



Procurement Policy and Procedure

Incorporating the
Workforce Innovation and Opportunity Act of 2014

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SECTION I - RESPONSIBILITY AND AUTHORITY

A. GENERAL RESPONSIBILITIES

The Washington Greene County Job Training Agency, Inc. (WGCJTA, Inc.), acting on behalf of the Southwest Corner Chief Local Elected Officials (CLEOs) as staff and Fiscal Agent for the Southwest Corner Workforce Development Board (SCWDB), has developed this procurement policy to ensure ensuring adequate financial control and accountability in the preparation and awarding of agreements and in all phases of grant and contract administration. Procurement is the process for both competitive and non-competitive practices in awarding grants and contracts and purchases under the Workforce Information and Opportunity Act of 2014 (WIOA). Among other responsibilities, the SCWDB is charged with the oversight of WIOA funds. The policy was developed to provide, to the maximum extent practical, open and free competition, and conforms to applicable federal, state, and local laws. This plan will be submitted to the PA Bureau of Workforce Development Administration for approval when changed and/or updated.

Specifically, the procurement policy will detail the processes which lead to any award of WIOA funds or nonfederal funds. The primary procurement responsibilities of the SCWDB is to provide oversight and guidance to staff when purchasing supplies, equipment and other services that support the administrative functions of SCWDB and to ensure that procurement processes are consistent, fair and supportive of the SCWDB's, CLEO's and WIOA goals and objectives.

The procurement guidelines ensure:

- SCWDB procurements will be conducted in a manner that provides full and open competition through the use of internal controls. Internal control examples include public notice requesting an RFP, committee evaluations, written selective procedures for procurement transactions, final SCWDB board vote, and all other regulations included in this policy. There are several situations that are considered to be restrictive of competition and are avoided. These include:
 - Unreasonable requirements on firms or organizations in order for them to qualify to do business;
 - Unnecessary experience and excessive bonding;
 - Non-competitive pricing practices between firms, organizations, and affiliated companies;
 - Non-competitive awards to consultants that are on retainer contract;
 - Organizational Conflict of Interest;
 - Specification of 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;
 - Overly restrictive specifications; and
 - Any arbitrary action in the procurement process;
- Procurements will include an appropriate analysis of reasonableness of cost and price;
- Procurement manual shall be used by the SCWDB to purchase goods and services with WIOA funds and non-federal funds and provide for open and free competition, consideration of both price and service provider's potential ability to meet specifications. (The lowest price doesn't necessarily mean the best product or service);
- The elimination of purchasing unnecessary or duplicated goods or services;
- Procurements will not provide excess program income.

B. COMPLIANCE

This policy incorporates both competitive and non-competitive practices in awarding grants and contracts and purchases under the Workforce Information and Opportunity Act of 2014 (WIOA). The policy also integrates guidance from the PA Department of Labor & Industry Financial Management Guide, the SCWDB Local Plan, all applicable Code of Federal Regulations (CFR), Pennsylvania's Workforce Investment Information Notices, and OMB Circulars.

C. AUTHORITY

WGCJTA, Inc. performs all procurement actions and enters into contract agreements on behalf of the Southwest Corner Chief Local Officials Board. Contracts are approved by the SCWDB Executive Committee and voted on by the full SCWDB membership at quarterly meetings as necessary.

D. EXCLUSIONS

The following services are provided by the Title I Service Provider. The authority to sign contracts, agreements, modifications, terminations are also the responsibility of the awarded Title I provider:

- On the job training contracts as covered by the OJT procedures
- Individual training accounts (ITA) contracts/agreements

E. COST ANALYSIS – PRICE ANALYSIS

A COST ANALYSIS or PRICE ANALYSIS will be completed for purchases over \$3,000. When a Request for Purchase is submitted to the Procurement Officer, the procurement officer will review and confirm with the SCWDB Director that the purchase is reasonable, allowable and allocable. The Procurement Officer will review and decide if the request meets the criteria to be considered as an incidental, small purchase, sole source, formal advertising and/or competitive negotiation and if the appropriate solicitation process was utilized. The method or degree of cost analysis is dependent on the size of the award and the facts surrounding the procurement.

F. METHODS OF PROCUREMENT

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) is located in Title 2 of the Code of Federal Regulations. Non-federal entities must use one of the following methods of procurement which are detailed at (2 CFR 200.320):

- Micro-purchase (less than to \$3,000);
- Small purchase (less than \$150,000);
- Sealed bids purchases (more than \$150,000);
- Competitive proposal purchases (more than \$150,000); and
- Noncompetitive purchases (special circumstances which are applicable for all purchase levels).

All procurement methods must comply with the Procurement Standards (2 CFR 200.318). In short, all purchases must:

- Comply with the non-federal entity's documented procedures in place;
- Deemed necessary;
- Be open competition (to the extent required by each method);
- Comply with conflict of interest policy; and
- Have proper documentation.

If at all possible, WGCJTA, Inc. and SCWDB will investigate cooperative purchasing with the PA Commonwealth and the COSTARS program. COSTARS is the Commonwealth of Pennsylvania's cooperative purchasing program administered by the Department of General Services Bureau of Procurement. The COSTARS Program provides registered local public procurement units, as well as state-affiliated entities (together "members") and suppliers, a tool to find and do business with each other effectively through the use of a contract established by the Department of General Services.

G. METHOD DESCRIPTIONS

- **Micro-purchases.** Procurement by micro-purchase is the acquisition of supplies or services in which the aggregate dollar amount does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, SCWDB distributes micro-purchases equitably among qualified suppliers, including local retail providers who provide the best price for the required/requested items. Micro-purchases may be awarded without soliciting competitive quotations if the non-federal entity considers the price to be reasonable.
- **Small purchases.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. These purchases would range in price from \$3,000 to \$150,000. For these purchases, two or more bids will be collected and solicited and evaluated in terms of responsiveness to specifications, quality of merchandise, company reputation, customer service, etc.
- **Sealed bids (formal advertising).** Sealed bids are publicly solicited. A firm, fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the following conditions apply:
 - 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; and
 - The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

Sealed bidding requirements:

- The invitation for bids will be publicly advertised, and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- A firm, fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- Any or all bids may be rejected if there is a sound documented reason.

- **Competitive proposals.** This will be conducted with more than one source submitting an offer, and either a fixed-price or cost reimbursement type contract being awarded for goods or services over \$150,000. The SCWDB reserves the right to perform the competitive proposal process on goods or services under \$150,000 where deemed appropriate and necessary. Details pertaining to competitive proposal requirements are as follows:
 - Requests for proposals (RFPs) must be publicized on SCWDB website and in all local newspapers in Beaver, Greene, and Washington Counties. RFP will identify all evaluation factors and their relative importance and will provide sufficient time for bidders to respond to proposal. SCWDB will also keep a list of prospective bidders and will automatically provide the RFP info to their attention;
 - Any response to publicized requests for proposals will be considered to the maximum extent practical;
 - Proposals will be solicited from an adequate number of qualified sources;
 - SCWDB has a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered; and
 - SCWDB may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

- **Non-competitive proposals.** Procurement by non-competitive proposals through solicitation of a proposal from only one source will be used only when one or more of the following circumstances apply:
 - The item is available only from a single source;
 - The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - The federal awarding agency, pass-through entity, and/or funding provider expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or
 - After solicitation of a number of sources, competition is determined inadequate.

SECTION II – CONFLICT OF INTEREST / CODE OF CONDUCT

A. CODE OF CONDUCT/CONFLICT OF INTEREST

SCWDB grantees and contractors adhere to standards of conduct and are vigilant to prevent conflicts of interest. It is understood that even a superficial appearance of a conflict of interest merits further consideration. SCWDB does not solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Any member of the SCWDB Board or staff offered or supplied with unsolicited gifts or services must report the gift immediately to SCWDB management. Breach of these standards of conduct may result in penalties, sanctions, or other

disciplinary actions for violations by officers, employees, agents, or by contractors of their agents including, but not limited to termination of employment, loss of contract, or legal recourse.

It is a breach of ethical standards for a member of the SCWDB Board, County Commissioners, Contractor Staff, Youth Council Members, the employer or agent, business partners, a person or organizations which employs or is about to employ, any of the above, interested firm or organization, or an employee of SCWDB to knowingly participate, directly or indirectly, in a procurement when:

- They or a member of their immediate family, has a financial interest in the procurement;
- A business organization in which they or a member of their immediate family has a financial interest in the procurement; or
- A business or other organization with who they are negotiating an arrangement concerning prospective employment is involved in the procurement

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

- Procurement Plans
- Advance solicitation information prior to release of Request for Quote / Request for Proposal, etc.
- Proposal technical and cost/price information
- Confidential or proprietary information or
- The disclosure of information to one or more interested parties, that is not made to all interested parties, in order to maintain confidentiality and objectivity when dealing with interested parties, contractors, proposers or service providers.

Further, SCWDB Board members agree to be bound and governed by the Commonwealth of PA State Ethics Commission/Statement of Financial Interests and Conflict of Interest Code for local Board Members and Youth Council Members, adopted by its bylaws and contained in this document, and the grant or Subgrant Agreement.

B. DISCLOSURE

When a staff member or Board member discovers or becomes aware of an actual or potential conflict, he/she should withdraw from the procurement and notify the Director immediately of the conflict. The term "*immediate family*" is defined in the WGCJTA, Inc. handbook as wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.

The procurement should reflect the conflict and note the withdrawal. The staff member or board member will not participate in the selection, award or administration of the contract in which SCWDB funds are used where, to their knowledge, they or their immediate family or partners or organizations in which their immediate families or partners have a financial interest or with whom they are negotiating or has any arrangement concerning prospective employment. SCWDB officers, employees or agents shall neither solicit nor accept gratuities and favors of monetary value which might reasonably be expected to influence the member's decision in regard to approval of contracts.

C. GIFTS

It is a breach of ethical standards for anyone to offer, give or agree to give a SCWDB staff member, or former staff member, or for a member, agent or former employee to accept from another person, a gift, gratuity or an offer of employment in connection with any procurement. It is a breach of ethical standards for anyone to be retained, or to retain anyone, to solicit or secure a contract for commission, brokerage, or contingent fee or a promise of such payments.

D. USE OF CONFIDENTIAL INFORMATION

It is a breach of ethical standards to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person. Information developed internally in support of proposals currently open for response SHALL NOT be considered public information. Any release must be approved by the Director and provided to ALL interested parties upon such approval. Such information may include any budget developed from proposals, any in-house estimate of the cost of the service, and any information that may be reflective of the agency's negotiation strategy. Disclosure of the same will result in disqualification of the interested party or may result in the disciplinary action for the employee.

F. DISCIPLINARY ACTIONS

To the extent permitted by state and local law or regulations, SCWDB standards must provide for penalties, sanctions, or other disciplinary actions (such as suspension, termination, or civil actions to recover money damages) to be applied for contract related violations of law or established standards of conduct by SCWDB Board, officers, employees or agents, or by contractors or their agents.

SECTION III – NOTIFICATION AND APPROVAL

Agencies or individuals submitting written proposal or quote shall be notified in writing of the acceptance or denial of their proposal or quote, including any opportunity to negotiate changes or final terms. No contract award shall be considered final until a written agreement or purchase order is signed by an authorized representative of SCWDB.

SECTION IV. TRAINING PROVIDERS AND INDIVIDUAL TRAINING ACCOUNTS (ITAS)

A. TRAINING PROVIDERS

The Southwest Corner WDB will approve training providers on the approved Eligible Training Provider List (ETPL) that are offering training programs aligned with state and region in-demand occupations and sectors. Providers of training are required to submit, as part of their application, performance and outcomes on the training programs/courses submitted, while ensuring individuals with barriers to employment are served. The Eligible Training Provider List is used to provide our job seeker customers with information regarding the types of training opportunities available, both in our workforce area and also in other parts of the state, as well as, out-of-state training opportunities. Information is also available regarding occupational skills that are in demand within the State and within our WDA, and other performance related data that assists them in making informed training choices.

In order to be added to the statewide Eligible Training Provider List, a provider must complete and sign a Training Provider Authorization form and submit, to SCWDB and/or Title I providers, the following information:

- A one-page outline of the current procedure for obtaining performance levels;
- Documentation verifying the performance information; –
- The most recent school catalog or outline/curriculum for each program;
- Grievance procedures; – A copy of its state license;
- Form PDE 3808 outlining courses approved by the PA Dept. of Education/ Private Licensed School Act (if applicable);
- A copy of its current accreditation certificate (if applicable); and
- Financial statements, an annual report or other evidence that sound fiscal practices are employed.

Programs must train students for "high priority occupations" in our area, as defined by the state. Training providers requesting assistance in completing the application process are assigned a "point of contact," a staff person, employed by one of our WIOA Title I providers. Training providers are required to retain documentation to support their applications for a period of three years. Our staff reviews applications to make sure they are accurate and complete prior to forwarding them to the state for final approval. If we reject an application, we notify the training provider within thirty days. Training providers have thirty days to appeal our decision.

The statewide training providers/programs (ETPL) list is updated when new programs are approved. Individual training accounts can be applied only towards programs on this list. Training providers must retain records concerning participant enrollment and performance throughout the period of participation plus a minimum period of three years following the participant's completion or termination.

To maintain their status on the approved statewide list, training providers must meet performance expectations and supply factual information/statistics on the ETPL which is designed to help eligible participants make informed choices. Performance measure indicators, for both the "All Students" and the "WIOA Participants" populations, include:

- Program completion rate;
- Entry into unsubsidized employment at second quarter after exit;
- Entry into unsubsidized employment at fourth quarter after exit;
- Median earnings during second quarter after exit; and
- Attainment of post-secondary credentials.

Training providers with poor performance are required to develop a corrective action plan, in consultation with our staff and approved by the state, which identifies the deficiency and outline specific steps to be taken to correct it.

B. INDIVIDUAL TRAINING ACCOUNTS

Participants who meet the eligibility requirements established through WIOA Adult, Dislocated Worker, or Youth programs may be awarded up to \$8,000 in tuition assistance. ITAs are only written for programs that listed and approved on the Eligible Training Provider List (ETPL).

C. REASONS FOR TERMINATION OF CONTRACTS

SCWDB and its Title I providers retain the right to terminate contracts as per terms detailed in this policy, termination as outlined in the signed contract and/or the the Non-Financial Agreement (for training providers) to the service provider for lack of performance, lack of funds sufficient to honor the contracts, or such other reasons that SCWDB may determine in its interest to be best served by termination of contractual agreement.

Training providers should deliver results and provide factual information in order to retain eligible training provider status. A provider's course(s)/program(s) may be rejected or removed from the statewide list of eligible training programs for one or more of the following reasons:

- Training does not lead to employment in a high priority occupation;
- Program fails to meet minimum levels of performance; or
- Failure to reapply for program eligibility certification.

Additionally, training providers, as well as their programs, may be rejected or removed under the following conditions:

- Inaccurate information regarding a program is intentionally supplied to the Department of Labor and Industry. A termination of eligibility will occur and remain in effect for a period of not less than two (2) years.
- The Department of Labor and Industry determines that an eligible provider has substantially violated the requirements of the Act. The provider's eligibility to receive funds will be terminated until the Department of Labor & Industry approves a corrective action plan.
- All of the provider's programs fail to meet or exceed established performance levels. The provider's eligibility to receive funds will be suspended by the Department of Labor & Industry, after consultation with the LWIB, for a period of not less than one (1) year.
- Training provider violates state and/or local laws; or
- The training provider's financial stability has been compromised and fiscal management has been documented.

D. RECOLLECTION OF FUNDS IF PARTICIPANT DROPS OUT OF TRAINING

Training Providers must sign a Non-Financial Vendor Agreement (NFA) prior to receiving any financial agreement or training dollars through WIOA. SCWDB service providers adhere to the refund policy of individual training providers. The refund policy will be effective as outlined in the proposal/catalog.

SECTION V - PROCUREMENT POLICIES AND PROCEDURES

WGCJTA, Inc., SCWDB and its grantees must use procurement systems, policies and procedures, which reflect applicable Federal and State laws, rules, and regulations to the extent that these systems, policies, and procedures do not conflict with WIOA regulations or this policy. This policy lists the procurement and transaction policies for WGCJTA, Inc. and SCWDB.

A. NOTICE PRE-RELEASE CRITERIA

Any notice for goods and/or services to be released by WGCJTA, Inc. on behalf of the CLEOs and SCWDB will be evaluated to contain the following items.

- **Procurement Transactions** – detailed submission, evaluation, and contracting policies have been developed by WGCJTA, Inc. Details of these items are included in this policy, the SCWDB Local/Transitional Plan, in the RFP and in the contract. Potential applicants will be fully aware of all requirements by reviewing these documents;
- **Clear and accurate description of the technical requirements for the material, product, or service to be procured** – before notices are released, SCWDB staff will develop the technical requirements for the goods or services needed. This will include, but is not limited to planned usage, funding available, and scope of work to be done. Potential applicants will need to respond to these needs in their RFP response and eventually contracted Scope of Work;
- **All requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals** – RFP documents will contain instructions and mandatory submission items in detail and in full. Potential applicants will need to present complete response packages to be considered for the requested goods or services;
- **Current pre-qualified lists of persons, firms, or products include enough qualified sources to ensure maximum open and free competition** – WGCJTA, Inc. keeps and updates a list of bidders who have requested notice when an RFP is released. When an RFP is developed, these companies will be informed of the opportunity. This list will be updated to include companies that apply for RFPs so that free and open competition is evident in all requests. Also, SCWDB will list the RFP on its website and local newspapers so that additional companies may submit proposals;
- **The assurance not to preclude potential bidders from qualifying during the solicitation period** – WGCJTA, Inc. and SCWDB will not preclude an individual or company from responding to a proposal, nor will any company be eliminated from consideration during the solicitation period. All competitive opportunities will be open and free, and each will be unrelated to any past or current bidding process.

B. INCLUSIVE CONTRACT INFORMATION

As mentioned, WGCJTA, Inc. performs contracting activities for goods and services on behalf of the Southwest Corner CLEOs and SCWDB. All contracts executed by WGCJTA, Inc. will include a list of contract requirements. Potential applicants must comply with all federal, state, and local contract requirements. All agreements between the local board and government entities involved with the contract must follow cost/reimbursement basis (20 CFR 683.200). WGCJTA, Inc. contract criteria includes, but is not limited to, the:

- Scope of work describing the good(s) and/or service(s) being procured;
- Federal and state employer's tax identification number and nature of the company (non-profit, profit, local government);
- Certifications, assurances, clauses, and conditions required by USDOL, state, or local policies;
- Required budget;
- Statement of financial, capability-certified financial statements or single A-133 audit report;
- Required performance measures;
- Reporting requirements;
- Applicability and compliance with required statute and/or regulations:
 - Equal Employment Opportunities;
 - Copeland Anti-Kickback Act;

- Davis Bacon Act;
 - Compliance with all applicable standards, orders, or requirements issued under the Clean Air Act, Clean Water Act, and the Environmental Protection Agency regulations for contacts/grants exceeding \$100,000;
 - Mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act;
 - Patent rights;
 - Copyrights and rights to data;
 - Byrd Anti-Lobbying Amendment; and
 - Debarment and suspension requirements.
- Administrative, contractual, or legal remedies for violations, default, and/or breach of contract;
 - Termination for cause and for convenience;
 - Ownership and access to records and retention requirements;
 - Audit requirements;
 - Access by the grantee, federal, and state personnel or any of their duly authorized representatives to any books, documents, papers, and records of the contractors that are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions; and
 - SCWDB reserves the right to modify contracts based on performance or funding levels.

C. PROPOSED PRE-AWARD REVIEW PROCEDURES

The purpose of the pre-award review is to determine that each organization being considered for funding meets all federal, state, and local requirements for program services. SCWDB staff and Compliance Officer will develop a pre-award survey to review the potential subcontractor. This analysis will be repeated and updated as needed. If necessary, the Compliance Monitor will conduct an on-site visit to the subcontractor. These procedures are designed to ensure that grant funds are not awarded to suspended or debarred organizations. The tool will be a pre-contract monitoring report. Survey will include:

- Background information that details contractor integrity;
- Accounting practices and principles;
- Financial and technical resources;
- Organizational and programmatic practice;
- Record of past performance;
- Compliance with public policy;
- Adherence to monitoring procedures; and
- Document will be certified and signed by Compliance Monitor and kept on file at the SCWDB office to certify that the review was done as a part of the RFP process.

D. PROFIT NEGOTIATION

In the event that the subcontractor may be earning profits as a result of a SCWDB grant, these amounts, processes, and procedures will be negotiated as a separate element from the RFP-detailed elements.

E. PROTEST PROCESS

SCWDB allows for RFP-required elements and options to be protested by potential contractors. The protest period will be equal to the RFP release period. Once the end date of the RFP has passed, any

complaints will be considered for the future, but will not affect that particular RFP. Protests should be made in writing and submitted to the SCWDB main office and should be addressed as such:

Southwest Corner Workforce Development Board
351 West Beau Street, Suite 300
Washington, PA 15301
ATTN: RFP Procurement/Protest

Protests submitted to SCWDB relation to RFPs will be reviewed and reported to the PA Bureau of Workforce Development Administration. Protest dispute sources may include, but is not limited to:

- Unfair competition in the decision-making process,
- Illegal/improper act or violation of law, and
- Unruly restrictive clauses

F. POST-AWARD ADMINISTRATION

SCWDB subcontractors agree to all requirements included in the RFP and contact. SCWDB staff will provide oversight monitoring, technical assistance, analysis of performance, and documentation review. Contractors will be required to participate in these activities.

G. CLOSEOUT

SCWDB will maintain information on contact start and end dates, including dates of last invoice and payments. Subsequently, subcontractors will agree to follow all post-award requirements in regard to program reports, equipment, closeout financial statements, and all other necessary items agreed to in the program contract.

H. RECORDS

SCWDB will keep detailed records of all procured services, including submitted RFPs, evaluation score sheets, RFP advertised notices, and other related documents. These items will be maintained by the mandated timeframes set forth by the funding supplier or internal record policy, whichever is longer. Records, including documentation created and/or used during the procurement process, are to be retained for a period of three years from the date of the final expenditure report for that funding period to the awarding agency. Regulations that cover records maintained by contractors or subcontractors can be found at 29 CFR 97.36(i)(10). However, any litigation, claim, negotiation, audit, or other action involving the records that has been started before the expiration of the three-year period will necessitate retaining the records until completion of the action and resolution of all issues that arise from it.

All sub-recipient contracts must contain a provision to return participant files to the Local Area PA CareerLink® operator in the event that the contract is not renewed or the agency goes out of business. Subcontractors will agree to retain records as outlined in contract and program guidelines.

I. PRACTICES TO AVOID DISALLOWED COSTS

SCWDB will not partake in any activities that will undermine the contracting process, including a piecemeal approach to procurement that will evade advertising and contracting policies. Purchase of

unnecessary or duplicate items is avoided. Proper and thorough planning though analysis of purchase alternatives ensures the most economical approach.

J. CORRECTED CONTRACTS

In the event of improper procurement or incorrect contract language, SCWDB will take immediate action. The local board and CLEOs will be notified of the issue and all active contracts will be reviewed. If changes are to be made, the following action steps will be commenced:

- SCWDB will notify the training provider or contractor immediately that there is an issue. The local board may want to ensure the contract templates allow for a unilateral termination of the contract or initiate a modification process.
- SCWDB will notify the awarding agency of the issue;
- Enter into a modified agreement with the affected party to pay for goods or services received to date or to correct the language of the agreement; and
- Follow SCWDB local procurement policy to ensure compliance.

SECTION VI – PROPERTY MANAGEMENT

A. BWDA ESTABLISHED GUIDELINES FOR PROPERTY MANAGEMENT

In order to ensure the most efficient use of WIOA funds and existing resources, SCWDB will follow the BWDA established property management system. This system incorporates the following goals:

- To account for and control all property under the governor's jurisdiction on an up-to-date inventory basis for all levels of program activities;
- To utilize personal or real property transferred from programs under all former, federal-job training programs;
- To eliminate unnecessary purchases of property under WIOA through the transfer of available excess property; and
- To control the rental and leasing of property.

PA BWDA has established regulations, policies and procedures that must be adhered to by SCWDB and its subcontractors. Real property, equipment including tangible and intangible property, and supplies acquired or produced after July 1, 1993, with federal funds shall be governed by the following definitions and requirements:

- **Governmental Sub-Grantees** – Federal Register, 29 CFR Part 97, Volume 53, Number 48, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, (commonly referred to as Uniform Guidance);
- **Non-Profit Sub-Grantees** – OMB Circular A-110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, codified at 29 CFR Part 95; and
- **For-Profit Sub-Grantees** – Title to property acquired or produced using WIOA funds shall vest in the awarding agency. In addition, any acquisitions of property with a unit acquisition cost of \$5,000 or more must have written approval by the BWDA prior to acquisition.

Property management standards for WIOA require adherence to USDOL regulations contained in OMB Circulars, as applicable.

B. RESPONSIBILITIES

All parties in the WIOA system are required to perform general responsibilities in regard to property management. Additional information concerning these responsibilities and the procedures to follow may be found under the appropriate headings for specific subjects or in the instructions for the forms.

PA Commonwealth/BWDA is responsible for:

- Maintaining an inventory of all WIOA property and equipment with a unit acquisition cost of \$5,000 or more;
- Ensuring that all grantees are furnished with a supply of official WIOA identification tags to be affixed to any purchases of property or equipment as referenced in this chapter; and
- Approving or disapproving all requests for the purchases of property and equipment with a unit acquisition cost of \$5,000 or more.

Note: Orders that have a single unit acquisition below \$5,000, but the aggregate purchase order is greater than or equal to \$5,000, must also be submitted to BWDA for review. The purpose of this review is to ensure the aggregate level purchase as a means to ensure best value determination was made; however, the individual items that are under \$5,000 will not need to be WIOA tagged. Please allow 10 business days for BWDA to review and approve. When submitting the Property/Equipment Acquisition Request Form for approval, mention all individual items are below the threshold.

SCWDB/Grantees - Grantees are responsible for establishing and maintaining an adequate Property Management System. SCWDB is required to:

- SCWDB maintains an inventory system to account for all property acquired with WIOA funds or acquired from other sources and used in WIOA programs. WIOA property must be properly identified;
- SCWDB performs an annual physical inventory of all property purchased using WIOA funds or funds from any prior federal program. The results of this physical inventory must then be reconciled with records maintained by the fiscal agent and, where applicable, the BWDA;
- Verify, prior to any acquisition, that needed property is not available through any alternative source;
- SCWDB has established bidding procedures that assure open and free competition. The bidding procedures must meet applicable federal requirements. These procedures are found in this policy document;
- Obtain written approval from the BWDA for the purchase of any property and equipment with a unit acquisition cost of \$5,000 or more. The approval request must include a justification and all identifying information;
- SCWDB will approve or disapprove all lower tier requests for the purchase of property in accordance with the applicable requirements. Copies of all approvals and WIOA (or local) tag number(s) assigned will be maintained at the SCWDB/fiscal agent's office and made available for review by authorized representatives. For sub-grantee purchases with a unit acquisition cost of \$5,000 or more, SCWDB/fiscal agent must obtain the BWDA's approval;
- Notify the BWDA of excess property with a unit acquisition cost of \$5,000 or more. Notification will be distributed to all grantees so that items no longer needed in one area may be made

available for use by other local areas. SCWDB will use this method for other miscellaneous excess property;

- Establish a control system that will safeguard all property against loss, damage, or theft; and
- Maintain policies and procedures for leasing or renting non-expendable personal property.

Note: Orders that have a single unit acquisition below \$5,000, but in the aggregate purchase order is greater than or equal to \$5,000, must also be presented to BWDA for review. The BWDA will want to approve the aggregate level purchase as a means to ensure best value determination was made; however, the individual items that are under \$5,000 will not need to be WIOA or WIOA tagged. When you submit the Property/Equipment Acquisition Request Form for approval, you should mention all individual items are below the threshold.

Lower-Tier Sub-Grantees - Each lower-tier sub-grantee is responsible for establishing and maintaining an adequate system of property management. That system must adhere to all applicable requirements, including those of the SCWDB/fiscal agent from which WIOA funding is received. The lower-tier sub-grantee must also identify and safeguard all property acquired with WIOA funds.

C. TYPES OF PROPERTY

SCWDB follows WIOA and PA BWDA guidance in regard to different types of property. All rules regarding cost, procurement, and inventory are followed for these property types.

- **Non-Expendable Personal Property (Equipment).** Neither the approval of an NOO issued by the BWDA, nor the awarding of funds by a fiscal agent constitute as an automatic authorization to purchase or lease property and/or equipment using WIOA funds. A written request to acquire property must be reviewed and approved by the respective awarding agency prior to purchase. If the equipment to be purchased has a unit acquisition cost of \$5,000 or more, the BWDA must also approve the purchase prior to acquisition.
 - For Grantees (including SCWDB), Governmental Entities, and other Non-Profit Entities
 - All equipment having a unit acquisition cost of \$5,000 requires a written authorization from BWDA prior to purchase; and
 - Excess property and equipment readily available for transfer will take precedence over new purchases. Therefore, BWDA reserves the right to deny a request for purchase.
- **Expendable Personal Property (Supplies).** Prior approval is not required for purchases of any expendable supplies needed for operations on a day-to-day basis. However, for-profit entities must include this type of acquisition in their budget. Title to supplies acquired with WIOA funds will vest upon acquisition in the next higher level agency.
- **Real Property.** In accordance with 20 CFR 683.235 and 683.240, WIOA Title I funds must not be spent on the construction or purchase of facilities or buildings except in limited instances. Therefore, if construction or purchase of real property is being considered, the grantee/fiscal agent must obtain BWDA approval before any costs are incurred. Failure to do so may result in questioned costs.
 - Grantees (including SCWDB), Governmental Entities, and other Non-Profit Entities - Subject to the obligations and conditions set forth in the applicable OMB Circulars, 29 CFR Part 97, and 29 CFR Part 95, title to real property acquired with WIOA funds will vest in the grantee/fiscal agent upon acquisition and requires prior written authorization from the BWDA.

Note: Protect PII and the BWDA will want to approve the aggregate level purchase as a means ensuring best value determination was made; however, the individual items that are under \$5,000

D. BIDDING PROCEDURE AND QUOTATION

SCWDB practice is to award grants and contracts in a manner that promotes open and free competition. RFPs, bids, and qualifications are posted to the SCWDB website, public notifications are placed in local newspapers, and small and minority businesses are encouraged to respond. WGCJTA, Inc. keeps and updates a list of bidders who have requested notice when an RFP is released. When an RFP is developed, these companies will be informed of the opportunity. This list will be updated to include companies that apply for RFPs so that free and open competition is evident in all requests. Also, SCWDB will list the RFP on its website and local newspapers so that additional companies may submit proposals.

For purchases with a unit acquisition cost under \$3,000, the purchasing officer may rely on random informal price and product comparisons to determine which vendor offers the best quality and service at the lowest price. For purchases with a unit acquisition cost over \$3,000, three or more bids are solicited and evaluated in terms of responsiveness to specifications, quality of merchandise, company reputation, customer service, etc. Purchases with aggregate cost or unit acquisition cost over \$3,000 are handled in accordance with OMB Circular A-110, A-133 and the Common Rule.

Invitations for bids or Requests for Proposals are based on a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurements, contain features that restrict, eliminate, or otherwise restrain competition. Description property open for bid will not request or require specific brand names. However, SCWDB may use a "brand name or equal" description to define performance or other prominent requirements of a particular procurement and the description will be used to establish standards, and potential contractor's meeting the standards are eligible to submit proposals or bids.

E. LEASING/RENTING NON-EXPENDABLE PUBLIC PROPERTY

Approval of lease and rental contracts is the responsibility of SCWDB. The decision to rent or buy property should be governed by economic conditions that may differ by property type and market conditions. Administrative requirements often make leasing preferable to purchase. In regard to rentals and leasing, SCWDB will consider leasing or renting when the benefits outweigh purchasing. Just as set when purchasing, open and free competition will be adhered to for leasing bids. Also, SCWDB will ensure that a contingency plan is entered in all leasing agreements, stating that either party may terminate the lease or rental agreement within a specified period of time and that the agreement is contingent upon continued receipt of federal funding.

Following the local conflict of interest policies, SCWDB and its subcontractors may not rent or lease their personally-owned property to WIOA program. They also may not rent or lease from other activities in which SCWDB personnel have a vested interest or which has interest vested to SCWDB personnel.

F. PROPERTY SAFEGUARD PROCEDURES

All SCWDB property, both purchased and/or leased, is properly maintained, secured and insured by SCWDB. When property with a unit acquisition cost of \$5,000 or more has been damaged, lost, or

stolen, a Property Incident Report Form will be submitted to BWDA within ten days of determination of the loss. BWDA will follow up on the information and will notify SCWDB/fiscal agent if any additional action must be taken including the submission of a Disposition Plan. If the incident involves suspected theft, intentional damage, or a reportable vehicular accident, the matter will be reported to the local police department. Any damage done to this property will be the responsibility of the damaging party, and said party will be liable for reimbursement for stolen or damaged property when such action is warranted.

G. TRANSFER OF PROPERTY

Equipment purchased by SCWDB with WIOA funds with a unit acquisition cost of \$5,000 or more may be transferred to another grantee/fiscal agent, sold or otherwise disposed of according to instructions from BWDA. The awarding agency shall be reimbursed a proportionate share based on any contribution provided in the acquisition cost by applying the formula outlined in 29 CFR 97.32. Equipment with a unit acquisition cost of less than \$5,000 may be sold or otherwise disposed of in accordance with procedures outlined in policies as approved by the local board with no further obligation to the awarding agency.

SCWDB is aware that it is its responsibility to utilize existing property rather than purchase or lease new property, when it is cost efficient to do so. Prior to any acquisition, SCWDB will contact other sources that might have suitable items in an effort to locate property that is available for transfer.

Note: in the event of a transfer, SCWDB will complete the BWDA Property Transfer Report Form based on the requirements put forth. The purpose of this form is to transmit necessary information to BWDA concerning property with a unit acquisition cost of \$5,000 or more, which is being transferred from one grantee/fiscal agent to another. This action will officially remove the responsibility for the item from the original holder and transfer that responsibility to the new holder. BWDA will generate a Property Transfer Report Form when property is being transferred from BWDA to grantees. Along with a transfer, comes the submission part of an approved disposition plan of the owner. After review and approval by BWDA, then the recipient of the transferred WIOA property item will take over the WIOA tag or replace it with another WIOA tag and include this item on their next Annual Property Inventory form. All parties included will retain all documentation for retention record purposes.

H. FINAL DISPOSITION OF PROPERTY

All WIOA property with a unit acquisition cost of \$5,000 or more must be disposed of properly. BWDA provides a WIOA Property Disposition Plan Form and instructions to be completed by SCWDB/fiscal agent and forwarded to the Department for approval under the following conditions:

- Determination by SCWDB/fiscal agent that some or all WIOA property is no longer needed;
- SCWDB/fiscal agent decides to trade-in property for similar property; or
- Property is no longer useable.

BWDA will review the information and notify the SCWDB/fiscal agent of the final action to be taken on the disposition of the property. All forms and supporting documentation for property management will be submitted to BWDA by fax at (717) 705-3799 or mailed to:

Pennsylvania Department of Labor & Industry
Bureau of Workforce Development Administration

Grants & Fiscal Operations Division
651 Boas Street, Room 1200
Harrisburg, PA 17121

When it is determined that property with a unit acquisition cost of \$5,000 or more is no longer needed in the performance of WIOA or other federally supported activities, SCWDB will prepare and submit a WIOA Property Disposition Plan to BWDA requesting disposition instructions. All WIOA property must be disposed of in accordance with the following priorities:

- Transfer the property to another WIOA program activity within the grantee/fiscal agent's jurisdiction;
- Trade-in on a similar piece of equipment;
- Transfer the property to another grantee/fiscal agent for use in their WIOA programs;
- Use the property for other federally supported activities;
- Transfer the property to BWDA if the acquisition cost meets the definitions outlined in the BWDA Financial Management Guide;
- Sell the property and return the proceeds by proportionate share to the same programs that were involved in purchasing the property; or
- Discard the property as scrap.

I. TYPES OF PROPERTY FOR DISPOSITION

- **Equipment** - SCWDB may use equipment to be replaced as a trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment subject to the approval of BWDA. SCWDB may also retain proceeds from the sale of equipment and use such WIOA funds solely for WIOA activities subject to the approval of BWDA. The funds will be reprogrammed against the funding sources that originally supported the purchase.
- **Supplies** - [29 CFR 97.33] Supplies no longer needed for federally-supported programs shall be retained by the fiscal agent. If the aggregate acquisition cost is \$5,000 or more and the items are sold, the BWDA shall be compensated for its proportionate share of the proceeds. The proportionate share is determined by the percentage of the cost of acquisition. If the aggregate acquisition cost is less than \$5,000, the SCWDB will treat the proceeds as program income.
- **Real Property** [29 CFR 97.31] - When real property is no longer needed for its originally authorized purpose, SCWDB will request disposition instructions from BWDA. WIOA percentage purchase of the property is applied to net proceeds, and that percentage must be returned to the federal government. This requirement applies to any real property purchased with WIOA funds.