**HEARTLAND WORKFORCE SOLUTIONS, INC.**

**PROCUREMENT PROCEDURES**

**PURPOSE**

This policy covers guidelines and processes for use by Heartland Workforce Services, Inc. (HWS) for the procurement of supplies, equipment, and other services with federal and non-federal funds. When purchasing with federal funds all procurement regulations must be met regardless of the guidelines and processes outlined in this policy. These policies are adopted to ensure that such materials and services are obtained in an effective manner. The standards contained herein do not relieve the agency of the contractual responsibilities arising under its contracts. HWS is the responsible authority, without recourse to the awarding agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into in support of an award or other agreement. This includes disputes, claims, and protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to Federal, State or local authority, as may have proper jurisdiction. Any staff member may initiate the procurement process. A staff member who initiates the procurement process must then complete all steps in the process as detailed in the procurement policy and procedures. If the procurement requires prior approval, the Executive Director ensures that all information and justification are submitted to the agency to obtain prior approval.

**REFERENCES**

29CFR95.40-48, NE LB403, OMB Circular A-110, OMB Circular A-133 and Workforce Investment Act regulations at 663.300, City of Omaha procurement policy, State of NE Procurement Procedures.

**BACKGROUND**

This policy establishes procedures for HWS to comply with the procurement requirements

**CONTENT**

HWS has established a code of conduct for Board members and employees engaged in the awarding and administration of contracts using grant funds. The code of conduct is attached to and made a part of these procurement policies. Violation of the code of conduct shall be grounds for disciplinary action including removal from the Board or termination of employment. An official position may not be used for personal gain, nor shall aboard or staff engage in any business transaction, none have a financial or other interest, direct or indirect, which is a conflict with the proper discharge of duties. Announcement of a potential conflict must be made and refrain from further discussion or voting. No board member or staff shall, without proper authorization, disclose confidential information concerning the procurement of property and services administration or affairs of the Board. Nor shall they use such information to advance the financial or other private interest of themselves or others.

Federal regulations require that written standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection; award or administration of a contract supported for Federal funds if a real or apparent conflict of interest would be involved. Included are employees, officers or agents and any member of his or her immediate family, partner, or organization which employees or is about to employ any of the parties, has financial or other interest in the firm selected for an award.

No Board member or staff shall, without proper authorization, disclose confidential information concerning the procurement of property and services, administration or affairs of the Board. Nor shall they use such information to advance the financial or private interest of themselves or others. Violation of the code shall be grounds for disciplinary action including removal from the Board or termination of employment.

**PROCESS**

HWS Procurement Policy is a stepped system for competitive procurement overseen by the Executive Director and the Chief Financial Officer. For purchases up to $5000, a vendor may be used if they have been evaluated as a reasonably competitive vendor. To be determined reasonably competitive, every 24 months at least three vendors will be evaluated on value and price regarding the most common office supplies needed by HWS plus consideration will be afforded to new or minority vendors. We will choose the lowest, best priced vendor and use them exclusively for the purchase of basic office supplies as they have them available. This will enable HWS to take advantage of sales, discounts, or closeouts with that vendor, keep overall purchases reasonable in relation to the general market, and streamline the purchasing process. If that vendor does not carry the item needed, then an evaluation of prices from other vendors will be sought with online, catalog or call/inquiry and or written price quotation, similar to the $5000-20,000 procedure but occur only as needed within that 24 month timeframe. For purchases of $5000-20,000 an evaluation of competitive telephone, catalog and /or written price quotations from a minimum of three qualified vendors is required. Pre-approval by the Executive Director must be obtained. Written specifications are recommended to accompany a bid for purchases of $10,000-20,000.

All procurement of goods or services over $20,000 will follow the City of Omaha Procurement Process and use a formal competitive process like the Request for Quotation (RFQ) or Request for Proposal (RFP) method. The formal competitive process will be published, at a minimum, in the area newspaper with the highest circulation. A reasonable period of time will be provided to RFQ or RFP respondents. All purchases for equipment, furnishings, and/or services of $20,000 or above must have pre-approval through a resolution from the Omaha City Council authorizing the purchase. WIA purchases for equipment and furnishings must also receive pre-approval from the WIA grantor agency, the Nebraska Department of Labor. (Attachment A – City of Omaha Procurement Policy)

Specifications for goods and services shall be based on a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not contain features that unduly restrict competition. Brand name or equal descriptions may be used as a means to define performance or other salient requirements of procurement, if the specific features of the named brand, which must be met by bidder/offerors are clearly defined.

City of Omaha’s policy under Sec. 10-111, Joint governmental purchases policy permits City Council, by resolution, to accept a single fixed, firm price that provided by a cooperative purchasing unit. This unit represents joining other public corporations or units of government, within the state or nation, in cooperative procurement of materials, equipment, work or services. Such cooperative procurements are based upon competitive bids secured by a cooperating public corporation or unit of government. They are permitted as they represent the lowest possible price as secured by the government.

Documentation of the procurement and selection process shall be retained in accordance with Workforce Investment Area record retention requirements and the City of Omaha. A procurement checklist will accompany purchases to help ensure appropriate processes and procedures are followed. (Attachment B – Procurement Checklist)

**BONDING**

Bonding is required for construction or facility improvement contracts in excess of $100,000 which requires commitment such as a bid bond, certified check or negotiable instrument accompanying a bid to result in contract, performance bond for 100% of contract price or payment bond for 100% of contract price.

WIA funds cannot be used for construction or facility purchases or improvements.

Contracts/grants will be reviewed for adherence to specifications during the RFQ process as described in the Procurement Procedures as well as adherence to the assurances and certifications included in the contract/grant during the monitoring process. Contracts/grants will be monitored following the HWS Monitoring Policy. Each contract/grant award will contain a description of the scope of work, period of the award, budget and other specifications as appropriate.

**CONTRACT PROVISIONS**

In the limited contracts in excess of the simplified acquisition threshold as stated in this policy, the majority of contract provisions required for WIA expenditures include:

* Termination for cause and convenience
* Termination for default
* Damages
* Compliance with WIA
* Access to Contractors records
* Maintenance of records
* State energy conservation.
* Utilization of federal immigration verification system as required by Neb.Rev. Stat. 4-108 through 4-114.
* EEO/ADA/Drug Free workplace provisions as appropriate.

RFP attachments must address:

* Anti-lobbying certificates
* Debarment and Suspension certificate

For construction or renovation contracts in excess of $100,000 it will be necessary to include

* Copeland Anti-kickback
* Labor standards/Davis Bacon Act and Sections 103-107 of Contract work Hours (DOL 29CFR part 5)
* A bid guarantee for construction of facility improvements which exceed $100,000
* Patent rights, copyrights and rights in data

Affirmative Action considerations will be made in making effort to solicit and utilize small business, minority-owned firms and women’s business enterprises, whenever possible. This will include gaining access to the Chamber list of minority owned and small businesses and actively seeking bids.

**COST ANALYSIS**

Procurement with the option to lease or purchase, an analysis shall be made to determine which would be the most economical and practical alternative. Specifications for goods and services shall be based on a clear and accurate description of the technical requirement for the material, product or service to be procured. The description shall not contain features that unduly restrict competition. Brand name or equal descriptions may be used as a means to define performance or other salient requirements of procurement, if the specific features of the named brand, which must be met by bidder/offers’, are clearly defined.

**PROTEST PROCEDURES**

Disputes arising out of any procurement conducted by HWS shall be settled at the lowest level of protest as agreed upon by the protesting agent and in accordance to the Grievance/Complaint Process. Under this process, WIA staff, program applicants, participants, recipient of grant awards, contracts, labor unions, service providers, etc., may file complaints alleging violations of the Act, or other federal and state rules. This process may also be used to cover most not covered by Equal Opportunity complaint process. Complaints under this process must be in writing and must adhere to the timelines specified. Complaints for the process must be submitted to: Executive Director of Heartland Workforce Solutions, Inc. 4383 Nicholas, Suite 301, Omaha, NE 68131. Complaints may be filed with the Executive Director and appealed to the WIB Chairman or his/her designee within 180 days of the award date and allow 90 days from Notice to Final Action.

Protests that involve the award of a contract will be treated in a consistent manner starting with consideration of the issue as a complaint until it progresses to a grievance. Procedures specific to protest of the procurement process are necessary and must be included in public offerings.

Contract retention requirements should reflect the requirements of WIA and may reflect those of the City of Omaha.

(29CFR95.40-48, 29CFR95 Appendix A State, 20CFR5664 and 667; WIA Procurement Policy, State WIA Record Retention Policy,), LB403, Freedom of Information Act)

**STEPPED PROCUREMENT PROCESS**

1. Procurement with a unit acquisition cost of less than $5,000 may be authorized by use of the Request for Purchase Requisition.
2. Use of a Request for Purchase Requisition is required to request and authorize all grant expenditures to vendors except:
3. Monthly recurring expenses such as telephone, utilities, and rent.
4. Contractual expenses which are authorized by contracts, including service and maintenance agreements.
5. Payroll and employee benefit expenses, which are authorized by approved time cards and/or payroll withholding agreements.
6. Mileage and per diem expenses, which are, authorized by specific Request/Reimbursement Authorization forms.

Therefore, items such as supplies, programs, materials, property, equipment and repairs require the Request to Purchase Requisition.

1. Guidelines for Issuance of Purchase Requisition.

The issuance of a purchase order shall be governed by the following provisions:

1. Purchase of Individual Items less than $5000

A purchase requisition shall be prepared for Executive Director or her designee approval. Any appropriate vendor may be used if the vendor has an established price, which is reasonably competitive with other vendors in the area.

1. Purchase of Individual Items between $5000-$20,000

A purchase requisition shall be issued after approval by the Executive Director or their designee, and receipt and evaluation of competitive telephone, catalog and/or written price quotations from a minimum of three qualified vendors or with documentation from the joint governmental purchasing plan.

1. Purchase of Individual Items exceeding $20,000

A purchase order shall be issued only after an authorized, formal, competitive bid process using either the Request for Quotation or Request for Proposal method for non-WIA purchases. WIA purchases for equipment, furnishings, and/or services of $20,000 or above must have pre-approval through a resolution from the Omaha City Council authorizing the purchase and NDOL-State of Nebraska. City of Omaha procurement procedures will be followed in this instance along with any additional requirements of NDOL. After receipt and evaluation of written quotations received from a minimum of three qualified vendors, the lowest, best bid that meets criteria included in the RFQ or RFP shall be awarded. It shall be noted that at present, capital purchases and real property are disallowed costs under WIA. When purchasing equipment and furnishings with WIA funds, pre-approval from the grantor agency, the Nebraska Department of Labor must be secured and documented.

1. Property and equipment purchases with a unit cost greater than $5000 but not falling under the Capital Expenditure category shall follow the procedures detailed below.

A purchase requisition shall not be issued until the appropriate requirements of B.2. or B.3. above are met.

1. Purchase of Capital Expenditures (an article of non-expendable tangible personal property, having useful life of more than two (2) years and acquisition cost of $5,000-20,000 or more per unit shall meet the requirements in section B.2. or B.3. above as they apply.
2. Purchase of Capital Expenditures, with grant funds and a unit acquisition cost less than $20,000 does not require prior approval by the grantor agency. The city’s procurement policy, in accordance with federal guidelines, should be followed instead.
3. General Preparation of Purchase Requisitions.

Purchase requisitions are prepared by the individual requesting the needed item. Purchases and bids should be sought and documented from small businesses and minority owned businesses whenever possible. The Greater Omaha Chamber of Commerce list of minority and women owned businesses shall be reviewed for discovery of vendor lists. The list may be accessed online. Minority contractor’s lists are likewise online. Use of the procurement requisition and checklist is recommended. Otherwise, include the following:

* 1. Name of individual making the request.
  2. Date
  3. Vendor
  4. Quantity
  5. Unit Cost
  6. Total Cost
  7. Review of minority, small business and women owned businesses for goods or services.

1. Approval of Purchase Requisitions.

The Executive Director or designee will determine the following before approving purchase requisitions:

* 1. Funds are available for the expenditure
  2. The expenditure is allowable
  3. The expenditure is necessary to the program
  4. The expenditure is reasonable to the success of the program
  5. The expenditure is for items that are non-duplicative
  6. A price analysis has been submitted when needed.

1. Procurement with a unit acquisition cost of less than $5,000 may be authorized by use of a Purchase Order. However, every 24 months re-occurring purchases should be re-evaluated and research documented in an effort to ensure HWS continues to purchase goods from vendors who offer the best and/or least expensive materials. This practice should be extended if items purchased are in quantities that the individual purchases are consistently less than $5000 with attention to the cumulative cost of items and whether or not they exceed $5000 on an annual basis.

For items equal or greater than $5,000 and less than $20,000, requisitions are submitted to the Executive Director for written approval. For purchases exceeding $20,000, purchase order may be issued only after approval by the Omaha City Council if using WIA monies. Approval by the Executive Director is also required. Procurement processes must follow the after a formal, competitive process using either the Request for Quotation or Request for Proposal method has been completed. RFP shall be published, at minimum, in the Omaha World Herald. Documentation of the procurement and selection process shall be retained in accordance with Workforce Investment Area record retention requirements.

1. RFQs or RFPs shall specify the services to be procured and the technical requirements for the material, product or service to be procured. Appropriate performance standards should be developed and included in RFPs for employment and training services.
2. RFQs or RFPs shall clearly specify all requirements that the bidder/offeror must fulfill including the factors to be evaluated by Greater Omaha Workforce Investment Area. A clear and accurate description of the technical requirements for the material, product or service to be procured must be provided. In competitive procurement, such description shall not contain features, which unduly restrict competitions. Specific features of “brand name” descriptions that bidders are required to meet are prohibited. Preference, to the extent practicable and economically feasible, will be given to products and services that conserve natural resources and protect the environment and are energy efficient. Efforts shall be made to utilize small business, minority-owned firms and women’s business enterprises, whenever possible.
3. Protests procedures will be included in an RFP regarding an award of contract will be handled in a like manner as other protects or grievances. A formal grievance will be handled within the procedural guidelines as written. A complaint will be handled with care but does not require a formal response, tracking nor does it fall under the same critical nature of a formal grievance.
4. All quotations or Proposals received in response to an RFQ or RFP shall be evaluated by using predetermined criteria. At least two entities: CFO of HWS and/or another employee or committee shall participate in oversight. These will include the CFO and the HWS Program Director and/or the CFO or Program Director and a designated committee to oversee the RFP process. A committee shall be appointed as it is specific to the objective of the committee.
5. The RFP will include the following information within the public offering:
6. Responsibility of the offeror (capacity, experience, EEO, debarment/suspension, technical skills, adequate financial resources, necessary organization, experience, accounting and operational controls, ability to meet performance goals etc.)
7. Technical evaluation (demonstrated past performance, program design, and ability to meet specifications at a reasonable cost).
8. Cost and price analysis (comparison to estimated cost, price and reasonableness).
9. Other relevant factors (specific to the procurement).
10. Responsible CBO’s(CBO’s are private non-profit organizations which are representative of communities or significant segments of communities which provide education and/or job training services, literacy organizations, organizations providing service opportunities, community action agencies, community development corporations, rehabilitation organizations, union-related organizations, employer-related nonprofit organizations and agencies that serve older individuals, youth, individuals with disabilities, veterans , displaced homemakers, or non-reservation Indians, as well as tribal governments and Native Alaskan groups) submitting quotations or proposals shall be rated on the basis of a point bonus evaluation process. The evaluation process shall also give consideration to factors including contractor integrity, record of past performance, pattern of failing, financial, and technical resources or accessibility to other necessary resources.
11. A system will be maintained to ensure contract conformance with the terms, conditions and specification of the contracts and to ensure adequate and timely follow-up. Contractor performance will be evaluated to determine that the terms, conditions and specifications of the contract have been met. Documentation will be maintained as appropriate.

Contracts will be written to include provisions or conditions that allow for administrative, contractual or legal remedies in instances in which a contractor violates or breaches the contract terms and provides for such remedial actions as may be appropriate. All contracts shall contain suitable provisions for termination by the agency, including the manner by which termination shall be effected and the basis for settlement.

Each proposal for the provision of program services will be reviewed in the light of all known resources that are currently available to the potential beneficiaries of the services being included in any bid. In cases of overlap or potential duplication of services, bidders will be required to justify and, as necessary, modify their proposals to account for the existence of all complementary resources. All Invitations for Bids, Requests for Proposals or Request for Quotes will require that respondents address their knowledge of willingness and ability to coordinate their proposed services with other existing resources.

Electronic records will be retained for the requisite time per WIA law. The record will be maintained in paper form or as a scanned electronic file, clearly marked. Back up records of files will be maintained for a minimum 5 years and as long as the contractor/vendor is providing goods or services.

**CONDUCT OF BOARD MEMBERS AND HWS STAFF**

The proper operation of a democratic process requires that actions of Board members and employees be open and impartial; that decisions and policy be made in the proper channels of HWS organizational structure; that neither Board membership nor HWS staff positions shall be used for personal gain; and that the public have confidence in the integrity of the Board and its staff. In recognition of these goals the Council has established a written Code of Ethics for all Board members and staff.

**SECTION A - CODE OF ETHICS**

1. No Board member, individual or member of the immediate family, his or her partner or an organization which employs, or is about to employ, any of the above or has a financial or other interest in the firm or staff shall use their official position for personal gain, or shall engage in any business or transaction, or shall have a financial or other interest, direct or indirect, which is in conflict with the proper discharge of their duties.
2. Board members and staff shall announce a potential conflict of interest exists and refrain from further discussion and voting concerning any issue or organization discussed during any meeting in which the individual has a direct or indirect interest. The Board member shall either leave the room and vote not present or shall abstain from voting when a potential conflict of interest occurs.
3. No Board member or staff shall, without proper authorization, disclose confidential information concerning the procurement of property and services, administration, or affairs of the Board. Nor shall they use such information to advance the financial or other private interest of themselves or others.
4. No Board member or staff shall accept any gift, favor or item of value that may tend to influence the discharge of their duties, or grant in the discharge of their duties any improper favor, service, or item of value.
5. Any Board member or staff offered a gift or favor who is not sure if its acceptance is a violation of the Code of Ethics should inform the Board Chairperson of the gift offer. The Chairperson will make a decision or confer with the HWS, Inc. Executive Director.
6. No Board member or staff shall represent private interests in any action or proceedings against the interest of the Board in any matter in which the Board is a part.
7. State law prohibits Board employees from having a financial interest in companies, which do business with public agencies, with minor exceptions. Employees who have any doubt concerning possible violation of these statutes are advised to consult their own attorney.
8. No Board member, immediate family member, partner or staff shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independent judgment of action in the performance of their official duties. Any Board member or staff having doubt as to the applicability of a provision of the code to a particular situation should consult the Board Chairperson.
9. Violation of the code shall be grounds for disciplinary action including removal from the Board or termination of employment.

**SECTION B - POLITICAL ACTIVITY**

1. Board members and staff may voluntarily participate in political activities of their choice and freely express their views as a citizen.
2. Board members and staff may not use their position for coercion of other Board members or staff for political purposes.
3. No employee may run for partisan political office while employed by the Grant Recipient. Board members may run for any partisan political office. If elected to an office the member must inform the Board Chairperson.
4. If a Board staff member has any questions concerning political activity, or whether they are subject to restrictions, they should consult the Grant Recipient Executive Director for an opinion.

**SECTION C - USE OF HWS WIA GRANT PROPERTY**

1. No Board member, Board staff or HWS employee shall use or allow to be used any HWS or Workforce Investment Act Grant property for personal use.

**Attachments:**

* 1. **City of Omaha Procurement Policy**
  2. **Procurement checklist**