Purpose

The purpose of Worksystems procurement policy is to promote full and open competition, ensure stewardship of public funds, and procure goods and services in a manner that is ethical, transparent, and compliant with applicable federal, state, and local laws and regulations.

Contents

Policy Statement

All procurement activities must be conducted in an open, fair, competitive, and transparent manner; in compliance with applicable federal, state, and local laws and regulations; and in a way that avoids conflicts of interest.

Code of Conduct and Conflicts of Interest

Worksystems *Code of Conduct Policy* applies to all procurements. (Code of Conduct)

- No employee, officer, agent, or board member with a real or apparent conflict may participate in the selection, award, administration of a procurement or contractor or subrecipient agreements.
- Violations are subject to disciplinary action consistent with Worksystems *Code of Conduct Policy*.
- Where a parent/affiliate/subsidiary relationship creates an actual or apparent inability to be impartial, the procurement must be managed to avoid the conflict (e.g., exclusion, recusal).
- All evaluators must sign a conflict-of-interest and confidentiality statement to participate in a competitive procurement.

Business Type Consideration

Affirmative steps are to be taken to include the following business types of businesses in all procurements, such as including them on solicitation lists:

- Small Businesses
- Minority-Owned Businesses
- Women-Owned Businesses
- Businesses located in Labor Surplus Areas

Staff are required to determine if a prospective contractor or subrecipient is designated as one of these business types. Where it is economically feasible, staff may divide total requirements into smaller tasks or establish delivery schedules to qualify smaller businesses. Where all elements of a quote or proposal are equal, the award should be directed to a business that is certified small, minority- or women-owned.

Suspension and Debarment

Worksystems may not enter into a contract or subaward with any entity that is debarred, suspended, or otherwise excluded from participation in federal programs. A verification of a www.SAM.gov registration must be conducted prior to all contracts or subawards being executed.

Procurement Levels and Methods

Worksystems separates procurement requirements into three levels. When purchases with the same contractor or subrecipient for the same purpose within one program year create an aggregate purchase in excess of the next Procurement Level, the purchase must be re-procured using the appropriate procurement method. A procurement may not be split or reduced in value to avoid the additional requirements that apply to a higher procurement level.

Level 1 – Micro-purchases

Micro-purchases are purchases of up to $15,000 and may be awarded without soliciting competitive quotations.

- Comparison shopping is required. Economy, efficiency, reasonable price, and experience must be considered in all purchasing decisions.
- To the extent practicable, distribute micro-purchases equitably among qualified suppliers.
- A *Purchase Request Form* is required for any purchase of $1,000 or more.

Level 2 – Simplified Acquisitions (Small Purchases)

Simplified Acquisitions are purchases greater than $15,000 but less than $350,000. These purchases require three quotes dated within 12 months of the purchase. *Compliance and Procurement Manager* approval is required when fewer than three quotes are used or if quotes are older than 12 months.

- Quotes are documented utilizing the *Quotes Documentation Form*.
- Products commonly available in the commercial marketplace must be purchased at the lowest priced quote.
- A *Purchase Request Form* and a *Price or Cost Analysis Form* are required.

Level 3 – Competitive Procurements

For purchases of $350,000 or more, Worksystems will utilize a competitive procurement process, unless a permitted noncompetitive method or a subaward selection process applies (as outlined below). Competitive procurements are conducted through formal Request for Proposals (RFP). Competitive procurements:

- Are conducted through a public process that solicits proposals from potential respondents.
- Utilize a formal, documented evaluation and selection process based on the criteria identified in the RFP.
- Are valid only within the scope of the original solicitation. A new procurement must be conducted when there are material changes to any of the following:
  - Scope of work of the goods or services, service delivery geography, target populations, performance requirements, or outcomes that were competed for and described in the RFP.
  - Contract term or period of performance identified in the RFP has ended, including any maximum allowable duration. It is recommended that Worksystems adhere to a five-year term limit in all competitive procurement solicitations.
  - Change in contractors selected as a result of the RFP selection process unless one of the following conditions applies:
    - The RFP explicitly established a qualified pool of contractors and included a defined on-ramp or rolling admission process.
    - The RFP process qualified respondents who were not initially awarded a contract. These respondents may be considered for a later award, provided that the later award remains within the original solicitation's scope, terms, and evaluation framework.
- The One Stop Operator must be procured every four years by law (20 CFR § 678.605).
- Requires a *Purchase Request Form* and a *Cost or Price Analysis Form* to be completed upon award.

Worksystems may use the competitive selection process to identify and award subawards to subrecipients whenever practicable to promote transparency, equity, and best value for program outcomes. When using this method, the award is only valid within the scope of the original procurement. Any material changes identified above apply and a new competitive selection process for the subaward must be conducted.

Worksystems may, at its discretion, determine a contractor or subrecipient is ineligible to qualify for a competitive procurement if the contractor or subrecipient is on a Technical Assistance or Corrective Action Plan.

Competitive Procurement Procedures

Bidder's Conference

When it is determined that it would be helpful for outreach to potential respondents or to seek input from community sources, a conference may be held prior to the release of the Request for Proposals to describe the project and seek feedback on the draft solicitation. Changes and clarifications to the solicitation may be made based on the feedback. Participation in the conference does not preclude any organization from submitting a proposal once the public process begins. The Bidder's Conference does not require the involvement of the *Contracts and Procurement Specialist*, as it is designed to share information about and inform the development of the official Request for Proposals.

Separation of Duties

The *Contracts and Procurement Specialist* or a designee manages the competitive procurement process. No other staff may perform procurement activities such as answering inquiries regarding the RFP, accepting incoming proposals on behalf of Worksystems, distributing *Conflict of Interest Attestations* or proposals to review panelists, or collecting panelist evaluations. Worksystems staff who develop the solicitation and/or will be the Contract Manager for the selected proposal(s) may be on the panel of reviewers but may not be the sole reviewer and may not be the final decision maker in the selection.

Solicitation Public Notice

A public announcement of the release of the Request for Proposals is made in a manner that reaches a broad range of potential respondents, including small businesses and minority- and women- owned businesses. The announcement will include a brief description of the purchase or project and directions to access the full solicitation. Posting on Worksystems' website meets the minimum public notice standard, however, additional outreach should occur, including email notices to individuals and organizations that have expressed interest in Worksystems' procurement activities and publishing in local newspapers (including news agencies' websites and in print).

The Request for Proposals Solicitation Document

All competitive procurements for goods or services will be open for at least 30 calendar days and will include:

- A clear and accurate description of the program, project, or product technical specifications.
- Anticipated contract term, including all available extensions.
- Definition of required deliverables and/or measures of performance.
- Description of response requirements, evaluation criteria, scoring detail and selection process.
- Worksystems' standard Administrative Capacity details.

Evaluation and Selection

- Responses may be rejected when it is in Worksystems' interest to do so.
- Evaluators must attest, in writing, that they do not have a conflict of interest with any of the respondents via a *Conflict of Interest Attestation* form.
- Evaluators will rate responses against the criteria identified in the solicitation.
- Selection will be based on a comparative assessment of proposals against all evaluation criteria in the solicitation.
- Award and regret notifications are made by the *Contracts and Procurement Specialist* or a designee.

Appeals Process

All competitive procurements will include an appeals process.

- The appeal must relate to what the respondent considers a flaw in the Evaluation Committee's process and must be a violation of the process established for the solicitation.
- All appeals are public information.
- The organization/individual filing the appeal must specify the basis of the appeal. Proposal rating scores may not be appealed. The fact that a proposal was not recommended for an award is not open to appeal, nor is a complaint about the amount of funding granted in the award.
- Appeals will be accepted for three (3) business days following the award notification date. Worksystems' Chief Executive Officer or designee will review the appeal and issue a written response that is the final resolution.
- No associated contract(s) or subrecipient agreements(s) can be executed until any appeals are resolved.

Failed Procurement

A failed procurement occurs after a competitive procurement results in no qualified responses. In such cases, Worksystems may proceed using a noncompetitive procurement method when a review of the market has determined that the scope of the outreach, the *Request for Proposals* document, and the expanse of announcement was appropriate. The detailed market review is to be documented for the procurement file. A failed procurement does not occur when a single response to the solicitation was received; the single response must be evaluated and determined to be qualified.

Noncompetitive (Sole Source) Procurement

Noncompetitive procurement may be used only when one or more of the following circumstances are documented:

- The item or service is available from only one source.
- Public exigency/emergency will not permit a delay resulting from a competitive solicitation.
- The funder expressly authorizes noncompetitive sole source procurement by naming the specific contractor or subrecipient in either the grant agreement or separately in writing.
- A competitive procurement failed; no responses were received.

Sole Source procurement must be minimized and, when necessary, documented through the following:

- Submission of a *Sole Source Purchase Justification Form* approved by the Worksystems' Chief Executive Officer or designee and a *Cost or Price Analysis Form*.

Subrecipient Awards

Worksystems may choose to subaward subrecipient agreements only under the following conditions:

- Worksystems is the pass-through entity.
- The grant and related laws or regulations that apply to the funds being used for the project do not require a competitive procurement process to be completed.
- The subrecipient has a record of acceptable performance relative to similar projects funded by Worksystems or by other pass-through entities or jurisdictions.
- A budget narrative is developed that can be analyzed to determine that costs are reasonable, allowable, allocable, and necessary to achieve the program outcomes.
- The applicable program policies or subrecipient agreement clearly show *at least one of the following*:
  - The subrecipient determines who is eligible to receive services paid for with the grant resources; *or*
  - Performance will be measured based on whether grant objectives are met; *or*
  - The subrecipient has responsibility for programmatic decision making, is responsible for adhering to applicable grant requirements and uses grant funds to carry out the program for a public purpose.

Subrecipient awards are documented utilizing the *Subrecipient Award Justification Form*.

For-Profit Subrecipients

Where a subrecipient award is made to a for-profit entity, the profit amount must be negotiated as a separate cost element in excess of actual costs, and must be based on meeting or exceeding related, identified performance goals. The profit payment may be paid on a schedule separate from the cost reimbursement payments (e.g., quarterly, semi-annual, or annual). The funding source grant agreement for the project must also be reviewed to ensure there are no profit limitations set by the funding agency. Profit is evaluated using qualitative and quantitative factors and the approach must consider risk, subrecipient effort, and investment.

Lease versus Purchase Analysis

Where applicable, an analysis will be made of lease versus purchase alternatives to determine which would be most beneficial, economical, and practical for Worksystems, the program, and the funding source. Capital leases (lease-to-own) are treated as equipment.

Equipment

Equipment is defined as tangible property having a useful life of more than one year and a per-unit cost of $10,000 or more. A purchase must be identified as equipment at the time the *Purchase Request Form* is executed.

- When pre-authorization is required by the funder to purchase equipment, documentation from the applicable funding source must be secured before the purchase process may begin.
- When using federal funds, equipment purchases are considered approved if included in the federal grant proposal and therefore do not require approval prior to purchase.
- Computing devices below $10,000 per unit are treated as supplies and must follow the applicable procurement level based on total purchase amount.
- The provisions of 2 CFR 200.216 apply to all purchases of telecommunications and video surveillance equipment or services.
- When purchasing IT and/or telecom equipment or services, NDAA FY2019 Section 889 restrictions apply.

Environmental and Energy Efficiency Preferences

Preference shall be given, to the extent practicable and economically feasible, for the purchase of products and services that conserve natural resources, protect the environment, are energy efficient, and contain the highest percentage of recovered materials.

Excluded Items

Purchase of the following items are excluded from this procurement policy:

- On-the-Job Training (OJT) and Incumbent Worker Training Contracts and training provided by Eligible Training Providers.
- Items included in Worksystems' Travel Policy.
- Administrative Costs, which are defined as costs associated with performing the following functions:
  - Accounting, budgeting, financial, and cash management
  - Procurement and purchasing
  - Property management
  - Personnel management and payroll
  - General legal services
  - Developing systems and procedures for administrative functions
  - Costs of goods and services required for administrative functions, such as:
    - Rental or purchase of equipment
    - Utilities
    - Office supplies
    - Postage
    - Rental and maintenance of office space
    - Travel costs for official business related to administrative activities

- Costs of information systems related to administrative functions, including:
  - Personnel, procurement, purchasing, contracting, property management, accounting, payroll, and website systems
  - Purchase, development, and operating costs of such systems

Purchase Authorization

All purchases of $1,000 or more, except for common office supplies purchased through an established agreement, require pre-authorization as established by Worksystems' Signature Authority document (Signature Authority). The *Purchase Request Form* is the documentation of purchase authorization. The *Purchase Request Form* is the first step required in initiating a purchase, including new contractor and subrecipient agreements or modifications that include adding or de-obligating funds over $1,000. The purpose of the *Purchase Request Form* is to ensure:

- ***Allowability***: The purchase has been determined to be necessary to accomplish the goals of the grant(s) to which it is being charged and is allowed by the funding source(s).
- ***Budget***: Determination has been made that the Worksystems' budget supports the expenditure prior to the purchase, and that the funds are earmarked or obligated for that purchase.
- ***Procurement***: The purchase meets policy, laws, and regulations for procurement rules.

Purchase Request Form Procedures

The *Purchase Request Form* requires signatures from the staff person making the request and the Manager with project oversight. The Manager attests that:

- The purchase is necessary for the work of the grant and is an allowable use of those funds.
- The appropriate procurement process has been or will be followed based on these Procurement Policies.
- Appropriate funder approval has been secured, if necessary.

The *Purchase Request Form* is submitted to the *Contracts and Procurement Specialist* to determine the procurement requirements. The Fiscal department will perform the following actions:

- The Worksystems budget will be reviewed and funds earmarked for obligation.
- Once all sections have been completed and it is determined that a purchase may proceed, the Purchase Request is completed with the signature of a authorized signer from the *Signature Authority* document.
- The signatures of the requester, Manager, the *Contracts and Procurement Specialist*, and fiscal are attestations that the purchase is allowable and there are funds available to pay.
- The *Purchase Request Form* will be assigned a number and entered into the fiscal system.

Price and Cost Analyses

Worksystems requires a documented price or cost analysis be performed in connection with every purchase greater than $15,000 (Level 2 and Level 3), including for contract or subrecipient modifications that add greater than $15,000 of funding. The cost or price analysis must clearly document how the cost incurred is necessary, reasonable, allowable, and allocable to the appropriate funding source(s).

- A price analysis is used when examining and evaluating a total proposed price without the need to evaluate its separate cost elements. It is completed when the price or rate can be compared in the commercial market and a determination can be made that the price is fair and reasonable without the need to see the individual cost elements. Price analyses are typically completed for *Professional Services Agreements* and are completed on the *Price Analysis Form*.
- A cost analysis is completed for the purchase of services where individual cost elements need to be reviewed to determine if they are necessary, reasonable, allocable, and allowable. Examples of individual cost elements may include personnel, operating, and participant, and indirect costs. Cost analyses are typically completed for subrecipient agreements and are documented on the Cost Analysis Tab of the *Budget Narrative Workbook*.

Price Analysis Form Procedures

To complete a price analysis, use one of the following techniques and document the review using the *Price Analysis Form*:

- Compare the rates or prices of each quote or proposal to one another.
- Compare proposed rates or prices with rates or prices under active contract and/or with rates or prices proposed in the recent past for the same or similar items or services. Be sure to factor in any market changes (e.g., product price changes) or other influences (e.g., inflation).
- Use measures such as dollars per good/service, or price per hour, etc. to compare prices and identify significant inconsistencies that warrant additional pricing inquiry.
- Compare competitor price lists, published catalog or market prices of commodities and products, similar indices, and discount or rebate arrangements.

Cost Analysis Form Procedures

Cost analyses are performed on budgets developed with identified elements of cost and a *Statement of Work* that describes the program or project. A *Budget Narrative Workbook (BNW)* is required for all cost-reimbursement agreements. The *BNW* provides details necessary to evaluate the individual items of cost and their relationship to the program or project and requires line item cost calculations and line item budget justifications for all of the costs.

When completing the *Cost Analysis Form*, the staff reviewer and Manager signature is an attestation of the review, including the analysis of the *Statement of Work*. The Compliance Review signature is by the *Compliance and Procurement Manager* or the *Chief Operating Officer*, and indicates that all required documentation is included, the review draws a reasonable conclusion based on the information provided, and the budget follows Worksystems policies and procedures.

To begin a cost analysis, verify the accuracy of the cost information submitted and evaluate based on:

- ***Necessity***. Staff with an understanding of the program services must review the proposed direct cost elements to determine their necessity to perform the scope of work. A cost may be allowable under the cost principles and reasonable in amount, but still not necessary to achieve the specific contract outcomes.
- ***Allowability***. The applicable cost principles and grant agreement will provide guidance as to whether a type of cost is allowable or not. If the reviewer is unsure of the allowability of a proposed cost, consult with Fiscal or Compliance staff.
- ***Allocability***. The cost is assignable to a specific project or program based on the relative benefit received (the cost provides a benefit to the program) and can be distributed to the program in reasonable proportion to the benefit received.
- ***Reasonableness***. An assessment of whether the nature and amount of a cost reflect what a prudent person would pay in a competitive marketplace. A cost may be allowable and allocable yet still be unreasonable if it exceeds what would ordinarily be paid for similar goods or services.

When conducting the review, proposed costs may be compared with:

- Actual costs previously incurred by the same provider for the same or similar work. Apply any appropriate inflation factors to past costs.
- Actual costs of previous experience with the same or similar work performed by other providers.
- Previous cost estimates from the proposing provider or other proposals for the same or similar items.

Apply the review to the elements of cost outlined in the *BNW*, including but not limited to:

- ***Personnel Expense***: Review the personnel information included in the *BNW*. Determine that the purpose and costs are appropriate based on the deliverables and proposed timeline. Line item budget justification should contain enough information to determine that the position is necessary to the scope of work. Ensure no one staff is budgeted at over 1.0 FTE for a year term.

  When considering personnel expenses associated with an increase to an agreement, determine that changes to personnel expense are necessary and reasonable for the changes in the scope of work or the number of participants the provider is expected to serve.
- ***Operating Expense***: Review operating expenses relative to program operations and the staff dedicated to the work. The provider's operating expenses should align with the required scope of work. Line item cost calculations should be based on the contractor's Cost Allocation Plan submitted to Worksystems. Review the line item cost calculations and line item budget justifications to determine that the costs are necessary.
- ***Participant Expense***: Analysis should confirm that participant expense categories align with grant requirements, the scope of work, and/or the number of participants the provider is expected to serve. Ensure that the expenses are allowable under applicable *Regional Program Standards*. Review the line item cost calculations and line item budget justifications for accuracy and necessity.

- ***Indirect Costs/Rates***: Worksystems' Fiscal staff are responsible for review, approval, and acceptance of provider indirect cost rates. Analysis and/or support documentation for indirect costs is reviewed using the entity's Federal Indirect Cost Rate agreement. If the provider does not have a current negotiated indirect cost rate with a Federal cognizant agency, the provider may charge the de minimis rate of modified total direct costs (2CFR 200.1 and 200.414).
- ***Subcontracts***: If it is approved that a provider will have subcontractors, each subcontractor is required to complete a *BNW* with the same level of detail for their portion of the contract funds so the costs and justifications for the entire project budget can be reviewed. Follow the review guidelines for all budgets.

Procurement Records

Documentation must be maintained that supports Level 1, Level 2, Level 3, Sole Source procurements, and Subrecipient Awards, and must include: rationale for method of procurement, selection of contract type, basis for contract price, basis for contractor selection or rejection. The *Contracts and Procurement Specialist* will manage the documentation and maintain the records in Worksystems files.

Procurement Documentation

- Signed *Purchase Request Form*: All purchases in excess of $1,000.
- *Cost or Price Analysis Form*: All purchases in excess of $15,000 (Levels 2 and 3, Sole Source, and Subrecipient Awards).
- Level 2 – Simplified Acquisitions: *Quotes Documentation Form*.
- Level 3 – Competitive Procurement: *Request for Proposals* solicitation, scope of the procurement announcement, copies of the responses, signed evaluation scoring forms, the basis for selection and/or non-selection of proposals and appeals.
- Sole Source: *Sole Source Purchase Justification Form* and related supporting documentation.
- Subrecipient Awards: *Subrecipient Award Form.*

Contract Agreements

The *Compliance and Procurement Manager* or *Contracts and Procurement Specialist* will determine the appropriate contract type (Professional Services or Subrecipient Agreement). Extensions or renewals may be granted if performance has been met or if the contractor or subrecipient is receiving Technical Assistance or Corrective Action and demonstrating improvement in meeting performance. New budgets and performance will be negotiated for each extension or renewal year. The Fiscal department will issue contract numbers as necessary.

All contract agreements will contain appropriate certifications, assurances, clauses, and conditions as required by applicable federal, state, and local laws and regulations, and the funding source(s).

Any entity that receives a contract or subrecipient agreement must provide their Unique Entity Identifier and be registered in the System for Award Management (www.sam.gov) with no restrictions prior to contract execution.

The *Contracts and Procurement Specialist* or designee is the only staff that may obtain the Chief Executive Officer's signature on contracts and any agreement committing Worksystems to a financial obligation.

Contract Agreement Types

Contract types may include, but are not limited to:

- Firm Fixed Price – A firm fixed price contract provides for a set, predetermined price for the specified work, which is not subject to adjustment based on the contractor's actual costs.
- Cost Reimbursement – A cost-reimbursement agreement provides for payment of actual, allowable costs incurred in performing the work, up to an established budget or ceiling amount.

The following contract types are prohibited:

- Cost Plus a Percentage of Costs – A contract in which the contractor is reimbursed for allowable costs and paid a fee that is calculated as a fixed percentage of those actual costs.
- Time and Materials – A contract that provides for payment based on fixed hourly labor rates and the actual cost of materials. Permitted only after a determination that no other contract is suitable. If used, the contract must specify a ceiling price that the contractor may not exceed except at its own risk.

Contract Effective Dates

Contracts issued as a result of procurement activities will not have a contract term start date earlier than:

- The grant/funding effective date.
- The date of the documented procurement decision.

The *Contract Information Form* is used to initiate all contract agreements. It is required for each new contract or modification to an existing contract.

Vendor Proprietary Agreement Procedures

When a vendor requires an authorized Worksystems signature on the vendor's proprietary agreement, the following procedures apply:

- If the agreement amount exceeds $1,000, a *Purchase Request Form* is required.
- If the agreement amount exceeds $15,000, Level 2 Procurement process applies (see above in policy).
- Submit the vendor's agreement to the *Contracts and Procurement Specialist* to forward to the *Compliance and Procurement Manager* for review and approval.
- *Contract and Procurement Specialist* will manage agreement execution, including:
    - Ensuring all required procurement documentation is completed.
    - Securing Worksystems' Chief Executive Officer's signature.
    - Distributing the fully executed agreement to Fiscal and the responsible program staff.

Program staff are responsible for managing the terms around termination and auto-renewal, if applicable. Auto-renewal may not occur unless all required procurement actions have been completed for the renewal period. If the funding ceases, program staff are responsible for the timely notification to the *Contracts and Procurement Specialist* in order to terminate the Agreement per its terms and conditions.

References

- 2 CFR 200.216Contra
- 2 CFR 200.317-200.327
- 2CFR 200.331
- 2 CFR 200.334