparent review process. Evaluations must be based solely on the criteria and factors outlined in the solicitation, and documentation of the review process must be maintained to support the final selection and award decision, in accordance with **2 CFR §200.320(d)(3) and 1.4.1.47 NMAC (Evaluation of Competitive Sealed Proposals)**. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- **Grantees and subgrantees** may use competitive proposal procedures for qualifications-based procurement of architectural and engineering (A/E) professional services. Under this method, competitors' qualifications are evaluated, and the most qualified firm is selected, followed by negotiation of fair and reasonable compensation.
- This qualifications-based selection process, in which price is not used as a selection factor, is permitted only for the procurement of architectural and engineering services, in accordance with **2 CFR §200.320(d)(5) and 1.4.1.48 NMAC (Procurement of Professional Services)**. It **may not** be used to procure other types of services, even when A/E firms could be potential providers for the proposed work.
- Individual Training Accounts (ITAs) – The process of selecting a training provider for a participant through an Individual Training Account is an exception to the Request for Proposal (RFP) procurement process. ITA-funded training services are provided by eligible training providers listed on the State's Eligible Training Provider List (ETPL), in accordance with WIOA Section 134(c)(3)(G) and 20 CFR §§680.320–680.340.

## **NON-COMPETITIVE PROCUREMENT**

Procurement by noncompetitive proposals refers to the acquisition of goods or services either through the solicitation of a proposal from only one source, or after the solicitation of multiple sources when competition is determined to be inadequate. This method may be used only under limited and exceptional circumstances, as outlined in **2 CFR §200.320(c) and 1.4.1.52 NMAC (Sole Source Procurement)**.

Noncompetitive procurement is permissible only when one or more of the following conditions exist: the item or service is available from only one responsible source and no other supplies or services can satisfy program requirements; an emergency or public exigency exists that will not permit the delay associated with competitive solicitation; the federal awarding agency or pass-through entity has expressly authorized noncompetitive procurement in response to a written request; or, after solicitation of a number of sources, competition is determined inadequate based on documented evidence.

All noncompetitive procurements must include written justification and supporting documentation explaining the specific condition under which this method is used, efforts made to obtain competition, and the basis for determining that the price is fair and reasonable. This documentation must be maintained in accordance with **2 CFR §200.318(i)** and **1.4.1.50 NMAC** for audit and monitoring purposes.

### **Sole Source Procurement**

#### **Definition and Conditions for Use**

Sole source procurement may be used only when procurement through small purchase procedures, sealed bids, or competitive proposals is not feasible, and one or more of the following conditions apply:

- The item or service is available only from a single responsible source.
- A public emergency or exigency will not permit the delay associated with competitive solicitation.
- The awarding agency or pass-through entity expressly authorizes the noncompetitive procurement in response to a written request from the procuring entity.
- After solicitation of several sources, competition is determined to be inadequate or has failed, resulting in fewer than two responsive and responsible bids or proposals.

All sole source procurements must be fully justified in writing, including the rationale for the method used, efforts made to solicit competition, and a determination that the cost is fair and reasonable, in accordance with **2 CFR §200.320(c)** and **1.4.1.52 NMAC**.

#### **Recordkeeping Requirements**

**1.4.1.57 NMAC (Procurement Record Retention)** and **1.15.2 NMAC (General Records Retention and Disposition Schedule)**, the State typically requires:

“Procurement and contract records shall be retained for **five (5) years** after the close of the fiscal year in which the record was created, or until all audits are completed, whichever is later.”

These records are public and must contain, at a minimum:

- The contractor's name and address.
- The amount and term of the contract.
- A listing of the goods, services, construction, or tangible personal property procured under the contract; and
- A written justification for the procurement method, including all determinations and approvals required under **1.4.1.53 through 1.4.1.57 NMAC**.

### **Approval Requirements**

Prior written approval from the New Mexico Department of Workforce Solutions (NMDWS) must be obtained for any sole source or emergency procurement exceeding \$250,000. Retroactive approvals will not be granted. Requests for approval must include the following documentation:

- A copy of the offeror's proposal.
- A cost or price analysis.
- Local board meeting minutes reflecting discussion of the award.
- A noncompetitive procurement justification.
- A cover letter requesting approval; and
- A failed competition analysis.

If a sole source procurement initially below \$150,000 is later modified to exceed this amount, it must be submitted to NMDWS for approval before executing the modification. Failure to obtain prior approval may result in questioned or disallowed costs.

Sole source procurements below \$150,000 do not require NMDWS approval but must still be fully justified and documented internally by the procuring entity.

### **Failed Competition Analysis**

When a formal solicitation process results in only one qualified proposal, the award process must be justified, documented, and supported by a Failed Competition Analysis. The procuring entity or program operator must evaluate whether the limited competition was due to weaknesses or limitations in the solicitation. This analysis should address:

- Whether the statement of work was clear, realistic, and not overly restrictive.
- Whether administrative or experience requirements were unnecessarily burdensome.

- Whether the cost or pricing expectations were too low to attract competition.
- Whether adequate advertising and outreach were conducted; and
- Whether the goods or services sought are reasonably available from more than one source.

Prior to awarding the contract, the procuring entity must address and document these considerations and confirm that the process was not flawed and that only one vendor can reasonably provide the required goods or services. A cost or price analysis must be completed and maintained in the procurement file before the award is finalized.

### **Compliance Statement**

All sole source procurements must comply with the **Uniform Guidance at 2 CFR §§200.318(i) and 200.324**, which require documentation of the procurement rationale, contractor selection, and determination of price reasonableness. All records must be sufficient to demonstrate that the procurement was conducted in accordance with applicable federal regulations, the New Mexico Procurement Code, and **1.4.1 NMAC**. These records must be retained for audit, monitoring, and public transparency purposes.

## **SOLICITATIONS**

### Frequency of Solicitations

To promote transparency and encourage open competition, formal solicitations must occur at a minimum of every two (2) years for recurring services or contracts. Solicitations for audit services must occur at least once every five (5) years, in compliance **with 2 CFR §200.509** and Government Auditing Standards.

### **Multi-Year Funding**

Multi-year funding of contractors must be consistent with the conditions outlined in the approved Request for Proposal (RFP) and award documents. Continuation of funding in subsequent years shall remain at the discretion of the NALWDB and is contingent upon successful performance, continued availability of funds, and formal, documented contract negotiations or renewals.

## **PROCUREMENT AUTHORITY**

The Northern Area Local Workforce Development Board (NALWDB) establishes the following procurement authority structure to ensure accountability, compliance, and appropriate separation of duties in procurement activities:

- The NALWDB Executive Director shall serve as the State-certified Chief Procurement Officer (CPO) and is responsible for overseeing all procurement activities in accordance with **1.4.1 NMAC**

**and 2 CFR §200.318.**

- The Finance Committee shall have authority to recommend and allocate funds for procurement of services. Proposed allocations will be presented to the full Board through the committee structure and must be approved at the Board level prior to contract award or execution.

When a formal procurement process is required, the NALWDB Chair shall appoint an ad hoc Procurement Committee to assist in and oversee the process. This committee shall:

- Review and approve procurement plans.
- Determine whether a noncompetitive or sole-source procurement is warranted.
- Approve the issuance of solicitation packages; and
- Approve the selection of contractors or service providers based on documented evaluation criteria.

The Executive Director shall have signatory authority for all contracts, contract modifications, and operational documents related to Board business. The Lead Chief Elected Official (CEO) for the Northern Area shall have signatory authority for all grant agreements executed with the State Administrative Entity.

In the event of a contract termination, the NALWDB Chair shall issue the official notice of termination, in coordination with the Executive Director and legal counsel, as applicable.

**Compliance Statement**

All procurement actions shall be conducted only by authorized personnel acting within the scope of their designated authority. No employee, officer, or agent may enter a contract, commitment, or obligation on behalf of the NALWDB unless such authority has been expressly delegated.

These provisions are established in accordance with **2 CFR §200.318(b) and 1.4.1.8 NMAC** (Code of Conduct and Delegation of Authority) to ensure transparency, accountability, and adherence to federal and state procurement laws.

**PROCUREMENT REVIEW – 2 CFR §200.324**

**1. Federal and State Review Requirements**

Upon request by the Federal awarding agency or the New Mexico Department of Workforce Solutions (NMDWS) as the pass-through entity, the NALWDB or subgrantee must make available all documentation related to proposed procurements. These reviews may be conducted to ensure

the appropriateness, necessity, and allowability of the items or services being procured.

Such reviews typically occur prior to the incorporation of specifications into a solicitation document. However, if a review is requested after the solicitation has been issued, the review may still take place, usually limited to technical or cost-related aspects of the proposed purchase.

## **2. Circumstances Requiring Pre-Procurement Review**

The Federal awarding agency or NMDWS may require a pre-procurement review of procurement documents, such as Requests for Proposals (RFPs), Invitations for Bids (IFBs), or independent cost estimates, when:

- The grantee's procurement procedures or operations fail to comply with the standards in this policy.
- The procurement exceeds the Simplified Acquisition Threshold and is to be awarded without competition, or only one bid or offer is received in response to a solicitation.
- The procurement exceeding the Simplified Acquisition Threshold specifies a brand-name product.
- The proposed contract exceeds the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under sealed bidding procedures; or
- A proposed contract modification changes the scope or increases the total contract amount by more than the Simplified Acquisition Threshold.

## **3. Certification and Exemptions**

A grantee or subgrantee may be exempt from pre-procurement review if the Federal awarding agency or NMDWS determines that its procurement system meets the standards of this policy and the requirements of **2 CFR §§200.318–200.326**.

- The grantee may request a formal system review by the Federal awarding agency or NMDWS to determine if its procurement procedures meet certification standards. Such reviews generally occur where there is continuous, high-dollar funding and frequent third-party contract awards.
- A grantee may self-certify its procurement system; however, this self-certification does not preclude the Federal awarding agency or NMDWS from conducting oversight or system reviews. The self-certification must include written assurances that procurement standards are being met, with reference to specific policies, procedures, and regulations that demonstrate compliance. All documentation supporting the self-certification must be available for review upon request.

## **CONTRACTING PROVISIONS**



## **1. Contracting with Small, Minority, and Women-Owned Businesses, and Labor Surplus Area Firms – 2 CFR §200.321**

The grantee and subgrantee must take all necessary affirmative steps to ensure that small businesses, minority-owned businesses, women-owned business enterprises, and labor surplus area firms are fully utilized possible in procurement activities.

Affirmative steps include, but are not limited to:

- Placing qualified small, minority, and women-owned businesses on solicitation lists.
- Ensuring that these businesses are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to allow maximum participation.
- Establishing delivery schedules, where practicable, that encourage participation by small, minority, and women-owned businesses.
- Utilizing the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce; and
- Requiring prime contractors that issue subcontracts to take the same affirmative steps.

## **2. Contract Cost and Price Analysis – 2 CFR §200.324**

The grantee and subgrantee must perform a cost or price analysis for every procurement action exceeding the Simplified Acquisition Threshold (currently \$250,000), including contract modifications.

- The method and level of analysis depend on the nature and complexity of the procurement, but as a standard practice, independent cost estimates must be developed before bids or proposals are received.
- A cost analysis must be carried out whenever the offeror is required to submit detailed cost elements (e.g., for professional consulting, or architectural/engineering services) or when a line-item budget is submitted.
- A price analysis is required in all other cases to assess the reasonableness of the proposed contract price.

Profit must be negotiated as a separate element of the contract price in all cases where there is no price competition and where cost analysis is required. Factors considered in establishing a fair and reasonable profit include:

- The complexity of the work performed.
- The risk assumed by the contractor.



- The contractor's investment and subcontracting level.
- The quality of past performance; and
- Industry profit rates within the geographical area for similar work.

Only those costs that are consistent with Federal cost principles (as defined in **2 CFR Part 200, Subpart E**) may be included in negotiated prices or cost estimates.

The following cost principles also apply:

- Cost-plus-percentage-of-cost and percentage-of-construction-cost methods of contracting are strictly prohibited.
- All procurement contracts between local boards and units of State or local government must be conducted on a cost-reimbursement basis, with no provision for profit.


*This policy rescinds and supersedes all previous Northern Area Local Workforce Development Board (NALWDB) policies, procedures, or directives related to this subject. Upon its effective date, this document shall serve as the official governing policy for procurement and contracting activities conducted by or on behalf of the NALWDB.*

*All staff, subrecipients, and contractors are required to adhere to the standards and procedures outlined herein. Any prior versions of this policy are rendered null and void and may not be used as guidance moving forward.*

#### *Policy Maintenance*

*This policy shall remain in effect until it is amended, replaced, or rescinded. It will be reviewed and updated as needed or when changes in federal or state laws, regulations, or guidance require revision to ensure continued compliance with 2 CFR Part 200, WIOA, and applicable sections of the New Mexico Administrative Code (NMAC).*

**INQUIRIES: Contact WIOA Administrative Office-505 986-0363.**

  
Joseph Weather (Oct 24, 2025 17:41:43 MDT)  
BOARD CHAIR

10/24/25

DATE:

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# File\_ Procurement and Contracting Policy ^N 6 Rev. 2 10.15.25

Final Audit Report

2025-10-24

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