

# ADMINISTRATION HANDBOOK

## Section 13

### Procurement

#### Overview

##### Introduction

The San Bernardino County Board of Supervisors has enacted policies governing the procurement of goods, supplies, equipment, and services for all County Departments. These procedures are included in San Bernardino County Procurement Manual. The Workforce Development Department (WDD) adheres to San Bernardino County procurement policies. The County's policies do not address all of the elements mandated by a grantor agency for grants awarded to the Department, WDD will defer to the policies mandated by the grant.

The Workforce Innovation and Opportunity Act (WIOA) Public Law 113-128, Title 20 Code of Federal Regulations (CFR) Part 200 and 2900 provides guidance for the administration of the WIOA program. The intent of the federal government is to ensure the procurement policies are free and open competition and must secure the best possible price.

The U.S. Office of Management and Budget (OMB) issued the [Uniform Guidance](#) under Title 2 CFR Part 200, in order to streamline the guidance on administrative requirements, cost principles, and audit requirements for federal awards. The Uniform Guidance provides fiscal and administrative guidance for the administration of the WIOA program, including specific requirements for purchasing goods or services.

##### References

This handbook chapter contains information regarding WIOA regulations, signed into law in 2014 and State directives received from the Employment Development Department (EDD):

##### Workforce Services Directive (WSD)

- #15-25
- #16-10
- #17-08
- #21-05
- #16-05
- # 16-16
- #18-06

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# Definitions

**Introduction** This section provides the definitions and terms outlined in the Uniform Guidance under Title 2 CFR Part 200 issued by the U.S. Office of Management and Budget (OMB).

**Definitions and terms** The following table lists the terms and definitions used throughout the chapter.

Term	Definition	Uniform Guidance Section, directive or Contracting Manual
Consultant	An individual with specialized skills who, although not on the subrecipient's payroll as an employee, provides personal services to the subrecipient under an agreement which establishes an employer-employee relationship between the subrecipient and the individual providing the services.	200.459
Contract	A legal document a subrecipient purchases property/services needed to carry out the project/program under a federal award.	200.22
Contractor	An entity who receives a contract.	200.319
Conflict of interest	An employee, officer, agent, or any member of the organization who has interest in a financial gain or tangible benefit and who participates in the selection, award, or administration of a contract supported by a federal award.	200.318[c][1])
Cooperative agreement	<ul style="list-style-type: none"><li>• A legal document of financial assistance between a federal awarding agency or pass-through entity and a non-federal entity that is used to enter into a relationship.</li><li>• Is distinguished from a "grant agreement" in that it provides for substantial involvement between the federal awarding agency or pass-through entity and the non-federal entity in carrying out the activity contemplated by the federal award.</li></ul>	200.24
Cost Analysis	An element-by-element review and evaluation of the estimated or actual cost to determine the probable cost to the contractor.	200.27 – 200.29
Data Universal Numbering System (DUNS)	<ul style="list-style-type: none"><li>• A nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&amp;B) to uniquely identify entities.</li><li>• A non-federal entity is required to have a DUNS number in order to apply for, receive, and report on a federal award.</li></ul>	WSD 18-06

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## Definitions, Continued

### Definitions and terms (continued)

Term	Definition	Uniform Guidance Section or Contracting Manual
Equipment	<ul style="list-style-type: none"> <li>Tangible personal property (including information technology systems) having a useful life of more than one (1) year and a per unit acquisition cost of equal or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000.</li> </ul>	200.33
Grant Agreement	<ul style="list-style-type: none"> <li>A legal document of financial assistance between a federal awarding agency or pass-through entity and a non-federal entity used to enter into a relationship.</li> <li>Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the federal awarding agency or pass-through entity and the non-federal entity in carrying out the activity contemplated by the federal award.</li> </ul>	200.51
Information Technology Systems	Computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), licensing or subscriptions to software and software support services, and related resources	200.58
Invitation for Bid (IFB)	<ul style="list-style-type: none"> <li>A type of solicitation document used in a formal competitive bidding process, which contains a detailed statement of what the agency is attempting to purchase.</li> <li>An IFB is used to obtain simple, common, or routine services that may require personal or mechanical skills.</li> <li>Qualifying bidders compete solely on the basis of cost.</li> </ul>	California State Contracting Manual, Chapter 5
Non-federal entity	A state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a federal award as a recipient or subrecipient.	200.69
Pass-through Entity	A non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.	200.74
Price Analysis	<ul style="list-style-type: none"> <li>The process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.</li> <li>This process determines whether the price is fair and reasonable.</li> </ul>	200.323

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## Definitions, Continued

### Definitions and terms (continued)

Term	Definition	Uniform Guidance Section or Contracting Manual
Procurement	All stages of the process of acquiring property or services, beginning with the process for determining a need for property or services and ending with a contract completion and closeout.	200.317 – 200.326
Questioned costs	<ul style="list-style-type: none"> <li>Any cost or procurement questioned by an auditor, pass-through entity or awarding agency representative.</li> <li>Purchases can be questioned due to possible violations of statutes and regulations, inadequate documentation or possible unreasonable costs.</li> </ul>	2900.3
Request for Proposal (RFP)	<ul style="list-style-type: none"> <li>Type of solicitation document, used in a formal competitive bidding process where an invitation is presented for suppliers to submit a proposal on a specific commodity or service.</li> <li>The RFP: <ul style="list-style-type: none"> <li>Process brings structure to the procurement decision and is meant to allow the risks and benefits to be identified clearly up front, and</li> <li>Is used to obtain complex services in which professional expertise is needed and may vary and/or where different methods and approaches may be applied during performance.</li> </ul> </li> </ul>	California State Contracting Manual, Chapter 5 and County Procurement Manual
Request for Quote (RFQ)	A type of solicitation document, used in a formal competitive bidding process, mainly when the specifications of a product or service are already known and when price is the main or only factor in selecting the successful bidder.	California State Contracting Manual, Chapter 5 and County Procurement Manual
Subaward or Subgrant	<ul style="list-style-type: none"> <li>An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity.</li> <li>It does not include payments to a contractor or payments to an individual who is a beneficiary of a federal program.</li> <li>A subaward may be provided through any form of legal agreement, including an agreement the pass-through entity considers a contract.</li> </ul>	200.92

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## Definitions, Continued

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### Definitions and terms (continued)

Term	Definition	Uniform Guidance Section or Contracting Manual
Subrecipient or Subgrantee	<ul style="list-style-type: none"><li>• A non-federal entity who receives a subaward/subgrant from a pass-through entity to carry out part of the federal program but does not include an individual who is a beneficiary of such program.</li><li>• A subrecipient/subgrantee may also be a recipient of other federal awards directly from the federal awarding agency</li></ul>	200.93
Supplies	All tangible personal property other than equipment.	200.94

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# WIOA Requirements

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## Introduction

In addition to the requirements outlined in Uniform Guidance Sections 200.318 through 200.326, there are other requirements applied to procurements and agreements funded under Workforce Innovation and Opportunity Act (WIOA). This section lists the additional requirements under WIOA.

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## Additional requirements

The following are additional requirements for entities funded under WIOA.

- All procurement contracts between Workforce Development Department (WDD) and the federal and state government must be conducted on a cost-reimbursement basis (Department of Labor (DOL) Final Rule Section 683.200[c][4]).
  - Any fixed amount award with a governmental or nonprofit agency resulting in revenues in excess of actual costs incurred, the excess revenues are considered to be program income (DOL Final Rule Section 683.200[c][7]). Any fixed amount awards should reference this requirement. For more information regarding program income, refer to the Workforce Services Directive (WSD 15-25).
  - The Workforce Development Board's (WDB's) strategic plan must contain a procurement policy and a competitive process used to award contracts funded under WIOA and training services outside the Individual Training Account (ITA) (DOL Final Rule Section 679.560[b][15]).
  - The procurement requirements do not apply to the identification of eligible training providers. The state is responsible for the development and maintenance of a statewide training provider list.
  - While not a federal requirement, each grantee should have a formal agreement for services when a training provider is to deliver services. This may be in the form of a purchase order, contract, voucher, or other mechanism that provides for payment information and may be incorporated or referenced in the individual ITAs.
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# Consultant vs. Contractor

<b>Introduction</b>	This section provides information as to whether Workforce Development Department (WDD) staff will utilize a consultant vs. a contractor for the procurement.
<b>Definitions</b>	<p>Employment Development Department (EDD) defines a Consultant and Contractor as follows:</p> <p><b>Consultant</b> – A consultant is an individual with specialized skills who, although not on the subrecipient's payroll as an employee, provides personal services to the subrecipient under an agreement which establishes an employer-employee relationship between the subrecipient and the individual providing the services. Consultants are typically individuals who are experts with excellent qualifications and are usually regarded as authorities or practitioners of unusual competence and skill by other individuals engaged in the same profession. An employer-employee relationship may be found to exist when the subrecipient selects the individual based on expertise in a particular field, directs the individual's work, and exercises day-to-day control of the individual's activities.</p> <p><b>Contractor</b> – An entity that receives a contract as defined above. The Uniform Guidance replaced the word "vendor" with the word "contractor." Contractors are governed by Uniform Guidance Section 200.319 (Competition) and follow procurement requirements.</p>
<b>Consultant vs. Contractor</b>	WDD staff must determine if an individual or business entity is identified as a consultant providing consultant services, subject to Consultant Fee Limitations or a contractor.
<b>Checklist</b>	<p>To assist with the determination, staff will complete the Consultant vs. Contractor checklist to justify the appropriate method for the procurement.</p> <p>The Consultant vs. Contractor checklist is part of the 003 DocuSign process.</p>
<b>Consultant fees</b>	<p>The Department of Labor (DOL) issues federal award, which includes the consultant fee limit, the terms, and conditions. That award, as well as the pass-through entity responsibilities, which requires any grant award or subgrant financed in whole or part under that award must also include and comply with the limit.</p> <p>Currently the Consultant Fee Limitation is set at \$750 per day and \$93.75 per hour based on an eight-hour workday, which could be subject to change by program year or grant. Any fees paid in excess of the fee amount cannot be paid without prior approval from the "Grant Officer."</p>

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## Consultant vs. Contractor, Continued

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### Consultant services

The cost of consultant services provided by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the governmental unit, are allowable if services are reasonable and not contingent upon recovery of the costs from the federal government.

No single factor or any special combination of factors is necessarily determinative. An individual or business entity identified as a consultant providing consultant services, and would be subject to the Consultant Fee Limitation, includes, but is not limited to, the following:

- A service in which the primary outcome is a detailed analysis of a particular subject or situation.
- A service in which the primary outcome is a suggestion or a recommendation about the best course of action, or information about a fact or situation in a formal or official way.
- A service performed by an individual that ordinarily identifies themselves as, or whose firm ordinarily identifies that individual as, a “consultant,” with respect to their performance of that service.
- A service that the person or firm providing the service ordinarily identifies as a “consulting service.”
- A service that the associated solicitation, quote, offer, or contract identifies as a “consulting service.”

**Note:** Any retainer fees must be supported by evidence of bona fide services available or rendered.

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### Contractor services

The term “contractor”, sometimes referred to as a vendor, a dealer, distributor, merchant or other seller providing goods or services that are required to implement a Federal program (2 CFR 200.23). Contractors are governed by Uniform Guidance Section 200.319 and follow procurement requirements. Contractor includes, but is not limited to the following:

- Fee based.
  - Fee is based on market value of goods and services provided.
  - Provision of goods and/or services to multiple customers as part of their routine business operations.
  - Provides a pre-determined good or service for a pre-determined time.
  - Not necessarily engaged in the implementation of a project or Local Area services, provides the good or service needed.
  - More likely a business entity, rather than an individual (though may be structured as a sole proprietorship).
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# Types of Agreements

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## Introduction

This section describes the types of agreements utilized by the Workforce Development Department (WDD) under the guidance of the Workforce Development Board (WDB). Selection of an agreement type for a particular activity reflects the characteristics of the services provided.

The agreement types described are not intended to limit the Department in any way in selecting, designing and customizing agreements to meet the needs of the Department, its customers, and contractors.

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## Procurement methods

All procurement methods are to be conducted in a manner providing for full and open competition. No procurement transaction will contain any requirements:

- Restricting competition,
- Unfairly promoting a single contractor or product,
- Placing excess burden on a contractor, or
- Presenting an organizational conflict of interest.

The type of purchase method is generally determined by the “per transaction” value of the procurement and the type of good or service being purchased. Purchases are not to be broken down into smaller components to avoid more stringent procurement requirements.

Within the context of open competition, there are five (5) procurement methods subrecipients may utilize to procure goods or services:

- Micro purchase
  - Small purchase,
  - Sealed bids,
  - Competitive proposals, and
  - Noncompetitive proposals.
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## Micro-purchase

Micro-purchase method is used when the value of a purchase is less than the micro-purchase threshold and may be used without soliciting competitive quotations if the price is reasonable. The micro-purchase threshold is periodically updated based on inflation.

To the extent practicable, micro-purchases must be distributed equitably among qualified suppliers. Although micro-purchases are not required to receive prior written or purchase approval, they must still be documented.

The Fiscal threshold is set by the Federal Acquisition Regulation (FAR); currently the threshold is \$10,000 per FAR 48 CFR Subpart 2.1. The threshold is periodically updated based on inflation.

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## Types of Agreements, Continued

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**Small purchase** Use the small purchase procurement method when value of a purchase of supplies, equipment or services is less than the simplified acquisition threshold. The simplified acquisition threshold is periodically updated based on inflation.

The use of informal quotations are used for small purchase procurements, in lieu of the more expensive and time consuming sealed bid or competitive proposal methods:

- Purchases under \$1,000 require only sole source justification
- Purchases between \$1,000 and \$89,999 require a minimum of three (3) documented quotes. Documented quotes can be obtained from:
  - Catalogs,
  - Price lists,
  - Prior receipts, or
  - A contractor in writing or via verbal quotes.
- Purchases between \$50,00 to \$99,999 requires a written scope of work
- Purchases between \$10,000 and \$150,000 require a formal Request for Quote (RFQ) and a minimum of three (3) written quotes. The RFQ should:
  - Include a detailed description of the procurement, quantity sought, timeframe, and any other requirements for procurements.
  - Be made available to contractors to provide formal written quotations. Written quotations specific to the procurement is required from three (3) or more interested contractors.

**Note:** Some of the limits outlined above include the County Procurement limit requirements. Catalogs or price lists should be no more than one (1) year old.

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**Sealed bids** Generally, sealed bid procurement method is used when the value of the good or service for purchase will be more than the simplified acquisition threshold and can be precisely defined. The desired procurement must have a complete, adequate and realistic specifications or purchase description.

The sealed bid process requires the issuance of an Invitation For Bid (IFB). The IFB must be publicly solicited or advertised to an adequate number of known suppliers, provide sufficient time to respond, and clearly state specifications, bidding processes, and dates. The IFB defines the:

- Quantity,
- Timeframes,
- Product requirements,
- Specifications, and
- Pertinent attachments of the good or service for purchase.

A diligent effort to secure at least three (3) competitive bids. Notify Contractors of the purchase requirements and submit a sealed bid to a specified location by a specified date and time.

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## Types of Agreements, Continued

### Competitive proposals

Typically, competitive proposals are used when the value of the good or services will be more than the simplified acquisition threshold but cannot be defined as precisely as required by the sealed bid method.

Competitive proposals are specifically used when factors other than price are important in the selection decision or if the technical requirements or specifications are of a functional nature or unclear.

The Request for Proposal (RFP) must be publicly solicited or advertised to an adequate number of known suppliers. Contractors submit a proposal based on the purchase requirements of the RFP to a specified location by a specified date and time to be evaluated.

Written justification explaining the limited participation is required if less than three (3) bids are received during a competitive process. The justification should include name of the firms and individuals contacted.

**Note:** Refer to ADMIN Handbook Chapter 9 – Contracts for the RFP/RFQ process.

### California Training Initiative (CTI)

The California Workforce Association (CWA) issues an in-depth competitive RFP to assess training and consulting services for California's Workforce system. The CTI list allows for a streamline access to several of the Nation's premiere consultants, facilitators, and trainers in Workforce for CWA Members and Affiliate Members. The CTI allows WDD to access other experts that are not available locally.

Regional Planning Units (RPUs)/Local Workforce Development Boards (LWDBs) who want to contract with a CTI training provider or consultant may "piggyback" on the CWA procurement and develop contracts with CWA CTI training providers. Piggybacking a contract allows an agency to use an existing procurement process/contract from another agency, as the justification and documentation to form his/her own contract directly with the vendor to purchase the same or similar items or services.

Depending on the need, if there are multiple experts on the list, WDD can solicit proposals from multiple individuals/organizations from the CWA CTI list.

When the CWA CTI consultant is used, the contract is with CWA and not the vendor; the vendor's contract is with CWA. The table below outlines the process the Staff Analyst will complete when utilizing the CWA CTI list for procurements:

Step	Action
1	<ul style="list-style-type: none"><li>Go to the CWA CTI <a href="#">website</a>,</li><li>Access the CWA CTI Consulting and Trainings List, and</li><li>Contact individuals/organizations from the CWA CTI list by phone or email to solicit proposals.</li></ul>
2	<ul style="list-style-type: none"><li>Complete the CWA CTI Training Request Form when an individual/organization has been selected for approval, and</li><li>Send the completed CWA CTI Training Request Form to the CWA representative listed on the form/website.</li></ul>

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## Types of Agreements, Continued

### California Training Initiative (CTI), continued

Step	Action
3	<ul style="list-style-type: none"> <li>• Notify CWA what information must be included in the contract between them and the vendor, and</li> <li>• Request copy of the vendor's submitted proposal and contract (prior to the vendor signing contract) with vendor for County Counsel to review.</li> </ul>
4	<ul style="list-style-type: none"> <li>• Create Board Agenda Item, if applicable, and</li> <li>• Create Contract with CWA</li> </ul>
5	Send WDD and CWA contract and contract between CWA and vendor to County Counsel for review and approval.
6	<ul style="list-style-type: none"> <li>• Return CWA vendor contract to CWA representative along with any County Counsel changes,</li> <li>• Obtain copy of signed contracts between: <ul style="list-style-type: none"> <li>– CWA and Vendor, and</li> <li>– WDD and CWA</li> </ul> </li> <li>• Save copy of the signed contracts in the Admin Share Drive CWA CTI folder.</li> </ul>

### Noncompetitive proposals

Use noncompetitive proposals only under certain limited circumstances. The reason for selecting this method along with the justification for the provider selection must be carefully documented and maintained. The purchase must be infeasible under one of the other methods and one of the following conditions apply:

- The good or service is available from only one source.
- Public emergency creates an immediate procurement need (e.g., a flood or fire requires the immediate availability of services).
- The federal awarding agency or pass-through entity authorizes the specific noncompetitive procurement (upon a formal request for approval).
- Competition is determined inadequate. This usually occurs after a sealed bid or competitive process was used and there are insufficient bidders.

### Vendor type/fee for service

Vendor type/fee for service payment is based on the school-established tuition and/or other related costs per participant. The cost must be a standard cost or advertised in a catalog and the same cost is available to the general public, less any financial aid received by the school on behalf of the participant.

### Cost reimbursement

Cost reimbursement is based on actual costs incurred, and expenditures must follow the terms and conditions of the contract and abide to reasonable and allowable costs prescribed by WDD.

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## Types of Agreements, Continued

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**Fixed unit price contract (FUPC)**

Fixed unit price contract is based on a specified price for deliverables irrespective of the actual costs incurred. The price may be a single price for the entire agreement or single unit charges with payment contingent on delivery of specific units.

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**Letter of intent to award**

The Letter of Intent to Award is an interim binding agreement used by the Department when it is essential to notify the prospective service providers of the intent to enter into a contract with them. The letter may serve as a notice to plan training services. However, prior to the effective date of the fully executed and final contract document, approved by San Bernardino County Board of Supervisors, no costs may be incurred or reimbursed.

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**On-the-job training (OJT) contracts**

An employer in the public or private sector provides On-the-Job Training (OJT). A contract may be developed between the employer and WDD to provide occupational training for participants in exchange for reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs (WIOA section 134(c)(3)(h)).

WDD will adopt and follow OJT guidelines set forth in the WIOA (20 CFR Part 680, et al) including, but not limited to, the following:

- Will not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.
  - An OJT contract must be limited to the period-of-time required for a participant to become proficient in the occupation for which the training is being provided.
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**Customized training**

Customized training is training:

- Designed to meet the special requirements of an employer,
  - Conducted with a commitment by the employer to the employee or trainee to continue to employ the individual(s) upon successful completion of the training, and
  - For which the employer pays for not less than 50 percent of the cost of the training (WIOA section 134(c)(3)(h)).
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## Types of Agreements, Continued

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### Memoranda of Understanding/ Cooperative agreements

WDD may enter into Memoranda of Understanding (MOU) agreements of collaboration and cooperation with other agencies in order to provide a:

- Broader range of services,
- Reduce duplication of services, and
- Leverage funding and resources.

In addition, legislation may mandate such agreements as a condition of funding. The terms of such agreements will adhere to the provisions required by pertinent regulations, and will include at a minimum the following considerations, as necessary and appropriate:

- Services to be provided.
  - Funding and operating costs.
  - Methods of customer referral.
  - Duration of the agreement.
  - Procedures for amending the agreement.
  - Insurance and indemnification provisions.
  - Other provisions agreed to by the parties involved.
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### Required contract clauses

Contracts entered into by subrecipients may be fixed price or cost reimbursement, depending on the method of procurement and goods or services being procured. All agreement terms must conform to County Policy 11-05, or otherwise receive Board of Supervisors approval. Each agreement funded by federal funds must contain the following contract clauses:

- Contracts in excess of the simplified acquisition threshold, administrative, contractual, or legal remedies where contractors violate or breach contract terms. The clause must provide for sanctions or penalties, as appropriate.
  - Termination for cause and for convenience by the awarding agency, including the process for exercising the clause and any basis for settlement (applies to contracts in excess of \$10,000).
  - Compliance with Equal Employment Opportunity (EEO) and nondiscrimination provisions.
  - Compliance with the *Davis-Bacon Act* or prime construction contracts in excess of \$2,000.
  - Compliance with the *Contract Work Hours and Safety Standards Act* for contracts in excess of \$100,000 involving the employment of mechanics or laborers.
  - Compliance with Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants for any small business or nonprofit organization.
  - Compliance with the *Clean Air Act* and the *Federal Water Pollution Control Act* for any contract in excess of \$150,000.
  - A provision requiring contracts be issued for any entity listed on the Excluded Parties List System in the System for Award Management.
  - Compliance with the Byrd Anti-Lobbying Amendment for contractors bidding over \$100,000.
  - Compliance with the *Solid Waste Disposal Act* for items in excess of \$10,000.
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# Cost/Price Analysis

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## **Introduction**

The Workforce Development Department (WDD) staff shall perform a cost or price analysis in connection with procurement, including contract modifications when funding is involved. A cost or price analysis, using the state approved form, will include:

- The comparison of price quotations submitted,
  - Market prices and similar indicia, and
  - Discounts.
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## **Price reasonableness**

Price reasonableness may be established on the basis of the catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. Use a price analysis in all other circumstances to determine the reasonableness of the proposed contract price. Each element of cost will be reviewed to determine reasonableness and allowability.

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## **Reasonable costs**

All Workforce Innovation and Opportunity Act (WIOA) procurements must be “necessary and reasonable” in the operation of the WIOA programs and conform to the following:

- Consistent with uniform guidance and established policies and procedures.
- Similar costs must be considered either direct or in-direct costs.
- Costs must:
  - Be determined with generally accepted accounting principles.
  - Not be used as cost sharing or matching requirements.
  - Be adequately documented.

Procurements may benefit other non-WIOA/organizational operations as long as the procurement is necessary to WIOA program and the cost can be distributed in proportion of use. Costs cannot be shifted to additional programs to overcome fund deficiencies or to avoid federal restrictions

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## **Lease versus purchase analysis**

The department shall perform a cost comparison using present value analysis to evaluate the time value cost differential between a proposed lease and a direct purchase. The following information will be considered, the:

- Estimated
    - Purchase price or market value of the equipment.
    - Proposed monthly lease cost.
    - Monthly amount of any other life cycle costs the department will incur for the equipment.
    - Date the equipment will no longer be needed
  - Number of months the department expects to lease the equipment.
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## Cost/Price Analysis, Continued

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### **Disallowed Costs**

Funds used for procurements determined by an auditor, the cognizant agency, the pass-through entity or authorized awarding agency representative to be unallowable will be returned to the federal government. Such unallowable procurements are defined as questioned costs in Department of Labor (DOL) Exceptions Section 2900.3. Questioned costs could result from the following:

- Procurements violating statute, regulations, or terms and conditions of award.
  - Procurements without support documentation.
  - Procurements with unreasonable costs.
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# State Approved Purchase of \$5,000 or More

## Introduction

The State of California requires the Workforce Development Department (WDD) to obtain prior approval before charging Workforce Innovation and Opportunity Act (WIOA) grant funds for purchases:

- Of equipment, property and/or services with a per unit cost exceeding \$5,000, or
- With cumulative costs exceeding \$5,000 over a 12-month period.

Additional Competitive or Non-Competitive Procurement procedures may apply and may require Workforce Development Board (WDB) approval.

**Note:** Refer to ADMIN Handbook Chapter 2 for WDB agenda item procedures.

## Definition

Definitions used by the state under WIOA regulations:

- **Equipment:** Tangible (i.e. furniture), non-expendable personal property having a useful life of more than one (1) year and an acquisition cost of \$5,000 or more per unit including all cost related to the property's final intended use.
- **Property:**
  - Durable goods,
  - Equipment,
  - Buildings,
  - Installation, and
  - Land.

## Information Technology (IT)

All Information Technology (IT) purchases, which could include computer equipment, licenses, subscriptions, tangible equipment, and **services** related **only to IT** with a cost of \$5,000 or more will **require prior State approval**.

Email requests for approval to the State, and each document must be separate and labeled accordingly (i.e. "Cost Analysis", "Quote #1 ABC", "Quote #2 EFG", etc.).

## Approval process

The following steps outlines the process for obtaining State approval for purchases of \$5,000 or more.

Step	Who	Action
1	Staff Analyst II (SA II)	<ul style="list-style-type: none"><li>• Verify with Fiscal, funds are available and appropriated in the current fiscal year's budget to purchase the desired equipment, property and/or services.</li><li>• Obtain at least three (3) quotes or informal bids through one of the following methods:<ul style="list-style-type: none"><li>– Written (recommended)</li><li>– Verbal</li><li>– Facsimile</li><li>– E-mail, or</li><li>– Prepare a sole source justification, if applicable, or</li><li>– Conduct a cost Analysis for a Competitive or Non-Competitive Procurement.</li></ul></li></ul>

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## State Approved Purchase of \$5,000 or More, Continued

### Approval process (continued)

Step	Who	Action
1, continued	SA II	<ul style="list-style-type: none"> <li>Complete the 003, following existing process, prior to completing the State's form,</li> <li>Complete the State's "Request for Approval to Charge WIOA Funds for the Cost of Property" form, and</li> <li>Submit 003 to appropriate administrative staff to obtain the appropriate approval signatures.</li> </ul>
2	Admin Support Staff	<ul style="list-style-type: none"> <li>Obtain the appropriate approval signatures: <ul style="list-style-type: none"> <li>Facility Manager (if necessary)</li> <li>Supervisor</li> <li>Administrative Supervisor II (AS II)</li> <li>Assistant Director</li> <li>Director</li> </ul> </li> <li>Notifies the SA II once the 003 has been approved.</li> </ul>
3	SA II	<ul style="list-style-type: none"> <li>Submit completed "Request for Approval to Charge WIOA Funds for the Cost of Property" form,</li> <li>Create cover letter for the Assistant Director to sign, and</li> <li>Attach all quotes, forms, and back-up material, and</li> <li>Send to WDD's Assistant Director for submission to state</li> </ul>
4	Assistant Director	<ul style="list-style-type: none"> <li>Submits procurement request to state for approval, and</li> <li>Sends notification approval letter to SA II for processing</li> </ul>
5	SA II	<ul style="list-style-type: none"> <li>Proceed with appropriate procurement process,</li> <li>Obtain the appropriate signatures on applicable agreements: <ul style="list-style-type: none"> <li>Vendor</li> <li>County Counsel</li> <li>Buyer</li> <li>WDD Assistant Director (Submit to WDD Administrative Assistants)</li> <li>WDD Director (Submit to WDD Administrative Assistants)</li> </ul> </li> <li>Submit documentation, including state approval letter, to WDD Fiscal for processing.</li> </ul>
6	Fiscal	<ul style="list-style-type: none"> <li>Reviews procurement for completion</li> <li>Enters information into the SAP</li> <li>Notifies the SA II with Contract number</li> </ul>
7	SA II	<ul style="list-style-type: none"> <li>Contact the selected vendor upon receipt of a purchasing (PR) number from Purchasing,</li> <li>Order the desired equipment, property and/or services,</li> <li>Acquire an official invoice from vendor once the equipment, property and/or services are delivered,</li> <li>Verify the amount invoiced matches the amount previously approved,</li> <li>Sign and date invoice, and</li> <li>Submit signed invoice to the Fiscal Unit – Accounts Payable to process payment to vendor.</li> </ul>

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## State Approved Purchase of \$5,000 or More, Continued

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**Note:** Additional information obtained from [County Policy 11-04](#) states, the:

- Purchasing Agent may approve competitive and non-competitive purchase of services where the annual aggregate cost, per scope of services, vendor, agency, department or Board-governed Special District does not exceed \$200,000. The Board of Supervisors must approve any contract exceeding \$200,000 during a single annual period.
  - Maximum contract term is five (5) years. The Board of Supervisors must approve contracts exceeding a five-year term. Indefinite term or automatically renewing contracts are not permitted unless approved by the Board of Supervisors. Contracts and any options to extend do not exceed \$100,000 annually, may be approved by the Purchasing Agent.
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# Low Value Purchase

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## Introduction

San Bernardino County allows departments to use Low Value Purchase (LVP) to vendors for goods and services not to exceed the limits and guidelines established by the County Procurement Policy. The LVP limits and guideline is \$3,000 per vendor per day (with exceptions).

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## LVP methods

The LVP may be used in limited situations through the following methods:

- Petty Cash – Cash funds are available within each department to facilitate their acquisition of small purchases. These funds are used for making change, petty cash expenditures and as a cash difference fund.
  - Cal-Card – CAL-Card purchases are designed to allow a quick, easy method of procuring inexpensive, non-recurring items for departmental operations. Workforce Development Department (WDD) has delegated staff who have been given authorization to procure up to \$3,000 per vendor, per day for items within certain parameters established by the Purchasing Department.
  - Amazon - The County utilizes a Master Amazon Business Prime account. Procurement cardholders can make low value purchases up to \$3,000 with the proper department authorization. Purchases are limited to the cost of the item, and additional costs such as assembly fees or warranties are not permitted.
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## LVP process

Complete the following process for LVPA purchases.

Step	Action
1	Obtain at least three (3) quotes or informal bids through one of the following methods: <ul style="list-style-type: none"><li>• Written (recommended)</li><li>• Verbal</li><li>• Facsimile</li><li>• E-mail</li></ul>
2	<ul style="list-style-type: none"><li>• Complete the department's "Services/Supplies/Equipment Requisition Form" (003), and</li><li>• Obtain the appropriate approval signatures:<ul style="list-style-type: none"><li>– Facilities Manager (if necessary)</li><li>– Supervisor</li><li>– Deputy Director</li><li>– Fiscal</li><li>– Director</li><li>– Deputy Executive Officer</li></ul></li></ul>
3	<ul style="list-style-type: none"><li>• Complete the Purchasing Department's "Low Value Purchase Quote Form".</li><li>• Complete the Purchasing Department's "Non-Competitive Purchase Justification Form" if less than three (3) quotes were received.</li></ul>

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## Low Value Purchase, Continued

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### LVP process (continued)

Step	Action
4	<ul style="list-style-type: none"><li>• Send all documents to Fiscal Unit – Accounts Payable staff member, and</li><li>• Obtain the appropriate LVP number.</li></ul>
5	<ul style="list-style-type: none"><li>• Contact the selected vendor once the LVP number is issued, and</li><li>• Order the desired goods or services.</li></ul>
6	<ul style="list-style-type: none"><li>• Acquire an official invoice from vendor once the equipment, property and/or services are delivered,</li><li>• Verify the amount invoiced matches the amount previously approved,</li><li>• Sign and date invoice, and</li><li>• Submit signed invoice to the Fiscal Unit – Accounts Payable staff member to process payment to vendor.</li></ul>

**Note:** All LVPs are subject to the \$100,000 limit per vendor, department and budgeted fiscal year.

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# Process for Resolving Disputes and Claims

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<b>Introduction</b>	<p>This section provides guidance on the process the Workforce Development Department (WDD) completes when resolving claims and disputes from vendors or contractors.</p> <p><b>Note:</b> Disputes regarding Request for Proposal are handled by the Purchasing Department.</p>
<b>Filing a claim/dispute</b>	<p>Vendors or contracts may file a claim or dispute by submitting a written request to:</p> <p style="text-align: center;">San Bernardino County Workforce Development Department (WDD) Attention: Assistant Director 290 North D Street, Suite 600 San Bernardino, CA 92415</p>
<b>Receipt of request</b>	<p>WDD will send a letter to the disputing agency within ten (10) working days acknowledging receipt of the claim or dispute.</p>
<b>Informal review</b>	<p>The WDD Assistant Director or his/her designee will review all claims and disputes. During the review process, the AS II may contact the disputing agency for further information and discussion.</p> <ul style="list-style-type: none"><li>• An agency may elect not to continue its claim or dispute. In this situation, the AS II will send a letter to the disputing agency, outlining the agency's agreement to withdraw the claim or dispute, including any applicable terms and conditions.</li><li>• Agencies electing to continue with the claim or dispute will be notified the claim or dispute will be referred to a review panel for consideration.</li></ul>
<b>Review panel</b>	<p>Within 30 working days of receipt of a written claim or dispute, a panel will convene to conduct a formal review of all claims and disputes not resolved through the informal review process. The review panel will consist of the following:</p> <ul style="list-style-type: none"><li>• Workforce Development Board (WDB) chairman, and</li><li>• WDD Director.</li></ul> <p>After considering all matters pertinent to the resolution of the claim or dispute, provide to the WDD AS II or his/her designee the panel's recommendations for a final determination.</p>
<b>Final determination</b>	<p>The WDD Assistant Director or his/her designee will notify the disputing agency, via certified or registered mail, of his/her final determination regarding the claim or dispute.</p>