

NORTHWEST MICHIGAN COUNCIL OF GOVERNMENTS  
**INVESTMENT POLICY**

**PURPOSE:**

It is the policy of the Northwest Michigan Council of Governments (COG) to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of the COG and complying with all state statutes governing the investment of public funds and federal regulation governing earnings on federal funds.

**SCOPE:**

This Investment policy applies to the assets accounted for in a special fund of the COG entitled "Reserve Fund". The COG's checking account is the financial instrument used for the deposit of state and federal funds. Due to federal prohibition of subrecipient earnings on federal funds, the COG checking account (and consequently federal funds) will not be included in this investment policy.

**OBJECTIVES:**

The primary objectives, in priority order, of the COG investment activities shall be:

1. **Safety.** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.
2. **Diversification.** The investments will be diversified by security type in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
3. **Liquidity.** The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
4. **Return on Investment.** The investment portfolio shall be designed with the objective of obtaining a rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

**DELEGATION OF AUTHORITY TO MAKE INVESTMENTS:**

Management responsibility for the investment program is hereby delegated to the Director of the Northwest Michigan Council of Governments. The Director is authorized to manage the custody of funds residing in the "Reserve Fund", including analyzing the cash flow requirements and determining when surplus funds will not be required for current expenditures. The Director is authorized to invest such surplus funds for a length of time that will maximize

yield yet ensure that such funds will become available when needed. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures followed by the Director. The Director shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

**AUTHORIZED INVESTMENT INSTRUMENTS:**

The Northwest Michigan Council of Governments in accordance with Michigan Public Act 20 of 1943, as amended, may invest in the following:

1. Treasury bills, Treasury bonds, Treasury notes, securities, and other obligations of the United States or an agency or instrumentality of the United States
2. Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution complies with subsection (2) of Act 20 PA 1943 as amended
3. Commercial paper rated at the time of purchase within the 2 highest classifications established by not less than 2 standard rating services and that matures not more than 270 days after the date of purchase.

Description: Short term unsecured debt obligation issued by a bank holding company, finance company, utility or industrial company to raise short term cash.

4. Repurchase agreements consisting of instruments listed in subdivision (a) of the Act 20 PA 1943 as amended

Description: This instrument is not a security but a contractual arrangement between a financial institution or dealer and an investor. The agreement normally can run for one to thirty days, but some can go longer. The investor puts up his funds for a certain number of days at a stated yield. In return he takes title to a given block of securities as collateral. At maturity the securities are returned and the funds repaid plus interest. Usual amounts are \$500,000 or more, but some repurchase agreements can be smaller. Interest is calculated the same as certificates of deposit.

5. Bankers acceptances of United States banks

Description: A negotiable time draft or bill of exchange drawn on and accepted by a commercial bank. Acceptance of the draft irrevocably obligates the bank to pay the bearer the face amount of the draft at maturity. Bankers' acceptances are usually created to finance the import and export of goods, the shipment of goods within the United States and the storage of readily marketable staple commodities. Bankers' acceptances are sold at a discount from par similar to US Treasury Bills., and, since an acceptance is tied to a specific loan transaction, the amount and maturity of the acceptance are fixed.

6. Obligations of the State of Michigan or any of its political subdivisions that at the time of purchase are rated as investment grade by not less than I standard rating service.

Description: Municipal bonds

7. Mutual Funds registered under the Federal Investment Company Act of 1940, composed of the investment vehicles described above. If the policy authorizes an investment in mutual funds, it must indicate whether the authorization is limited to securities whose intention is to maintain a net asset value of \$ 1.00 per share or also includes securities whose net asset value per share may fluctuate on a periodic basis.
8. Obligations described above if purchased through an interlocal agreement under the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.
9. Investment pools organized under the surplus funds investment pool act, 1982 PA 367, 129.111 to 129.118.
10. Investment pools organized under the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150.

**SAFEKEEPING AND CUSTODY:**

All security transactions, including collateral for repurchase agreements and financial institution deposits, entered into by the COG shall be on a cash (or delivery vs payment) basis. Securities may be held by a third party custodian designated by the Director and evidenced by safekeeping receipts as determined by the Director.

**PRUDENCE:**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Adopted by majority vote at a regular session of the Northwest

Michigan Council of Governments on Feb 16, 2001.

Denise Culman

Denise Culman, Recording Secretary

Northwest Michigan Works!, Inc.  
**Investment Policy**

I. Introduction

In June 2013 Northwest Michigan Works!, Inc. (NMW) established an Investment Account with Fifth Third Bank. The purpose of this investment policy statement is to establish management guidelines for the Investment Account.

II. Role of the Finance Committee

The Finance Committee (the "Committee") will act in a management capacity with respect to the Investment Account (the "Account"), and will be accountable to the Board of Northwest Michigan Works!, Inc. for its monitoring and evaluation.

A. This investment policy sets forth the investment objectives, distribution policies, and investment guidelines that govern the activities of the Committee and any other parties to whom the Committee has delegated investment management responsibility for the Account.

B. The investment policies contained herein have been formulated consistent with NMW's anticipated financial needs and in consideration of its tolerance for assuming investment and financial risk.

C. Policies contained in this statement are intended to provide guidelines, where necessary, for ensuring that the investments are managed consistent with the short-term and long-term financial goals of NMW. At the same time they are intended to provide for sufficient investment flexibility in the face of changes in capital market conditions and in the financial circumstances of NMW.

D. The Committee will review this Investments Policy at least once per year. The Fifth Third Bank Investments Manager will provide the Committee with a semi-annual policy statement and performance review.

III. Investment Objective and Spending Policy

The intent of the Account is to preserve the long-term, real purchasing power of assets without providing for regular or periodic cash acquisition. Cash acquisition, however, will require approval by the Committee at the request of the NMW CEO.

IV. Account Investment Policies

A. Asset allocation policy

1. The Committee recognizes that the strategic allocation of Account assets across broadly defined financial asset and sub-asset categories with varying degrees of risk, return and return correlation will be the most significant determinant of long-term investment returns and Account asset value stability.

2. The Committee expects that actual returns and return volatility may vary from expectations and return objectives across short periods of time. While the Committee wishes to retain flexibility with respect to making periodic changes to the Account's asset allocation, it expects to do so only in the event of material changes to Account or to the assumptions underlying the Account.
3. Outlined below are the long-term strategic asset allocation guidelines, determined by the Committee to be the most appropriate given the Account's long-term objectives and short-term constraints. The Account assets will be invested in a conservative manner and, under normal circumstances, will be allocated across broad asset classes in accordance with the following guidelines:

<u>Asset Class</u>	<u>Target Allocation</u>
Equities	13%-43%
Fixed Income	35%-65%
Cash	0%-10%
Real Estate Investments	2%-7%
Alternatives	10%-25%

B. Diversification policy

Diversification across and within asset classes is the primary means by which the Committee expects the Account to avoid undue risk of large losses over long time periods. To protect the Account against unfavorable outcomes within an asset class due to the assumption of large risks, the Committee will take reasonable precautions to avoid excessive investment concentrations.

C. Rebalancing

It is expected that the Account's actual asset allocation will vary from its target asset allocation as a result of the varying periodic returns earned on its investments in different asset and sub-asset classes. The Account will be periodically rebalanced to its target normal asset allocation by the Investments Manager.

D. Other investment policies

Unless expressly authorized by the Committee, the Account and its Investment Manager are prohibited from:

1. Purchasing securities on margin or executing short sales.
2. Pledging or hypothecating securities.
3. Purchasing or selling derivative securities for speculation or leverage.
4. Engaging in investment strategies that have the potential to amplify or distort the risk of loss beyond a level that is reasonably expected given the objectives of the Account.

Northwest Michigan Council of Governments dba Networks Northwest  
Northwest Michigan Workforce Development Board  
Northwest Michigan Works!, Inc.

## Procurement Policy

And

## Property Management Standards

Effective January 10, 2017

<b>Code of Standards/Conflict of Interest</b> .....	<b>1</b>
<b>Definitions</b> .....	<b>2</b>
<b>Acquisition</b> .....	<b>2</b>
<b>Acquisition Cost</b> .....	<b>2</b>
<b>Automatic Data Processing (ADP) Equipment</b> .....	<b>2</b>
<b>ADP-Related Services</b> .....	<b>2</b>
<b>ADP Software</b> .....	<b>2</b>
<b>Bid</b> .....	<b>2</b>
<b>Capital Improvements</b> .....	<b>2</b>
<b>Contract</b> .....	<b>2</b>
<b>Competitive Proposal</b> .....	<b>2</b>
<b>Equipment</b> .....	<b>3</b>
<b>Expendable Personal Property</b> .....	<b>3</b>
<b>Intangible Personal Property</b> .....	<b>3</b>
<b>Lease</b> .....	<b>3</b>
<b>Lease/Purchase</b> .....	<b>3</b>
<b>Maintenance, Operations, and Repairs</b> .....	<b>3</b>
<b>Micro-Purchase</b> .....	<b>3</b>
<b>Nonexpendable Personal Property</b> .....	<b>3</b>
<b>Noncompetitive Proposal</b> .....	<b>3</b>
<b>Property</b> .....	<b>3</b>
<b>Personal Property</b> .....	<b>3</b>
<b>Purchase</b> .....	<b>3</b>
<b>Real Property</b> .....	<b>4</b>
<b>Rent</b> .....	<b>4</b>
<b>Services</b> .....	<b>4</b>
<b>Sealed Bid</b> .....	<b>4</b>
<b>Service Provider</b> .....	<b>4</b>
<b>Sole Source Acquisition</b> .....	<b>4</b>
<b>Small Purchase</b> .....	<b>4</b>
<b>Space</b> .....	<b>4</b>
<b>Specifications</b> .....	<b>4</b>
<b>Supplies</b> .....	<b>4</b>

Subrecipient for Employment & Training Purposes.....	5
System .....	5
Tangible Personal Property .....	5
Value Engineering .....	5
Vendor.....	5
<b><i>Procurements</i></b> .....	<b>6</b>
Compliance with Workforce Development Agency PI 15-12 .....	6
General Procurement Standards .....	6
Purchase of Personal Property .....	9
Procurement of Property through Rental or Lease Agreements.....	9
Procurement of Employment & Training Services to Participants .....	9
Selection of Service Providers .....	9
Standards for Determining Demonstrated Performance.....	10
Procurement of Services Other than Employment & Training Services to Participants.....	11
Noncompetitive Proposals .....	11
Small Purchase and Competitive Proposals .....	12
Sealed Bids.....	12
<b><i>Contract/Lease Requirements</i></b> .....	<b>13</b>
Contract Provisions .....	13
Lease Requirements .....	14
<b><i>Property Management Standards</i></b> .....	<b>15</b>
Use of Equipment, Supplies and Intangible Property .....	15
Record Retention .....	15
Property Maintenance .....	16
Vestment of Title of Equipment.....	16
Inventory Requirements .....	16
Equipment Disposition .....	17
Missing or Stolen Equipment.....	18



## **Code of Standards/Conflict of Interest**

No individual in a decision-making capacity (including members of the Networks Northwest Board, encompassing the Board of Directors for the Northwest Michigan Council of Governments (NWMCOG) and members of the Northwest Michigan Workforce Development Board (NWMWDB), and employees of both the NWMCOG and the Northwest Michigan Works!, Inc. (NMW), collectively referred to as Networks Northwest, shall engage in any activity, including participation in the selection, award, or administration of a subgrant or contract, if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when the individual, any member of the individual's immediate family (wife, husband, son, daughter, mother, father, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, grandparents, stepparent, stepchild and grandchild), the individual's partner, or any organization which employs, or is about to employ, any of the previously listed parties, has a financial or other interest in the firm or organization selected for award.

No member of the Networks Northwest Board of Directors shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which would provide direct financial benefit to that member or his/her company or organization.

The board members, employees or agents of Networks Northwest will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or parties to subagreements. This does not include, however, gifts which are unsolicited and of nominal intrinsic value (such as those provided by vendors during the Christmas season).

Should this policy be violated by an employee of Networks Northwest, disciplinary action will be taken in accordance with the agency's personnel policies. Should this policy be violated by a Networks Northwest board member, the issue will be included on the agenda for the next regularly scheduled board meeting, and appropriate action will be decided by the Networks Northwest board. Should this policy be violated by a contractor or agent of Networks Northwest, the contract and/or agreement will be subject to termination or modification at the discretion of the CEO.

In the procurement of goods and services, neither the procurement method used, nor any of the staff persons involved in the procurement, will discriminate against any individual or company on the basis of age, sex, race, ethnic group, handicap, religion, or sexual orientation. This non-discrimination policy will apply to all procurements of Networks Northwest.

## **Definitions**

For purposes of this procurement policy, the following definitions shall apply:

### **Acquisition**

The purchasing or leasing of supplies, equipment, or services, or entering into a lease agreement.

### **Acquisition Cost**

The net invoice unit price, including the cost of modifications, attachments, accessories or auxiliary apparatus necessary to make it usable for the intended purpose. Other charges, such as, the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's or subgrantee's regular accounting practices

### **Automatic Data Processing (ADP) Equipment**

Any equipment, regardless of its use, size, or capacity, that performs logical, arithmetical, and storage functions by electronic manipulation of data and includes any property and communication facility directly related to or operating in conjunction with such a device. This excludes standalone calculators without peripheral data storage capability.

### **ADP-Related Services**

ADP services acquired to extend ADP functions. ADP-related services include systems analysis, programming, data conversion, hardware, maintenance, service bureaus, teleprocessing and other nonpersonnel services.

### **ADP Software**

Computer programs and routines used to extend the capability of ADP equipment, including software packages available through lease or purchase separately priced from ADP equipment and the documentation and training in support of that software.

### **Bid**

A written statement from a supplier that indicates the price of the item to be purchased or leased on the supplier's letterhead. Conditions (lease period, buy-out conditions) and method of acquisitions are also stated.

### **Capital Improvements**

Repairs or improvements to facilities, equipment or other capital assets which materially increase the productivity, value or serviceable life of the facilities, equipment or other capital asset.

### **Contract**

A formal written agreement between Networks Northwest and another party for the purpose of procuring services, space, equipment, and supplies.

### **Competitive Proposal**

Competitive proposals are conducted with more than one source submitting an offer and either a fixed-price or cost reimbursement type award is made. Competitive proposals must document procedures for the methodology used for technical evaluations, and award to the responsible

offeror whose proposal is most advantageous to the program with respect to price, technical and other factors considered.

**Equipment**

Tangible personal property including ADP hardware and software having a useful life of more than one year and a unit cost of \$5000 or more. Equipment is also referred to as "nonexpendable personal property."

**Expendable Personal Property**

Tangible personal property not classified as equipment. This includes items having an acquisition cost of less than \$5000 per item, as well as normal desktop or operating supplies.

**Intangible Personal Property**

Property, other than real property, with no intrinsic value; its value lies in the rights conveyed. Examples include copyrights, intellectual rights, other rights, and patents.

**Lease**

A written agreement which conveys specific equipment or facilities for a specified term at a specific cost, sometimes referred to as "rent". Rent/lease agreements for equipment do not permit payments that total more than the value of the equipment.

**Lease/Purchase**

Periodic scheduled payments which, upon final payment, transfer ownership from vendor to payer. For purposes of property management, lease/purchase is the same as purchase.

**Maintenance, Operations, and Repairs**

Maintenance, normal repairs, and alterations not to be considered as capital improvements.

**Micro-Purchase**

Acquisition of supplies or services where the aggregate cost is less than \$3,000.

**Nonexpendable Personal Property**

Nonexpendable personal property is referred to as "equipment", previously defined.

**Noncompetitive Proposal**

See Sole Source Acquisition

**Property**

Property of any kind except real property. It may be tangible (having a physical existence) or intangible (having no physical existence) such as patents, inventories and copyrights. Tangible property may be expendable (supplies) or nonexpendable (equipment).

**Personal Property**

Equipment, supplies, and materials, excluding land and buildings.

**Purchase**

A method of procurement in which title to an item changes hands.

**Real Property**

Land, including land improvements, structures and appurtenances and excluding movable machinery and equipment.

**Rent**

A method of procurement in which the title does not change hands (may also be referred to as a "lease").

**Services**

Services to participants and/or useful labor contracted for repair, maintenance, accounting, legal, bookkeeping, printing, insurance, and other services required for administration and overall operation.

**Sealed Bid**

Publicly solicited procurements for which a firm fixed price (lump sum or unit price) or other fixed price arrangement is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. Invitations for bids are publicly advertised, and solicited from at least three or more vendors. The invitation for bids shall include any specifications and pertinent attachments, and shall define the items or services in order for the bidder to properly respond.

**Service Provider**

Any subrecipient (including the NWMCOG and the NMW) that is responsible for the delivery of training and/or supportive services directly to participants. Awards to service providers may be made by subgrant, contract, subcontract, or other legal agreement.

**Sole Source Acquisition**

Procurement through solicitation of a proposal from only one source, the funding of an unsolicited proposal, or after solicitation of a number of sources, competition is determined inadequate.

**Small Purchase**

Acquisition of goods or services which cost less than \$150,000.

**Space**

Space in publicly or privately owned buildings used for the benefit of the NWMCOG or the NMW, including any administrative offices, sub offices, classrooms, and all other office or related facilities.

**Specifications**

Description of the item to be purchased or activities to be performed and the frequency of the time requirements. Specifications include sufficient detail to allow interested bidders to offer a responsible bid which conforms to the needed quality and performance requirements.

**Supplies**

Desktop items such as staples, pens, pencils, paper, etc. Supplies are also included under the definition of expendable personal property.

**Subrecipient for Employment & Training Purposes**

The legal entity to which a subgrant is awarded and which is accountable to the recipient (or higher-tiered subrecipient) for the use of the federal and/or state Employment & Training funds provided. Distinguishing characteristics of a subrecipient include items such as determining eligibility of applicants, enrollment of participants, performance measured against meeting the objectives of the program, responsibility for programmatic decision making, responsibility for compliance with program requirements, and use of the funds awarded to carry out an Employment & Training program or project, as compared to providing goods or services for a program or project (vendor).

**System**

A set or group of items related or connected so as to form a single working unit; for example, a computer system comprised of a keyboard, monitor, disk drive, and printer.

**Tangible Personal Property**

Property, other than real property, that can be seen, weighed, measured, felt, touched, or otherwise perceived by the senses.

**Value Engineering**

A systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

**Vendor**

An entity responsible for providing generally required goods or services. Distinguishing characteristics of a vendor include items such as providing the goods or services within normal business operations; providing similar goods or services to many different purchasers; and operating in a competitive environment. A vendor is not considered a subrecipient for Employment & Training purposes.

## **Procurements**

### **Compliance with Workforce Development Agency PI 15-12**

For expenditure of grant funds provided to Networks Northwest and its subrecipients by the Workforce Development Agency, State of Michigan, Policy Issuance 15-12 dated July 17, 2015 is incorporated into this procurement policy as an addendum. Networks Northwest or NMW employees who have purchasing authority shall read the addendum and incorporate its operating policies into their procurement process.

#### **General Procurement Standards**

##### **1. Competition**

No unfair requirements will be placed on procurements which could be restrictive of competition. Regardless of the method of procurement or the dollar value of the award, the procurement process will be conducted in a manner which provides for open and free competition.

Examples of situations which may be considered to be restrictive of competition include:

- i. placing unreasonable requirements on firms or organizations in order for them to qualify to do business;
- ii. requiring unnecessary experience and excessive bonding;
- iii. noncompetitive pricing practices between firms or organizations or between affiliated companies or organizations;
- iv. noncompetitive awards to consultants that are on retainer contracts (not to be confused with the employment of persons using a personal services contract);
- v. organizational conflicts of interest;
- vi. specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement;
- vii. overly restrictive specifications;
- viii. any arbitrary action in the procurement process.

##### **2. General Policy**

Procurements will not be used to duplicate facilities or services available in the area. The purchase of unnecessary items will be avoided. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease and purchase alternatives to determine which would be the most economical and practical procurement.

3. Selection Procedures for Procurement Transactions

All procurement solicitations shall: (1) incorporate a clear and accurate description of the technical requirement for the material, product or service to be procured, (2) identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals, and (3) when necessary, shall set forth those minimum essential characteristics and standards to which it must conform

4. Sole Source Procurements

All procurements may be conducted under the sole source procurement method if the conditions for sole source procurements are met.

5. Employment & Training Program Procurements

All parts of this procurement policy will apply to procurements with WIOA, Employment Service, and Welfare-to-Work funds, and to procurements with any other state or federal Employment & Training funds.

6. Employment & Training Program Income/Profit

Procurements which generate program income to help defray costs are encouraged. Program Income includes from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Program income does not include rebates, credits, discounts, refunds, or the interest earned on any of them. Assets acquired with federal funds may not be used to compete unfairly in the private sector.

Procurements with Employment & Training funds are not to permit excess program income or excess profit. If profit or program income is included in the price, profit or program income will be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.

To establish a fair and reasonable profit or program income, consideration will be given to:

- i. the complexity of the work to be performed;
- ii. the risk borne by the contractor;
- iii. the contractor's investment;
- iv. the amount of subcontracting;
- v. the quality of the contractor's record of past performance;
  - i. industry profit rates in the surrounding geographical area for similar work; and
- vi. market conditions in the surrounding geographical area.

7. Employment & Training Cost Reimbursement Basis

All Employment & Training procurement transactions between the Networks Northwest and units of state or local governments will be conducted on a cost reimbursable basis.

8. Deliverables and Basis for Payment

Each procurement will clearly specify deliverables and the basis for payment.

9. Small, Minority and Women-owned Business

Minority and women-owned businesses will be solicited for bids whenever they are potential procurement sources. The following affirmative steps are to be taken to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible:

- i. Placing qualified small, minority, and women's businesses on solicitations lists;
- ii. Ensuring that small, minority and women's businesses are solicited whenever they are potential sources;
- iii. Dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by small, minority, and women's businesses;
- iv. Establishing delivery schedules, where the requirements permit, which encourage participation by small, minority and women's businesses;
- v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- vi. Requiring the prime contractor, if subcontracts are to be let, to take the same affirmative steps.

10. Debarred and Suspended Parties

Networks Northwest, and any other subrecipients, will verify that procurements of \$25,000 or more do not result in an award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs. Verification will occur by checking the Excluded Parties List System on the federal System for Award Management (SAM) website at [www.sam.gov](http://www.sam.gov).

11. Contracts and Rental/Lease Agreements

Signed copies, of all executed contracts or rental/lease agreements (and any subsequent modifications) will be provided to the Accounting Department.

12. Nondiscrimination

Nondiscrimination on the basis of race, ethnic group, sex, religion or age will be practiced for all procurements.

13. Cost/Price Analysis

A cost/price analysis (as appropriate) will be performed for all formal and informal competitive procurements, including contract modifications and sole source procurements.



### ***Expenditure of Funds for Facility Construction or Purchase***

Prior WDA approval is required for all procurements (including capital leases) for the construction or purchase of buildings and land that is to be made in whole or in part with funds administered by WDA.

### **Purchase of Personal Property**

Purchase of expendable and nonexpendable personal property which costs less than the WDA simplified acquisition threshold of \$150,000 in the aggregate may use the small purchase method if price is the overriding factor and maybe easily quoted and compared, delivery is standardized, and performance outcomes are not dependent upon the content of the goods or services being procured.

Competitive proposals are to be used when there is more than one prospective bidder and either a fixed price or cost reimbursement agreement will be awarded. Additionally, competitive proposals are used when the lowest price is not necessarily the determining factor for award and the evaluation factors focus on approach, program design and outcomes.

Purchase of supplies or expendable personal property with an annual aggregate cost of less than \$3,000 may use the micro-purchase method procurement. Micro-purchases are to be distributed equitably amount qualified suppliers, as practical. They may be awarded without soliciting competitive quotes if the price is considered to be reasonable.

### **Procurement of Property through Rental or Lease Agreements**

Except as specified below, procurements through rental or lease agreements will use the competitive proposals method of procurement. Rent or lease agreements for equipment will not permit payments that total more than the value of the equipment.

When acquiring space in areas where competition is not sufficient to follow the competitive proposals method of procurement, the sole source method of procurement may be used.

### **Procurement of Employment & Training Services to Participants**

Except as provided below, procurement of Employment & Training services to participants which costs less than the WDA simplified acquisition threshold of \$150,000 in the aggregate will use the sealed bids or competitive proposals method of procurement.

On-the-job training (OJT) contracts and enrollment of individual participants in classroom training (CRT) will use the sole source method of procurement.

### **Selection of Service Providers**

The primary consideration in selecting agencies or organizations to deliver services within the Networks Northwest service area will be the ability of the agency or organization to deliver services

on a region wide basis if required, the degree of program integration with other employment & training programs, and provision of client support services, operated by other partners in the local One-Stop system, and the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants. In addition, consideration will be given to demonstrated performance in making available appropriate supportive services including child care. Proper consideration will be given to community-based organizations as service providers.

Employment & Training funds will not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve performance goals.

Appropriate education agencies located in the Networks Northwest service area will be given priority for providing educational services unless it is demonstrated that alternative agencies or organizations would be more effective or would have greater potential to enhance the participants' continued occupational and career growth.

No occupational skills training program will be funded unless the level of skills provided in the program are in accordance with guidelines established by the NMW.

### **Standards for Determining Demonstrated Performance**

Prior to the award of a grant, subgrant, contract or subcontract, demonstrated performance will be determined, will be in writing, and will take into consideration whether the organization has:

1. adequate financial resources or the ability to obtain adequate financial resources;
2. the ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals;
3. a satisfactory record of past performance including demonstrated quality of training or services, reasonable dropout rates from past programs, the ability to provide or arrange for appropriate supportive services, retention in employment, and earning rates of participants;
4. the ability to provide services that can lead to the achievement of competency standards for participants with identified deficiencies;
5. a satisfactory record of integrity, business ethics, and fiscal accountability;
6. the necessary organizational, experience, accounting and operational controls; and
7. technical skills to perform the work.

## **Procurement of Services Other than Employment & Training Services to Participants**

Purchase of services other than Employment & Training services to participants which costs less than the WDA simplified acquisition threshold of \$150,000 in the aggregate may use the small purchase method if price is the overriding factor and maybe easily quoted and compared, delivery is standardized, and performance outcomes are not dependent upon the content of the goods or services being procured.

Competitive proposals are to be used when there is more than one prospective bidder and either a fixed price or cost reimbursement agreement will be awarded. Additionally, competitive proposals are used when the lowest price is not necessarily the determining factor for award and the evaluation factors focus on approach, program design and outcomes.

Sealed bids may be used if the conditions outlined in PI 15-12 III. B. 3. are met.

Purchase of services with an annual aggregate cost of less than \$ 3,000 may use the micro-purchase method procurement. Micro-purchases are to be distributed equitably amount qualified suppliers, as practical. They may be awarded without soliciting competitive quotes if the price is considered to be reasonable.

### **Noncompetitive Proposals**

Procurement from only one source will be minimized to the extent practicable, justified, documented, and used only when the procurement is not feasible under micro-purchase, small purchase, competitive proposals, or sealed bids, and one of the following circumstances applies:

1. The item or service is only available from a single source.
2. A public emergency for the requirement not permit a delay resulting from competitive solicitation.
3. A public emergency must meet one of the following criteria:
  - i. Necessary for the imminent protection of public health.
  - ii. Emergency repairs to protect life or property.
  - iii. Unforeseen crisis requiring immediate procurement.
4. The federal awarding agency or WDA expressly authorizes noncompetitive proposals in response to a written request from the Entity.
5. After solicitation of a number of sources competition is determined inadequate. This usually occurs after a competitive process has been used and there are insufficient bidders.
6. The procurement is an Employment & Training program On-the-Job training contract (except OJT brokering contracts).
7. The procurement is enrollment of individual Employment & Training program participants in classroom training (CRT).

## **Small Purchase and Competitive Proposals**

Under the small purchase and competitive proposal method of procurement, price or rate quotations will be obtained from at least three qualified sources. Use of local vendors (vendors whose place of business is located within the ten county service area of Networks Northwest) is encouraged. Price or rate quotations will be documented and include the source of the price or rate quotation, the specifications upon which the price or rate quotation was made, and the signature of the staff person who obtained the price or rate quotation. If the desired vendor did not provide the lowest price or rate quotation, justification for vendor selection will also be included in the documentation.

Documentation for noncompetitive proposals must include a cost analysis and reason for sole-source selection. Prior approval from the WDA is required for all sole-source awards in excess of the WDA simplified acquisition threshold of \$150,000.

All of the following requirements apply to the competitive proposal method of procurement:

1. An independent estimate of the cost/price prior to receiving proposals.
2. Request for Proposals (RFP) must be publicized. RFPs must contain the specifications that provide a common understanding for the proposed goods or services and identify all the evaluation factors and their relative importance or weight in selection of successful bidders. Any response to publicized RFPs must be considered to the maximum extent practical.
3. Proposals will be solicited from an adequate number of qualified sources.
4. A written method for conducting technical evaluations of proposals received and for selecting recipients.
5. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program based on price and other evaluation factors.
6. Competitive proposal procedures may be used for qualifications-based procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

## **Sealed Bids**

Sealed bid is the preferred method for procuring construction.

All of the following requirements apply to the sealed bids method of procurement:

1. An independent estimate of the cost/price is made prior to receiving bids.

2. The Invitation for Bid (IFB) is publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
3. The IFB contains all specifications and pertinent attachments and defines the items or services to be procured in sufficient detail for the bidders to properly respond.
4. All bids are publicly opened at the time and place prescribed in the IFB.
5. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
6. Any or all bids may be rejected if there is a sound documented reason.

### **Contract/Lease Requirements**

#### **Contract Provisions**

A signed copy of each Networks Northwest contract will be supplied to the Accounting Department.

Contracts will clearly specify deliverables and the basis for payment. Contracts will also contain clauses that provide for:

1. termination for cause and for convenience by Networks Northwest including the manner by which the termination will be effected and the basis for settlement
2. notice of requirements pertaining to reporting or invoicing
3. payment conditions and delivery terms
4. process and authority for contract changes
5. provision against assignment
6. if applicable, the awarding agency a right to a price adjustment to exclude any significant sum by which the price was increased because the vendor had submitted price or rate quotation data that were not accurate, complete or current as certified in the bid

and in addition, for Employment & Training funded contracts,

7. compliance with the applicable regulations (subrecipient contracts only)
8. for contracts other than small purchases, administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, which will provide for such sanctions and penalties as may be appropriate
9. notice of requirements pertaining to patent rights
10. notice of requirements pertaining to copyrights and rights in data
11. access by Networks Northwest, the Michigan Workforce Development Agency, the U.S. Department of Labor, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records (including computer records) of the contractor or subcontractor which are directly pertinent to charges to the program, in order to conduct audits and examinations, and make excerpts, transcripts, and photocopies; this right also includes timely and reasonable access to contractor's and subcontractor's personnel for the purpose of interviews and discussion related to such documents
12. audit rights and requirements
13. assurance of nondiscrimination and equal opportunity
14. retention of records requirements
15. any other assurances or requirements of the Workforce Development Agency, including Contract Provisions outlined in PI 15-12, XVII

### **Lease Requirements**

Leases must contain the following:

1. the agency or organization name and business address of both the lessee and the lessor
2. the signatures of authorized representatives of both the lessee and the lessor
3. the effective dates of the agreement (beginning and ending dates)
4. specific items covered by the agreement, i.e. the address of the facility, quantity and description of equipment items, quantity and type of motor vehicles
5. specific maintenance, insurance, and operating costs which are included or excluded
6. conditions for termination of the lease

7. lease insurance for motor vehicles, if applicable  
and in addition, for Employment & Training funded leases,
8. conditions for termination of the lease without penalty costs should federal funds become unavailable

## **Property Management Standards**

### **Use of Equipment, Supplies and Intangible Property**

Equipment, supplies, and intangible property acquired under a grant or subgrant from the Workforce Development Agency, State of Michigan (WDASOM) will be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a federal agency.

Networks Northwest shall also make equipment, supplies, and intangible property available for use on other projects or programs currently or previously supported by the federal government, providing such use will not interfere with the work on the projects or programs for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by WDASOM. User fees should be considered if appropriate.

Networks Northwest will not use equipment, supplies, and intangible property acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless permitted by federal statute.

### **Record Retention**

All pertinent property records and supporting documentation will be maintained for a period of three years. For Employment & Training programs, the three year period will begin on the date of the WDAs' acceptance of the final closeout report for the grant or contract.

Records for nonexpendable property will be retained for a period of three years after final disposition of the property.

All records will be retained beyond the three years if any litigation or audit is begun or if a claim is instituted involving the grant, agreement or contract covered by the records. In these instances, the records will be retained until the litigation, audit, or claim has been finally resolved.

Under no circumstances will records be disposed of without the approval of the CEO.

## **Property Maintenance**

Adequate maintenance procedures will be developed to keep nonexpendable personal property or real property in good condition. Such procedures may include securing pertinent warranties, securing maintenance agreements, following manufacturers' recommended procedures for maintenance, and providing adequate care.

If a maintenance agreement is secured, information regarding its existence and effective dates will be made a part of the computerized inventory record, and will be updated as appropriate. Manufacturers' and/or vendors' warranty information will be maintained by the Accounting Department.

## **Vestment of Title of Equipment**

Title to equipment with an acquisition cost of \$5000 or more, and purchased with Workforce Development Agency (WDA) grant funds, will be vested in Networks Northwest or with the subrecipient/subcontractor as determined by Networks Northwest. Title to such equipment will transfer to WDA upon Networks Northwest's termination of applicable programs.

For all other nonexpendable personal property, title will be vested:

1. in accordance with the requirements of the funding agency, if applicable, or
2. with Networks Northwest or Northwest Michigan Works! Inc., depending on the purchasing organization.

## **Inventory Requirements**

All equipment with a unit cost of \$5,000 or more will be tagged, and an inventory of such equipment will be maintained by the Accounting Department using a computer-based system. The equipment inventory will be verified annually via a physical inventory conducted by at least two individuals.

The computer-based system (hereafter referred to as the "inventory record") will include the following information:

1. a description of the equipment including make and model names
2. serial or I.D. number
3. tag number
4. funding source of the equipment
5. vestment of title
6. acquisition date
7. cost



8. percentage of federal funds used in the acquisition
9. physical location and condition
10. program utilizing the equipment
11. disposition data, including date of disposal, reason for disposal
12. net sales proceeds (if applicable)

Computers, network servers, phone systems, etc., and the cost of system software (e.g., Windows, Novell, BIOS, Mac OS X, etc.) and any application software (e.g., Word, Excel, Outlook, etc.) that is necessary to make the item usable for the purpose for which it is being acquired, is included as part of the acquisition cost when determining if the item meets the \$5,000 threshold to be defined as equipment. The associated system software or application software is not required to be separately recorded on the inventory list.

In addition to the inventory record, hard-copy files (hereafter referred to as the "inventory file") will be maintained for warranty information, maintenance agreements (if applicable), and documentation of relief of responsibility or approval for disposal of the equipment. Disposition data will also include the method used to determine current fair market value, the method used to calculate the amounts to be credited to each federal and non-federal funding source, and the final amount credited to each federal and non-federal funding source. Such files will be maintained according to property tag number.

In addition, the tag number will be noted on the invoice for each equipment item.

If purchased with Employment & Training funds, a copy of the current inventory record for items with an acquisition cost of \$5,000 or more will be provided to the WDA annually by May 1st of each year. For any items purchased with Employment & Training funds and with a unit cost of \$5,000 or more, the WDA will be provided with a copy of the inventory record within 30 days of acquisition.

### **Equipment Disposition**

Non-essential equipment included in the inventory may be disposed of through sale, trade-in or transfer of title. Such disposal will be recorded in the inventory record, and accompanying documentation will be placed in the inventory file.

Equipment that was purchased with WDASOM grant funds and having a unit cost of \$5,000 or more may be retained or sold by with the proportionate value or proceeds being treated as program income to the funding sources that participated in the original acquisition cost if all such funding sources are active at the time of sale. If not, any proceeds will be prorated to those funding sources which are active at the time of disposal.

Equipment which was purchased with Employment & Training funds and had a unit cost of less than \$5,000 may be retained, sold or otherwise disposed with no further obligation to WDASOM or the federal awarding agency.

Whenever possible, sale of equipment requires a prior determination of fair market value. For sale of individual vehicles, fair market value will be based on the Kelly Blue Book value. The Kelly Blue Book data may be accessed at <http://www.kbb.com>.

If procurement of new equipment involves trade-in of old equipment, the trade-in will be made part of the bid specifications and fair market value will be determined by reviewing the trade-in allowance amounts provided by the various bidders in response to the bid.

### **Missing or Stolen Equipment**

For missing or stolen equipment, notification will be made to the local police department and a police report will be requested. The police report will be made a part of the inventory file and the "disposal" portion of the inventory record will be updated.

For equipment which was purchased with Employment & Training funds and had a unit cost of \$5,000 or more, the inventory record will be updated and a copy of both the police report and the updated inventory record will be forwarded to WDA.

RICK SNYDER  
GOVERNOR



CHRISTINE QUINN  
DIRECTOR

**OFFICIAL**

E-mailed 07/17/15 (cjb)

**Workforce Development Agency, State of Michigan (WDASOM)**  
**Policy Issuance (PI): 15-12**

**Date:** July 17, 2015

**To:** Michigan Works! Agency (MWA) Directors

**From:** Mike Wurlinger, Director (**SIGNED**)  
Office of Audit and Finance

**Subject:** Procurement

**Programs Affected:** All programs and grants administered by the Workforce Development Agency (WDA)

**Rescissions:** WDA PI 12-29, issued March 5, 2013

**References:** Code of Federal Regulations (CFR), Title 2 – Grants and Agreements  
CFR, Title 48 – Federal Acquisition Regulations System  
Workforce Innovation and Opportunity Act (WIOA)  
U.S. Department of Labor, Employment and Training Administration, One-Stop Comprehensive Financial Management Technical Assistance Guide

**Background:** This policy establishes WDA requirements and highlights federal requirements for procurements. The information provided in this policy issuance is intended to aid grantees and subgrantees in administering WDA funded formula grants and, as applicable, other WDA grants. It is not intended to unduly supplant or replace federal or state regulations and requirements contained in applicable federal and state statutes. If in any instance the use of this policy issuance appears to be in conflict with the rights and authorities given to WDA under the regulations, such conflict must be resolved in favor of the applicable federal or state regulation.



Office of Audit and Finance  
Victor Office Center, 5<sup>th</sup> Floor | 201 North Washington Square | Lansing, Michigan 48913  
[www.michigan.gov](http://www.michigan.gov) | (517) 373-8293 | TTY (888) 605-6722 | FAX (517) 373-9313

WDASOM is an equal opportunity employer/program.  
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

**Policy:**

All procurements made in whole or in part with funds administered by WDA shall be conducted in a manner that provides full and open competition.

Grantees and subgrantees shall establish, maintain, and follow written procurement standards and procedures that are in compliance with all applicable local, state, and federal laws and regulations.

**I. Simplified Acquisition Threshold**

Unless otherwise prescribed by the specific grant or funding source, the WDA simplified acquisition threshold for procurements made in whole or in part with funds administered by WDA is set at \$150,000. Grantees and subgrantees may establish a lower simplified acquisition threshold.

**II. Capital Assets and Capital Improvements**

Procurement of capital assets (e.g., equipment, buildings, and land) and capital improvements (cost of improvements to capital assets that materially increase their value or useful life) require special treatment.

A. Buildings and Land

With limited exceptions, the purchase or construction of buildings and the purchase of land is prohibited under federal grants. Therefore, regardless of the amount, prior WDA approval is required for all procurements (including capital leases) for the construction or purchase of buildings and land that is to be made in whole or in part with funds administered by WDA.

B. Equipment and Capital Improvements

1. Formula Grants

Under formula grants awarded to the state and administered by WDA, the procurement of all equipment, capital improvements, and other capital expenditures in excess of the WDA simplified acquisition threshold require prior WDA approval.

2. Discretionary Grants

Discretionary grants and other non-formula grants administered by WDA may have lower thresholds for which prior WDA and/or federal awarding agency approval is required. Lacking specific guidance, approval from the federal awarding agency is required for capital expenditures, including equipment, of \$5,000 or more.

### C. Approval Requests

It is incumbent upon the grantee or subgrantee making the procurement to follow the applicable approval requirements under the grant in which the procurement is made. All necessary approvals must be obtained and documented prior to initiating the purchase.

1. WDA approval requests shall contain:
  - a. How the item benefits the program(s) for which it is being purchased.
  - b. An independent estimate of the expected cost/price of the item.
  - c. A copy of the solicitation that will be used for the procurement.
  - d. Bidder's list and how the solicitation will be publicized.
2. Submit WDA approval requests to:

Workforce Development Agency  
Executive Office  
Victor Office Center  
201 North Washington Square  
Lansing, Michigan 48913

### D. Bonding Requirements

Bonding requirements for construction or facility improvement contracts/subcontracts exceeding the WDA simplified acquisition threshold must be imposed to ensure the interests of the federal funds are protected. [2 CFR Part 200.325]

## **III. Procurement Methods**

- A. Before determining which procurement method is appropriate for the identified need, the Entity is to consider:
  1. The total value of the procurement. For example:
    - a. A two-year contract at \$80,000 per year with the option for a third year is a procurement valued at \$240,000.
    - b. An item's cost is \$140,000, but delivery, set-up, and other ancillary charges necessary for the purchase are another \$20,000. The total value of the procurement is \$160,000.

- c. The procurement value of computers, phone systems, network devices, etc. will include the cost of application and system software to make the items usable for the purpose in which it is being purchased.
2. Procurements cannot be separated into multiple processes or purchases unless it is documented that the multiple processes resulted in a more economical purchase.
3. Rebates, trade-in amounts, sale proceeds, etc. may be used to reduce the cost of the new purchase.

B. There are five approved methods of procurement:

1. Micro-Purchase

Procurement by micro-purchase is the acquisition of supplies or services when the aggregate dollar amount does not exceed \$3,000 (or \$2,000 in the case the acquisitions for construction subject to the Davis-Bacon Act). To the extent practical, micro-purchases are to be distributed equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotes if the price is considered to be reasonable. [2 CFR Part 200.320(a)]

The micro-purchase method can be an effective tool for procuring items, such as, participant supportive services and office supplies. However, caution is advised as this method is not appropriate for every situation in which the cost will not exceed \$3,000. Planned reoccurring services such as payroll, accounting, security, lawn care, janitorial, etc. are not viewed as separate purchases each time the service is rendered. Therefore, if the aggregate value of the individual purchased service exceeds \$3,000 in a 12-month period, the micro-purchase method cannot be used.

2. Small Purchase

This is a relatively informal method used primarily to procure standardized goods and services that do not cost more than the WDA simplified acquisition threshold. [2 CFR Part 200.320(b)]

The small purchase method is not appropriate for all procurements that do not cost more than the WDA simplified acquisition threshold. It is only appropriate when price is the overriding factor and may be easily quoted and compared, delivery is standardized,

and performance outcomes are not dependent upon the content of the goods or services being procured.

When small purchase procedures are used, price or rate quotations from a minimum of three qualified sources must be obtained; two quotes are sufficient if the value of the procurement does not exceed \$25,000. Quotes are to be dated and current for the purchase being made. Price quotes must also be viable, in that the Entity must be able to purchase the item for the quoted price.

Quotes in excess of the WDA simplified purchase threshold are not usable quotes in meeting the requirements of this method. If an adequate number of quotes cannot be obtained, this method cannot be used.

If this method is used to consolidate into a single process the procurement of frequently needed goods or services, the time period cannot exceed five years and the total costs during the time period cannot exceed the WDA simplified acquisition threshold. If actual costs exceed the dollar threshold originally procured, a new procurement process must be conducted. Example: \$30,000 procurement was done to cover legal services for two years. Sixteen-months into the procurement \$30,000 has been spent on legal services. Having reached the value of the original procurement, a new procurement process for legal services must be conducted at sixteen-months; rather than the two years originally planned.

### 3. Sealed Bids

Bids are publicly solicited and a firm fixed price contract (either lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest price. Sealed bid is the preferred method for procuring construction. [2 CFR Part 200.320(c)]

- a. In order for this process to be feasible, all of the following conditions must be met:
  - i. A complete, adequate, and realistic specification or purchase description is available and used in the solicitation. [2 CFR Part 200.320(c)(1)(i)]
  - ii. Two or more responsible bidders are willing and able to compete effectively for the business. [2 CFR Part 200.320(c)(1)(ii)]

- iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. *[2 CFR Part 200.320(c)(1)(iii)]*
- b. If sealed bids are used, all of the following requirements apply:
  - i. An independent estimate of the cost/price is made prior to receiving bids. *[2 CFR Part 200.323(a)]*
  - ii. The Invitation for Bid (IFB) is publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids. *[2 CFR Part 200.320(c)(2)(i)]*
  - iii. The IFB contains all specifications and pertinent attachments and defines the items or services to be procured in sufficient detail for the bidders to properly respond. *[2 CFR Part 200.320(c)(2)(ii)]*
  - iv. All bids are publicly opened at the time and place prescribed in the IFB. *[2 CFR Part 200.320(c)(2)(iii)]*
  - v. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken. *[2 CFR Part 200.320(c)(2)(iv)]*
  - vi. Any or all bids may be rejected if there is a sound documented reason. *[2 CFR Part 200.320(c)(2)(v)]*

#### 4. Competitive Proposals

Competitive proposals are used when there is more than one prospective bidder, the lowest price is not necessarily the determining factor for award, and either a fixed price or cost reimbursement agreement will be awarded. The competitive proposal is appropriate when evaluation factors focus on approach, program design and outcomes; innovation; coordination and experience, in addition to price. *[2 CFR Part 200.320(d)]*



The following requirements apply to competitive proposals:

- a. An independent estimate of the cost/price prior to receiving proposals. *[2 CFR Part 200.323(a)]*
- b. Request for Proposals (RFP) must be publicized. RFPs must contain the specifications that provide a common understanding for the proposed goods or services and identify all the evaluation factors and their relative importance or weight in selection of successful bidders. Any response to publicized RFPs must be considered to the maximum extent practical. *[2 CFR Part 200.320(d)(1)]*
- c. Proposals will be solicited from an adequate number of qualified sources. *[2 CFR Part 200.320(d)(2)]*
- d. A written method for conducting technical evaluations of proposals received and for selecting recipients. *[2 CFR Part 200.320(d)(3)]*
- e. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program based on price and other evaluation factors. *[2 CFR Part 200.320(d)(4)]*
- f. Competitive proposal procedures may be used for qualifications-based procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. *[2 CFR Part 200.320(d)(5)]*

## 5. Noncompetitive Proposals

Procurement by noncompetitive proposals is the solicitation of a proposal from only a single source, or the solicitation of a proposal from more than one source and competition is determined to be inadequate to fulfill the requirements of the funding agency. *[2 CFR Part 200.320(f)]*

This method may only be used when the procurement is not practical using one of the four other methods discussed above, and one of the following conditions apply:

- a. The item is available from only one source. *[2 CFR Part 200.320(f)(1)]*

- b. A public emergency for the requirement will not permit a delay resulting from a competitive solicitation. *[2 CFR Part 200.320(f)(2)]*

A public emergency must meet one of the following criteria:

- i. Necessary for the imminent protection of public health.
  - ii. Emergency repairs to protect life or property.
  - iii. Unforeseen crisis requiring immediate procurement.
- c. The federal awarding agency or WDA expressly authorizes noncompetitive proposals in response to a written request from the Entity. *[2 CFR Part 200.320(f)(3)]*
  - d. After solicitation of a number of sources competition is determined inadequate. This usually occurs after a competitive process has been used and there are insufficient bidders. *[2 CFR Part 200.320(f)(4)]*

A cost analysis is required for all noncompetitive procurement actions. This entails verification of the proposed cost data and evaluation of the specific elements of costs and profits; including comparison with the independent price estimate.

Noncompetitive procurements are considered a last resort option and used only when there is a documented reason for sole-source selection. Grantees and subgrantees are required to ensure the procurement process is open and fair; therefore, caution is advised when using noncompetitive procurements.

Prior approval is required for all sole-source awards in excess of the WDA simplified acquisition threshold when Sealed Bids or Competitive Proposals were not used. *[2 CFR Part 200.324(b)(2)]*

Approval requests are to include a description or specifications of the item to be purchased, the independent cost estimate, purpose of the proposed purchase, cost and/or price analysis, an explanation on why another procurement method is not viable, and supporting documentation as to how the purchase meets one of the conditions described above. Submit requests to:

Workforce Development Agency  
Executive Office  
Victor Office Center  
201 North Washington Square  
Lansing, Michigan 48913

#### **IV. Partner Organizations**

If two or more organizations plan to share responsibility for carrying out the main work of the grant, then those organizations may partner as co-grantees or co-subgrantees with one organization being designated as the “lead.” However, each organization will be equally responsible for performance and financial obligations. This relationship need not result in a new legal entity being formed, but some form of a contractual relationship must be documented and submitted that reflects the roles and responsibilities of the parties.

In the alternative, if one organization will be responsible for the overall work of the grant, with other organizations performing separate and distinct functions to serve or aid that principal effort, then such other organizations must be procured by the Entity as subcontractors or subgrantees.

Subcontractors and subgrantees cannot be identified in a bid or proposal unless they were competitively procured for the intended purpose prior to the submission of the bid/proposal. To do so would jeopardize full and open competition. If a bid or proposal is submitted that identifies subcontractors or subgrantees, the grantee must ensure that the identified parties were properly procured or the bid/proposal must be rejected.

#### **V. Third-Party Procurements**

The Michigan Legislature has authorized two programs in which eligible grantees and subgrantees may utilize third-party procurements:

##### **A. MiDEAL**

Authorized under Public Act 431 of 1984, Section 263, MiDEAL allows local units of government in Michigan to use state procured contracts to buy goods and services. For more information please refer to the MiDEAL website at <http://www.michigan.gov/localgov>.

##### **B. REMC Association of Michigan**

Authorized under Public Act 451 of 1976, Section 380.671, the REMC Statewide \$AVE (Schools Aggregated Volume in Education) Bid Project allows the following to purchase a variety of supplies, equipment, software, computer, and networking items through its procured vendors.

1. Public, non-public and private schools (K-12, preschools)

2. Community Colleges, Universities, and Colleges
3. Public Libraries and Museums (local, county, state)
4. State, County, and Local Government Agencies

For more information on the REMC \$AVE Bid Project please refer to its website at <http://remcbids.org/>.

Entities are cautioned against using other third-party procurements in place of their own procurement processes. To do so will require the Entity to ensure and document the procurement met their need and all federal, state, and local procurement standards were followed. This includes being able to document competition was not limited in the original procurement and subsequent purchases. Simply using the same vendor or product a third-party procured will not meet these requirements.

## **VI. Leases**

Leases are subject to all procurement standards and lease payments (i.e., rent) must be allowable under the applicable federal cost principles. Factors such as, location, parking, access to public transportation, maintenance, security, telecommunications, and other included services are normally considered when selecting office space or service center locations. Due to this unique and customizable nature, office and building leases typically do not qualify for procurement under the micro-purchase or small purchase methods.

A new lease must be procured when an existing lease expires and all of its options have been exhausted. It cannot be renewed, extended, or otherwise amended without the support of an appropriate procurement process. For example: A three-year lease with the option of two, one-year extensions. If both option years are sequentially picked-up, the lease will need to be procured again in five years. In addition, a cost/price analysis (i.e., market analysis) for each option year entered into is needed to ensure that the rental costs are still competitive.

At a minimum, leases shall contain:

- a. The agency or organization name and business address of the lessee and the lessor.
- b. The signatures of authorized representatives of both the lessee and the lessor.

- c. The effective dates of the agreement (beginning and ending dates).
- d. Specific items covered by the agreement, i.e., address of the facility, quantity and description of equipment items, quantity and type of motor vehicles, specific maintenance, insurance, and operating costs which are included or excluded.
- e. Conditions for termination of the lease without penalty costs or fees should federal funds become unavailable.

## **VII. Rent**

Rent must be reasonable in light of such factors as comparable property, market conditions in the area, alternatives available, as well as, type, life expectancy, condition, and value of the leased property. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available. In addition, if there is idle capacity or idle facilities, rent must be reassessed to ensure its allowability under federal programs. *[2 CFR Part 200.465(a) and .446]*

Use allowance is no longer identified by the federal regulations as an acceptable alternative to depreciation. The depreciation method must be followed when determining allowable rent charged to federal programs. *[2 CFR Part 200.436(a),(d)(5) and .443(b)(4)]*

The rental of any property owned by any individual or parties affiliated with the Entity, including commercial or residential real estate, for purposes such as home office workspace is unallowable. *[2 CFR Part 200.465(c)(6)]*

The amount of rent that can be charged to federal programs is further limited under “sale and lease back” arrangements, “less-than-arm’s-length” leases, and capital leases.

### **A. “Sale and Lease Back” Arrangements**

Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. *[2 CFR Part 200.436 and .465(b)]*

### **B. Less-Than-Arm’s-Length Leases**

As with “sale and lease back” arrangements, rental costs under “less-than-arm’s-length” leases are allowable only up to the amount that

would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. [2 CFR Part 200.436 and .465(c)]

A “less-than-arm’s-length” lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between:

1. Divisions of the Entity. [2 CFR Part 200.436 and .465(c)(1)]
2. The Entity under common control through common officers, directors, or members. [2 CFR Part 200.436 and .465(c)(2)]
3. The Entity and a director, trustee, officer, or key employee of the Entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the Entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the Entity. [2 CFR Part 200.436 and .465(c)(3)]
4. Family members include one party with any of the following relationships to another party: [2 CFR Part 200.436 and .465(c)(4)]
  - i. Spouse, and parents thereof;
  - ii. Children, and spouses thereof;
  - iii. Parents, and spouses thereof;
  - iv. Siblings, and spouses thereof;
  - v. Grandparents and grandchildren, and spouses thereof;
  - vi. Domestic partner and parents thereof, including domestic partners of any individual in 2 through 4 (ii-v) of this definition; and
  - vii. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

#### C. Capital Leases

Rental costs for leases that are required to be treated as capital leases under Generally Accepted Accounting Principles (GAAP) are allowable only up to the amount that would have been allowed had the

Entity purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation, maintenance, taxes, and insurance. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in 2 CFR Part 200.449. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property. [2 CFR Part 200.436, .449, and .465(c)(5)]

With limited exceptions, capital leases for land, buildings, and other real property are prohibited under federal programs administered by WDA. If permitted under the federal program, prior WDA approval is required.

### **VIII. Documentation**

Documentation must be maintained for each step in the procurement process to sufficiently detail the history of the procurement. This documentation includes, but is not limited to, the rationale for the method of procurement, independent estimates, cost/price analysis, solicitations, bids, proposals, justifications, profit, bidder lists, approvals, contracts, etc. [2 CFR Part 200.318(i)]

At a minimum, all procurement records must be retained for three years after final disposition of the item procured. If any litigation, audit, or claim is initiated involving the item procured during the three-year retention period, the procurement records must be retained until resolution of all issues and final action is taken or until the end of the three-year retention period; whichever is later. For example, the retention period for procurement documentation on a five-year lease starts at the end of the lease, not from the date the lease was procured. [2 CFR Part 200.333]

### **IX. Standards of Conduct**

- A. Written standards of conduct that are in compliance with the federal and state regulations are required for employees engaged in the selection, award and administration of contracts. At a minimum, the written standards of conduct will be disseminated to all appropriate parties engaged in the selection, award and administration of contracts and shall address: [2 CFR Part 200.318(c); WIOA Section 101(f) and 107(h)]
  - 1. No employee, officer or agent of the grantee or subgrantee (including, as applicable, Workforce Development Board members) shall participate in the selection, award or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the

employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the stated parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

2. The grantee's or subgrantee's officers, employees and agents must neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal value.
3. Disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the grantee and subgrantee.
4. If the Entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, it must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

## **X. General Procurement Standards**

The Entity must use its own documented (i.e., written) procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the following standards: *[2 CFR Part 200.318(a)]*

- A. Entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. *[2 CFR Part 200.318(b)]*
- B. A review of proposed procurements to avoid purchase of unnecessary or duplicative items. *[2 CFR Part 200.318(d)]*
- C. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. *[2 CFR Part 200.318(d)]*
- D. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other analysis to determine the most economical approach. *[2 CFR Part 200.318(d)]*



- E. To foster greater economy and efficiency, the Entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. *[2 CFR Part 200.318(e)]*
- F. The Entity is encouraged to use federal or state excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. *[2 CFR Part 200.318(f)]*
- G. The Entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. *[2 CFR Part 200.318(g)]*
- H. A documented process to ensure that awards are made to only responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. *[2 CFR Part 200.318(h)]*
- I. A documented process to maintain records sufficient to detail the significant history of all procurements. At a minimum, these records will include rationale for the method of procurement, selection of contract type, contractor selection or rejection criteria, and the basis for the contract price, including the independent estimate of price. *[2 CFR Part 200.318(i)]*
- J. The Entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. *[2 CFR Part 200.318(j)]*
- K. A documented settlement process. The Entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the Entity of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. *[2 CFR Part 200.318(k)]*
- L. Compliance with the “Buy American Act” (41 U.S.C. 8301-8303). Only American-made equipment or products should be purchased with funds made available under WIOA Title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). *[WIOA Section 502]*

## **XI. Competition**

### **A. Full and Open Competition**

All procurement transactions are to be conducted in a manner that will provide full and open competition. Contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. *[2 CFR Part 200.319(a)]*

The following are a few examples that would restrict competition.

1. Placing unreasonable or overly restrictive requirements on firms in order for them to qualify to do business. *[2 CFR Part 200.319(a)(1)]*
2. Requiring unnecessary experience and excessive bonding. *[2 CFR Part 200.319(a)(2)]*
3. Noncompetitive pricing practices between firms or between affiliated companies. *[2 CFR Part 200.319(a)(3)]*
4. Noncompetitive awards to consultants that are on retainer contracts. *[2 CFR Part 200.319(a)(4)]*
5. Awards that would create organizational conflicts of interest. *[2 CFR Part 200.319(a)(5)]*
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement. *[2 CFR Part 200.319(a)(6)]*
7. Any arbitrary action in the procurement process. *[2 CFR Part 200.319(a)(7)]*

### **B. State or Local Geographical Preference**

The Entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. *[2 CFR Part 200.319(b)]*

### C. Solicitations

The Entity must have written procedures that ensures all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated. [2 CFR Part 200.319(c)(1)]
2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. [2 CFR Part 200.319(c)(2)]

### D. Prequalified Bidders Lists

The Entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The Entity must also not preclude potential bidders from qualifying during the solicitation period. [2 CFR Part 200.319(d)]

## XII. Small and Minority Businesses

The Entity must take all necessary affirmative steps to assure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. [2 CFR Part 200.321(a)]

Affirmative steps must include:

- A. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists. [2 CFR Part 200.321(b)(1)]
- B. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources. [2 CFR Part 200.321(b)(2)]

- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises. [2 CFR Part 200.321(b)(3)]
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises. [2 CFR Part 200.321(b)(4)]
- E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. [2 CFR Part 200.321(b)(5)]
- F. Requiring the prime contractor, if subcontracts are to be let, to take these same affirmative steps. [2 CFR Part 200.321(b)(6)]

### **XIII. Recovered Materials**

When the value of the item being purchased exceeds \$10,000 (or the aggregate value in a fiscal year exceeds \$10,000), entities are required to establish an affirmative procurement program to procure items that contain the highest percentage practical of Environmental Protection Agency identified recovered materials. A satisfactory level of competition must be maintained. [2 CFR 200.322]

### **XIV. Contract Cost and Price**

- A. The Entity must perform a cost or price analysis in connection with every procurement action in excess of the WDA simplified acquisition threshold, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Entity must make independent estimates before receiving bids or proposals. [2 CFR Part 200.323(a)]
  - 1. Cost Analysis – is the element-by-element review and evaluation of each item of cost and related information presented in the bidder's proposal. Cost analysis is necessary when the bidder is required to submit the elements of the estimated costs, or when adequate price competition is lacking.

A certification should be submitted by the bidder stating that the cost data is accurate, complete, and current at the time of agreement. Awards or modifications negotiated in reliance on such data should provide a right to a price adjustment in cases

where the awardee submitted data that was not accurate, complete, or current as certified. The price adjustment shall at a minimum exclude any significant sum by which the price was increased by the suspect data.

2. Price Analysis – is the process of examining and evaluating a price without looking at individual elements of cost. The focus is the “bottom-line” price. The method and degree of the analysis depends on the particular procurement and pricing situation. Price analysis shall be used when price reasonableness can be established on the basis of the catalog or market price of a product or is based on prices set by law or regulation.
- B. Cost reimbursement is the preferred method of contracting and is the only method allowable for contracts with state and local governments (e.g., cities, counties, school districts) when reimbursements are made in whole or in part with Workforce Investment Act (WIA) or WIOA funding. *[WIA and WIOA Section 184(a)(3)(B)]*
  - C. Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the Entity under 2 CFR Part 200 Subpart E—Cost Principles. *[2 CFR Part 200.323(c)]*
  - D. Cost plus a percentage of cost contracts and percentage of construction cost methods of contracting must not be used. *[2 CFR Part 200.323(d)]*
  - E. Under fixed-price and performance-based contracts, governmental and non-profit agencies must treat and report any revenue in excess of its actual costs as program income. Therefore, it is recommended that a provision is included in this type of contract that limits the recovery of costs to the lesser of actual costs incurred or the cumulative increments earned for less than full performance. *[2 CFR Part 200.307]*

## **XV. Profit**

- A. Profit is an allowable cost payable only to commercial organizations. The profit must be separately negotiated from the contract’s price and cannot be based on a percentage of costs budgeted or expended in the agreement. Profit must be tied to performance and cannot be paid as a guaranteed fixed fee. Profit is only earned when performance outcomes are attained and can only be disbursed when those outcomes are validated. Profit cannot be paid in addition to performance payments or incentive payments. *[2 CFR Part 200.323(b); 48 CFR Part 15.404-4]*

- B. Factors to consider when negotiating profit are the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. *[2 CFR Part 200.323(b);48 CFR Part 15.404-4(d)]*
- C. Profit rates can be negotiated up to a maximum of ten percent. Profit rates can only be applied against the commercial organization's personnel-related costs (i.e., salaries, wages, and benefits) for the staff that contributed to the organization's unique capacity to manage and achieve the performance of the contract. *[48 CFR Part 15.404-4(c)(4)(i)]*
- D. Under cost reimbursement contracts there is little to no risk to the commercial organization. Therefore, profit is usually not warranted.

## **XVI. Debarment and Suspension**

- A. Entities must verify that procurements of \$25,000 or more do not result in an award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs. *[2 CFR Part 180; 2 CFR Part 200.205(d)]*
- B. Verification can be accomplished by: *[2 CFR Part 180.300]*
  - 1. Checking if the party is excluded. This is the preferred method as it does not rely on self-certification by the party. Excluded parties are listed on the federal System for Award Management (SAM) website at [www.sam.gov](http://www.sam.gov).
  - 2. Collecting a certification from the party. (See 48 CFR Part 52.209-5 for an example)
  - 3. Adding a clause to the contract or grant.

## **XVII. Contract Provisions**

- A. There must be sufficient language in the contract to protect the federal funds and the interests of the Entity. Provisions should ensure compliance with all applicable federal, state, and local laws.
- B. At a minimum, contract clauses must be sufficient to address the following, as applicable to the contract: *[2 CFR Part 200.326]*
  - 1. Contracts for more than the WDA simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and

provide for such sanctions and penalties as appropriate. *[2 CFR Part 200 Appendix II (A)]*

2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. *[2 CFR Part 200 Appendix II (B)]*
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR Part 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” *[2 CFR Part 200 Appendix II (C)]*
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up

any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. [2 CFR Part 200 Appendix II (D)]

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. [2 CFR Part 200 Appendix II (E)]
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR Part 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. [2 CFR Part 200 Appendix II (F)]
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency



and the Regional Office of the Environmental Protection Agency (EPA). [2 CFR Part 200 Appendix II (G)]

8. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR Part 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR Part 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. [2 CFR Part 200 Appendix II (H)]
9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the non-Federal award. [2 CFR Part 200 Appendix II (I)]
10. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. [2 CFR Part 200 Appendix II (J); 2 CFR Part 200.322]

11. Other requirements as defined by the federal awarding agency. These include provisions related to program and administrative regulations, such as:
- a. Compliance with the “Buy American Act.” None of the funds made available under WIOA Title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 8301 through 8303 of Title 41, United States Code (commonly known as the “Buy American Act”). [WIOA Section 502]
  - b. The awardee agrees to comply with the required financial and compliance audits in accordance with the Single Audit Act of 1984.
  - c. Notice of awarding agency requirements and regulations pertaining to reporting.
  - d. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
  - e. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
  - f. Salary and Bonus Limitations: Under Public Law 109-234 and Public Law 111-8, Section 111, none of the funds appropriated in Public Law 111-5 or prior Acts under the heading “Employment and Training” that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. The salary and bonus limitation does not apply to vendors providing goods and services.

**Action:** Grantees and subgrantees shall establish, maintain, and follow written procurement standards and procedures that are in compliance with all applicable local, state, and federal laws and regulations.

**Inquiries:** Questions regarding this policy issuance should be directed to the Office of Audit and Finance at (517) 373-8293.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon request to this office.

**Expiration**

**Date:**

Continuing.

MW:cjb

**Northwest Michigan Council of Governments  
and Northwest Michigan Works, Inc.**

**Petty Cash Policy**

**Policy Statement**

- The petty cash fund is a cash advance issued to the NWMCOG Accounting Department which is the Custodian of the fund.
- The Custodian is responsible for the security of the fund and the control of disbursements made from the fund.
- The amount of the fund and a maximum expenditure which can be paid with petty cash are determined based on operational needs.

**Purpose**

- Petty cash can be used to make small purchases or reimbursements, in cash, for small, incidental Section expenses such as stamps, supplies, copying, etc., especially when immediate payment is required.
- Petty cash should be used only when absolutely necessary.

**Nature and Use of Petty Cash Funds**

- Petty cash funds will operate as Imprest funds - the total of vouchers (with receipts) plus cash available must equal the petty cash fund amount.
- Petty cash funds can only be used for allowable costs as determined by the fund to which expenses will be charged.
- Personal expenditures or borrowings, in any amount, are not authorized uses of the fund.
- Petty cash advances must not be used to make change or to cash checks.

**Petty Cash Custodian Responsibility**

- Cashes the petty cash check.
- Safekeeping of the monies.
  - The petty cash monies should be kept in a locked box, drawer, filing cabinet or safe to which there is limited and controlled access.
  - Funds should not be left unattended or unsecured at any time.
  - Only the Custodian should have access to the cash.
  - When disbursements are not made frequently, the Custodian should check the petty cash fund regularly to ascertain that no theft has taken place.
- Monitors the use and replenishment of petty cash.
- Ensures that the fund is used to cover only those expense reimbursements or advances for which it is not feasible to use normal purchasing methods.
- Performs reconciliation of the fund on a regular basis, typically monthly.

- Report immediately any theft or loss from the petty cash fund to the Accounting Department manager.

### **Reimbursement of Petty Cash Expenditures**

- This is the preferable method of petty cash payment.
- The Custodian obtains proof of purchase (itemized receipts, etc) from the Purchaser.
- The Purchaser informs the Custodian as to the nature of the expenditure, and how the expenditures should be charged.
- The Custodian reimburses the Purchaser for the expenditure.

### **Petty Cash Advances**

- Petty cash advances may be allowed with the stipulation that the Purchaser returns with a receipt and change.
- The Purchaser completes a “Received of Petty Cash” form for a cash advance and signs the form.
- When the purchase is done, the Purchaser supplies the Custodian with an itemized receipt, and returns the change to the Custodian.

### **Replenishment of Petty Cash Fund**

- The fund should be replenished when the money on hand is not adequate for the needs over the next 30 days, or on a regular basis, typically monthly but at least quarterly.
- The Custodian completes a Petty Cash Reconciliation form.
  - Expenses are assigned to appropriate categories (e.g., postage, office supplies, etc.) and added up for a category total.
  - Category totals are entered on the Petty Cash Reconciliation Statement and the total expenditure is calculated.
  - The total of the receipts (expenditures) plus the cash available must equal the petty cash fund amount in order to prove that all money is accounted for.
- The Petty Cash Reconciliation is verified by another Accounting Department staff person who initials and dates the Petty Cash Reconciliation form.
- The completed Petty Cash Reconciliation form and the “Received of Petty Cash” forms, with attached receipts, are attached to the Accounts Payable request for fund replenishment.

### **Overages and Shortages**

- Over/short amounts normally do not occur in petty cash funds.
- If this should occur the Petty Cash Custodian should:
  - Verify that all receipts have been turned in;
  - Ensure that each Petty Cash disbursement has only been counted once;
  - Ensure that each disbursement has a supporting receipt.
- If the fund finally cannot be reconciled the Custodian must provide as an attachment to the Petty Cash Reconciliation Statement a full explanation for the overage or shortage.