Purpose:
To provide guidance with respect to methods for the procurement of goods and services obtained with Workforce Innovation and Opportunity Act (WIOA) Title I funds, and set forth the guidelines with respect to applicable procurement standards under the uniform administrative requirements codified at Title 2 of the Code of Federal Regulations.

Background:
Procurement, as defined in the Workforce Investment Support Services (WISS) State Compliance Procurement (SCP) Policy #3.9, is “the process that leads to any award of funds”. Sec. 184 of WIOA requires each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under Title I of WIOA to comply with the 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.

Workforce Connections (WC), as a pass-through entity/awardee of WIOA Title I funds and other State and Federal awards, is required to have written procurement procedures in place to ensure that all Workforce Connections' administered programs and services are procured in accordance with established and applicable Federal, State and local guidelines.

Policy:
Workforce Connections, its sub-recipients, are required to comply with established procedures/guidelines regarding procurement and acquisitions for goods and services. Workforce Connections is also required to comply with:
- Any specific Federal and State award requirements outlined in grant agreements;
- State and Local Board inter-local agreements;
- Any programmatic or statutory Federal, State or local guidance, and policies as applicable such as Training and Employment Guidance Letters (TEGLs) issued by the U.S. Department of Labor (DOL), Employment and Training Administration (ETA) as they relate to funds passed through by the State; and

Reference:

This policy may be subject to change as additional Federal statutes and regulations, State policy and guidelines are released.
I. General Provisions for Compliance with Conflict of Interest

A. All WC staff, board, and advisory panels members who may have some direct or indirect involvement with any WC procurement process shall comply with all Federal and State procurement requirements and standards, WC’s “Code of Ethics”, and WC’s policies and procedures as appropriate.

B. Conflict of Interest

1. In order to ensure objectivity and to eliminate any unfair competitive advantage, all members of the Local Elected Officials (LEO) Consortium, WC Board, Committees, including advisory panels, WC staff and WC sub-recipients or their staff or any other related party, shall be excluded from competing for awards or contracts if they are involved in any of the following:
   a) The development of and/or drafting of specifications, requirements and statements of work for the procurement of goods or services or the competitive awards process; and
   b) The evaluation of bids and/or the selection of awardees or contractors.

2. No members of the Local Elected Officials (LEO) Consortium, WC Board, Committees, including advisory panels, WC staff and WC sub-recipients or their staff or any other related parties, shall participate in the selection of the contractor or the awardee that will administer the program if they potentially have a direct financial benefit or any other interest in the organization that may receive a sub-award or contract from WC. Specifically, this rule applies when the relationship to the awardee or contractor is as follows:
   a) An officer, business partner, employer or agent;
   b) A member of his or her immediate family;
   c) A person or organization that employs, or is about to employ, any of the above, and has a financial or other interest in the entity, individual or organization competing or ultimately selected.

3. In accordance with WIOA regulations, membership on the Local Workforce Development Board (LWDB) or WIOA Title I Programs Committee, or receipt of WIOA Title I funds to provide training and related services shall not violate the overall “Conflict of Interest” provisions.

4. To the extent permitted by Federal, State and local statutes or regulations, persons found not to comply with the WC “Code of Ethics” policy may be subject to disciplinary actions (such as suspension, termination, or civil action to recover any monetary damages) for reasons stated in this policy.

5. No officer, employee, or agent (including LWDB council members) or WC sub-recipients will solicit or accept gratuities, favors, or anything of monetary value from suppliers or potential suppliers, including subcontractor contracts [SCP 3.9].
II. **General Procurement/Competition Guidelines**

A. All competitions shall be conducted in a manner that provides, to the maximum extent practical, free and open competition to all interested parties.

B. The process used shall ensure open and impartial access for all interested minority, women owned, small business, veteran or disadvantaged owned businesses seeking opportunities to furnish goods and/or services to WC. If the volume of goods or services acquired is determined to be too large for small firms to handle individually, WC encourages its sub-recipients to allow smaller volume opportunities for small businesses, minority-owned firms, women-owned businesses, and those in labor surplus areas.

C. Funds shall be disbursed in accordance with the terms, conditions, and specifications in the awards or contracts and as a result of subsequent performance of all agreements, contracts and/or purchase orders.

D. The acquisition process shall be inclusive of a cost/price analysis (see general provisions for price and/or cost/price analysis section of this policy), to determine reasonableness in connection with each award or contract, as required by Federal and State statutes, regulations and policies. These requirements must be reflected in WC sub-recipient policies and procedures. WC will monitor acquisitions for compliance and will provide technical assistance to sub-recipients.

E. All acquisitions by WC staff and WC sub-recipients and contractors shall be governed by the following principles:

1. Costs incurred must be necessary, reasonable and allowable under the Federal cost principles and the contract or award. All entities funded shall avoid the purchase of unnecessary and/or duplicative items or services. An analysis of lease vs. purchase options shall be conducted, if applicable.

2. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, entering into State and Local intergovernmental agreements where appropriate for procurement or use of common goods and services is encouraged.

3. All solicitations for goods and services and the selection of sub-recipients shall incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, including quantities, and identification of all requirements that respondents must fulfill and all other factors to be used in evaluating bids or proposals.

4. WC reserves the right to verify that contractors and sub-recipients can fulfill their offers. This may include on-site verification and other reasonable negotiations prior to signing awards and/or contract agreements.

5. All procurements must have documented certification that the entity selected is not debarred by the Federal government, and does not have a delinquent Federal debt.

6. For technical or customer service support please contact the General Service Administration (GSA) Federal help service desk at 1-866-606-8220. Debarred or excluded parties may not receive Federal contracts or awards.

7. For grievances/protest procedures see item No. VII of this policy.
III. General Competitive Provisions
These provisions apply to all acquisitions by WC.
A. Procurement includes, but is not limited to, the acquisition of administrative or program equipment, supplies, goods and services. Sub-awards apply to all solicitations for sub-recipients to carry out a program objective under the Federal or State awards received by WC.

B. Procurement and award methods utilized for the acquisition of goods and services or the selection of sub-recipients using Federal or State of Nevada funds shall be classified in the following categories:
1. Small purchase;
2. Competition (sealed bids or requests for proposals, as appropriate);
3. Noncompetitive proposals (sole source); and

C. General standards for procuring goods and services in each classification for WC are as follows:
1. 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 $100,000. If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
   a) For purchases between $1,000 and $5,000 per unit cost, system cost, or for contiguous items or services, three (3) quotes are needed. Quotations must be documented and placed in the procurement file.
      Note: One purchase may not be divided into several small purchases in order to circumvent the threshold requirements of the Federal, State or WC procurement regulations.
   b) All small purchases that exceed $5,000 per unit cost, but do not exceed $100,000, require a minimum of three (3) written documented quotes. The procedures for bid/quotes are as follows:
      1) In order for bids/quotes to be considered, all quotes must contain the following information: quantity, timeframes of delivery, and all descriptive requirements of the product and/or service justification for the purchase and any other reasonable supporting documentation.
      2) For each acquisition, between $5,000 and $100,000 it is required that the aggregate costs of acquisitions are solicited in writing and that written quotes are received and placed in the procurement file.
      3) When aggregate unit cost of acquisition exceed $100,000 (e.g., copy machines), systems or contiguous items (e.g. partitions, carpeting), or services (e.g. staff or group participant training), the competitive process must be followed.
2. **Competition**

a) **Sealed Bids**: For easily quoted acquisitions, usually for specific goods where price is the only reasonable factor, the sealed bid process may be used and the justification for selection, if the technical requirements and contractor integrity requirements are met, is the lowest bidder. These bids must be publically opened and they must result in a firm-fixed price. However, availability of the goods or services, quality, past performance, delivery schedules and location may pose additional factors that could influence selection. When the selection of goods and services is not based on the lowest bid, documented justification describing the additional criteria used for the selection must be in the procurement file. The documented justification must contain the relevance of the selection criteria that is used in relationship to the need, benefit, and relative advantage to WC of the goods and services to be purchased or the services to be rendered.

1) This method is generally used for purchases from vendors for commodity-type goods/services that are widely available in the marketplace (e.g. computer equipment, furniture, vehicles, construction, bulk supplies, certain off-the-shelf training).

2) The contents of these bids, upon receipt by the solicitor, are sealed. A predetermined time and place must be indicated on the invitation and/or request for bid as to when and where the sealed bids shall be opened. In most cases, the general public shall be invited to witness the opening of the bids and the review shall be completed by more than one individual to ensure accuracy.

3) A cost/price analysis must be performed, as appropriate, prior to the solicitation of bids so as to ascertain the reasonableness of the cost (see: general provisions for price and/or cost/price analysis section of this policy).

4) It is generally presumed, after a compliance review, that a fixed-price award will be made to the lowest responsive and/or responsible bidder. The rationale for selection or rejection shall be noted in the procurement file.

5) Documentation must include, at a minimum:
   i) A copy or the formally advertised bid;
   ii) The vendors receiving invitation for bids by request, and through a qualified bidders list;
   iii) The publication notice;
   iv) Documentation of all the bids that were received; and
   v) A statement in the file detailing (if applicable) the reasons for rejecting the lowest bid.

b) **Request for Proposals or Request for Bids (over $100,000)**: Request for Proposals (RFPs) or Request for Bids (RFBs) are used when there is more than one prospective bidder submitting an offer, the lowest price is not necessarily the determining factor, and either a fixed-price or cost reimbursement type contract or award will be made. The RFP or RFB must also meet the generally prescribed standards for “full and open competition”. The bid evaluation factors should focus primarily on, but not exclusively, the proposal’s approach, program design, innovation, coordination, and knowledge of the regulations and statutes directly related to the goods and services proposed. WC uses various data sources in the evaluation process for the proposals resulting from RFPs procurement/acquisition actions. The WC Executive Director is the final
evaluation selection committee authority.
The RFP/RFB must contain a clear and accurate description of the technical requirements for the material, product or service to be procured and, also must contain identification of all requirements which the offerors must fulfill and identification of all other factors to be used in evaluating the bids or proposals. At a minimum, the RFP/RFB file must contain:

1) A copy of the solicitation package;
2) A copy of the public notification that must denote the following:
   i) The name and location of the entity requesting proposals;
   ii) Location and procedures by which the RFP/RFB specification can be obtained;
   iii) The date and time not later than which responses must be received by the requesting entity;
   iv) The date and time that responses will be opened; and
   v) Shall provide reasonable notice timeframes for all RFPs/RFBs (State requirement).
3) A bidders list to whom notices of the RFP/RFB were mailed;
4) An agenda and minutes of a bidders’ conference, if held;
5) Written responses to all clarifying questions received outside of the bidders’ conference;
6) A copy of each respondent’s proposal received;
7) Rating and scoring sheet completed in the evaluation process (original signed copies);
8) Documentation of the determination of demonstrated performance, via the Statement of Qualification (SOQ) process;
9) Documentation of the rationale for selection and funding of any proposal that did not receive the highest score/ranking in the evaluation process;
10) A completed price analysis for each selected bidder, and a cost analysis, as appropriate;
11) A copy of any submitted grievances and the resolution of each.

3. Sole Source/Non-Competitive Process:
   a) Sole-source/non-competitive awards are those used through solicitation of a proposal from a single source, the funding of an unsolicited proposal or, after solicitation of a number of sources (more than one), competition is determined inadequate. This method of procurement should be used as a last resort.
   1) Recipients and sub-recipients must minimize the use of sole source procurement to the extent practicable, but in every instance the use of sole source procurement, when competition is required, must be justified and documented.
   2) All non-competitive sole source procurements or awards must be approved by WC Executive Director or designee.
   3) This method may only be used when the award of a contract is unfeasible under small purchase, sealed bid, or competitive policies, with the exception of on-the-job training, customized training, training provider awards, and if one of the following circumstances applies:
      i) The item or service is available only from a single source;
      ii) The public exigency or emergency need for the item or service does not permit a delay resulting from competitive solicitation.
4) After solicitation of a number of sources, competition is determined inadequate.
5) The file documentation for this method must include:
   i) A description of the specific circumstances supporting the sole source procurement and the results of any negotiations with the sub-recipient/contractor;
   ii) A cost analysis or other means of verifying the reasonableness of the price;
   iii) A determination of demonstrated effectiveness of the selected sole source provider or contractor to provide the goods and/or services.
6) WC has developed a Sole Source Form that is required to be used for all sole source procurement actions.
7) WC has developed a Professional Services Contract/Agreement template that is required to be used for all Professional Services Contracts/Agreements. Such Contract/Agreements are subject to approval by the Workforce Investment Support Services (WISS).
8) All sole source procurement actions must be approved by WISS.

b) Commercially available or Off-the-Shelf Training is defined as a training package sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices.
   1) To be considered as “sold to the general public”, the package must be regularly sold in sufficient quantities to constitute a real commercial market to buyers including other than WIOA Title I programs.
   2) The package must include performance criteria pertaining to the delivery of the package, which may include participant attainment of knowledge, skills or a job.
   3) For the product to be unmodified, it must be sold to the general public in the same condition that it is sold to the State grantee or sub-recipients. If the product is altered or customized in order to meet the specific training needs of WIOA, it is not a commercially available off-the-shelf product. A price may be negotiated that is below the cost paid by the public and/or a different rate or method of payment may be accepted. This would be acceptable and the package would still be considered unmodified. However, the addition of training, service or provider performance would be considered modifications.
   4) A catalog price is one that is published in a catalog, price list, schedule or other form regularly maintained by a supplier and is published or made available for inspection by buyers.

IV. Procurement of Goods and Services by WC Sub-recipients.
Threshold Levels:
For purchases under $1,000 per unit cost, system cost or for contiguous items or services for the contract period, no formal process or approval from WC is required. The cost must be reasonable and allowable.
All items purchased in a single acquisition that are connected to a system are counted as one unit for procurement purposes.
Contiguous services are defined as services similar in scope from the same contractor occurring at any time the same contract period.
A. $1,000 to $4,999 – Informal Bid Process
For procurement within this threshold, small purchase procedures must be used and three (3) or more documented quotes are required. Prices/quotes can be obtained from current price list, catalogs, real-time internet research/information, or contact (e.g., fax, e-mail, in person) with vendors. Each procurement action must be documented on the WC’s informal bid form and submitted to WC for review and approval.

B. $5,000 to $24,999 – Formal Bid Process
Procurements within this threshold require a written Request for Quote (RFQ). The RFQ will specify the quantity, time frames, and all requirements of the product or services being procured. The RFQ must be provided in writing. Three (3) or more written quotes must be obtained under this method. Each procurement action must be documented on the WC’s formal bid form and submitted to WC for review and approval.

C. Competition is required for $25,000 or more – Advertised Competitive Process
Advertised competitive process is required, these may be:
1. Sealed bid, (see item III (C) (2) (a) of this policy);
2. Competitive RFP/RFB (see Sec. III of this policy).
Sub-recipients must contact WC for technical assistance prior to initiating the advertised competitive process.

D. Support documentation for all procurement actions of $1,000 or over must include, but are not necessarily limited to:
1. WC approved/required forms which document:
   a) Justification for the selection of small purchase procurement method;
   b) Full description of goods or services being purchased, including the quantity and additional criteria used to determine the procurement decision;
   c) List of providers contacted/considered and the prices offered using current catalogs, price lists, or formal quotes depending on the amount of the purchase;
   d) Justification to support why the provider was selected, including how the provider met any additional criteria;
2. Price analysis, vendor selection;
3. Copy of the purchase document (sales receipt, contract);
4. Written prior approval from Workforce Connections.

The State requires that WC and its sub-recipients (down to the lowest tier) use procurement systems, policies and procedures which reflect applicable Federal and State laws, rules, and regulations to the extent that the systems, policies and procedures do not conflict with Nevada Revised Statutes (NRS), the applicable Federal regulations, WISS policies/procedures, or WC policies and procedures.

A. Overhead expenses
Sub-recipients who charge more than 50 percent of any indirect or allocated direct expenses to WC sub-awards must seek prior approval from WC prior to purchasing goods with a total unit or system cost over $1,000 or entering into contracts for services over $1,000, regardless of the actual amount charged to WC.
B. Capital Purchases
Sub-recipients may only charge capital purchases of $5,000 or over directly to WC sub-awards in full. These expenses cannot be allocated through indirect cost pools or otherwise partially billed to WC sub-awards. Capital purchases of $5,000 or over must be pre-approved by WC and DTER prior to purchase, and WC retains title to those items.

C. WC’s MIS/IT department will be responsible for reviewing all computer hardware and software purchases. These purchases will require approval by WC’s Executive Director or designee. All requests for computer hardware must be submitted to WC’s MIS/IT department. All costs associated with the purchase of computer hardware will be deducted from a sub-recipient/contractor approved budget.

D. Voucher Systems
Sub-recipients must seek prior approval no later than 60 days after the start of each sub-award period to utilize preferred vendors through voucher systems. Sub-recipients may be required to conduct procurement actions prior to setting up, or receiving approval for, a voucher system.

E. Multi-year Procurement Actions for Services
Sub-recipients may be authorized to utilize procurement actions for services for up to 4 years total with prior approval from WC. Renewals must be approved by WC each contract period. Procurement actions may only be renewed in the same procurement threshold as the initial action. For example, an initial procurement action of $3,000 may be renewed in future contract periods for up to $4,999.99.

F. Multiple Payments for Goods to the Same Contractor During a Single Contract Period
Multiple payments for goods to the same contractor in the same contract period that are individually under the informal bid procurement threshold of $1,000 are subject to procurement requirements and approval from WC when the aggregate amount spent for any contract period exceeds $3,000.

G. Off-the-Shelf Training Programs
Training programs sold to the general public, in the normal course of business operations, at prices based on established catalog or market prices, in an unmodified form, are exempt from procurement requirements, with prior approval from WC, as long as all of the criteria in section III is met.

H. Procurement Exemptions
Items exempt from procurement requirements include:
1. Employee wages and fringe benefits;
2. Training on the Eligible Training Provider List (ETPL);
3. On-the-job-training (OJT) contracts;
4. Work experience (WEX) wages or stipends processed by the sub-recipient;
5. Rent or housing assistance;
6. Childcare for participant’s children already enrolled in a daycare;
7. Bus passes; and
8. Gift cards or other cash equivalents used as supportive services.
Other supportive services and any other expenses that do not meet the criteria above are subject to procurement requirements and prior approval by WC.

I. Sub-contracts for Services
Contracts are required to be utilized by the sub-recipient for all professional or participant services funded in whole or in part by WC funds. WC has a template available for use by sub-recipients, if desired.

All contracts must include the following items, at a minimum:
1. Classification as contractor or sub-recipient;
2. Start date;
3. End date;
4. Unit cost or hourly rate;
5. Not to exceed amount;
6. Invoicing criteria;
7. Termination clause;
8. Scope of work;
9. Performance information; and

Additional assurances are required to be added for all sub-contracts and sub-awards over $100,000 that will be provided by WC upon request.

VI. GENERAL PROVISIONS FOR PRICE AND/OR COST PRICE ANALYSIS
Procurement must include an appropriate analysis of the reasonableness of cost and price. The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum the awarding agency must make independent estimates prior to receiving bids or proposals.

A. Price Analysis is the process of examining and evaluating a price without examining the estimated cost elements and proposed profit of the offerors whose price is being evaluated. The sole purpose of a price analysis is to determine if the final price is fair and reasonable.

All recipients and sub-recipients are required to perform a price analysis for every procurement, including contract modifications. The recommended process for comparison is:
1. Comparison of prices of competing offers and selecting best price;
2. Comparison of prior quotes and contracts for the same or similar requirements, taking into account inflation;
3. Comparison of offers to parametric estimates or benchmarks (e.g. dollars per square foot or cost per instructional hour); and
4. Comparison of offers to an independent agency estimate.

B. Cost Analysis is the review and evaluation, element by element, of the cost estimate supporting a proposal for the purpose of pricing a contract. Unlike price analysis, which is required for every procurement action, a cost analysis is required when price analysis alone is not sufficient to determine that a price is fair and reasonable for a product or service. It is usually required when price competition is weak or where there is only one offer. Cost analysis differs from price analysis in the level of review conducted. Cost analysis segregates the total price into various cost elements (e.g. line items in detailed budgets). These are then individually assessed.
1. Prior to undertaking a cost analysis, a decision must be reached to determine if the
scope of services required justifies a cost analysis. It may cost more time and money analyzing a contract than the contract is worth.

2. A cost analysis must be conducted when:
   a) The offerors are required to submit the elements of the estimated cost;
   b) Adequate price comparison is lacking; and
   c) Utilizing sole source procurement, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or organization.

3. The cost analysis process may include:
   a) Verification of the cost or pricing data and evaluation of cost elements, including necessity and reasonableness;
   b) Comparison of proposed costs for individual cost elements with actual costs previously incurred by the same offerors, previous cost estimates from the same or other offerors for the same or similar items, other cost estimates received in response to the request, and independent contracting agency cost estimates;
   c) Verification that the offeror’s cost submissions are in accordance with cost principles of what is allowable and allocable;
   d) Determination that the cost or pricing data necessary to make the proposal accurate, complete and current have been submitted;
   e) Assurance that any indirect costs are not duplicated by proposed direct charges, and that rates have been appropriately approved. Where there is no federally approved indirect cost rate, or requirement for an indirect cost rate, the offerors must submit a cost allocation plan identifying costs that will be designated as indirect and how they will be allocated to the contract; and
   f) Verification that if subcontractors are to be used, those services are clearly identified, described, and justified in the cost proposal.

VII. General Provisions for RFP/RFB Protest/Dispute/Grievance/Appeals

A. Should a respondent to a WC Request for Proposal (RFP) and/or Request for Bid (RFB) feel that due diligence was not shown in WC’s selection and/or award process, that offeror and/or proposer may file a formal grievance with WC to appeal their award decision in accordance to WC policies and procedures, and State policies 3.9 and 4.4.

B. Respondents to WC’s RFP’s/RFB’s not selected have the right to protest any provision of the RFP/RFB that is inconsistent with WC requirements or the process used for selection. WC will proceed with its contracts or service delivery during the review of protests received. WC shall make every effort to promptly process protests as outlined in WC’s policies and procedures. The Executive Director or designee will make decisions regarding procurement protests.

Workforce Connections is an equal opportunity employer/program.