

Central Oklahoma Workforce Investment Area

PROCUREMENT AND CONTRACTING POLICY

The purpose of the Procurement and Contracting Policy is to establish a systematic and orderly method of procuring services, materials, equipment and supplies for the varied programs and activities of the Central Oklahoma Workforce Investment Area (COWIA). It will serve and assist the Board of Local Elected Officials (LEO) and Workforce Investment Board (COWIB) and their respective committees including the Youth Council (YC), along with their COWIB Staff (STAFF), Grant Recipient/Fiscal Agent (GR/FA) and others for the COWIA to assure all procurement and contracting is in compliance with Federal, State, and Oklahoma City established policies. All COWIA procurement and contracting actions will be in conformance with this Procurement and Contracting Policy.

LEO/COWIB as used in the body of this Policy means the appropriate entity identified as follows to procure and contract for goods and services as further defined in the document.

The GR/FA procures and contracts all Request for Proposals for goods and services including consultants, grant writers, and vendors that are not provided by the Oklahoma Employment Security Commission through the Statewide Training Provider List procurement process.

STAFF procures and contracts youth services and other goods and services provided directly to support STAFF activities. (This does not include consultants and grant writers.)

The Career Connection Center and Office of Workforce Development procure and contract for goods and services to support the activities provided through their respective One-Stop Center's approved process in compliance with the most restrictive procedure.

I. DEFINITIONS

Award

Means a contract, grant, sub-contract, sub-grant or other type of legal instrument that conveys funds.

Immediate Family Member

Includes a spouse, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.

Individual Training Accounts

Is an Individual Training Account established on behalf of Workforce Investment Act (ACT) Title I adult and dislocated workers for training services from eligible providers they select in consultation with their case manager.

Procurement

Means the process that leads to any award of funds.

Service Provider

Means any public agency, private nonprofit organization, or private-for-profit entity that delivers services to participants, LEO/COWIB and/or its Staff. Awards to service providers may be made by contract, sub-contract, or other legal agreement.

Youth Service Provider

Means an entity or individual identified by the Central Oklahoma Workforce Investment Board in accordance with Sec. 123 of the ACT, incorporated by reference, to carry out youth activities.

Sub-recipient

Means the sub-recipient to which an award is made and which is accountable to the Board of Local Elected Officials and/or COWIB for the use of the funds provided. The distinguishing characteristics of a sub-recipient 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 the COWIB program or project. Service Providers are considered Sub-recipients and NOT Vendors.

Vendor

Means an entity responsible for providing generally required goods or services. These goods or services may be for the sub-recipients' own use or for the use of participants in the programs. Distinguishing characteristics of a vendor include items such as: providing goods and services within normal business operation; providing similar goods or services to many different purchasers, and operating in a competitive environment. A vendor is not a sub-recipient and does not exhibit the distinguishing characteristics attributable to a sub-recipient as defined above.

II. MINIMUM STANDARDS

A. Code of Conduct—The COWIA Code of Conduct governs the performance of its LEO members, COWIB members, and its COWIB Youth Council members, employees, or agents engaged in the award and administration of contracts.

1. **Staff Conflicts of Interest**—The LEO and COWIB will ensure that no individual in a decision-making capacity shall engage in any activity, including participation in the selection, award, or administration of a contract if a conflict of interest, or appearance of a conflict of interest, would be involved. Such a conflict would arise when:
 - a. **The individual,**
 - b. **An immediate family member of the individual,**
 - c. **The individual's partner, or**
 - d. **An organization, which employs, or is about to employ, any of the above, has financial or other interest in the firm or organization, selected for award.**

The officers, employees, or agents of the agency making the award will neither solicit nor accept gratuities, favors, or anything of more than nominal value from contractors, potential contractors, or parties to sub agreements

2. **Board and Council Conflicts of Interest**—LEO, COWIB, and YC members have a conflict of interest when considering the provision of services by such member or their organization, or any other matter, which would provide any direct financial benefit to that member, their immediate family members, their partner, or their organization.
 - a. **Declaration of possible conflicts**—The LEO, COWIB, and YC members must declare, on the record, possible conflicts of interest. At a minimum, each LEO, COWIB and YC member must declare a possible conflict when:

- (1) The member or immediate family member is a volunteer board member of a nonprofit bidding organization,
 - (2) The member is voting on an indirect affirmation of a contract relationship, such as a vote on the Local Plan; or
 - (2) The member is voting on a rival proposal, though there is no direct competition.
- b. **Abstention from voting**-- The LEO, COWIB, and YC members must abstain from voting on a procurement action. No member of any LEO, COWIB, or YC 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 a direct financial benefit to that member. No member of any LEO, COWIB, or YC shall cast a vote on the provision of services by any person or organization that is in direct competition with a proposal or bid, which would provide a direct financial benefit to the member.
- c. **Abstention from participation**-- The LEO, COWIB, and YC members, employees, officers, and agents must refrain from participating in the procurement process. No such person shall participate in decisions about contracts with the organization that he or she represents or from which they or immediate family members receive direct financial benefit. Participation includes discussion, lobbying, rating, scoring, recommending, explaining, or assisting in the design or approval of the procurement process. Participation also includes negotiation of any contract on behalf of the organization that he or she represents.
- d. **LEO, COWIB, and YC Membership**

Neither membership on the LEO, COWIB, or YC nor the receipt of funds to provide training and related services-by itself-violates this conflict of interest provision.
3. **Communications** --- The LEO/COWIB shall utilize the following procedures in communicating with service providers and vendors.
 - a. All questions related to contract for goods and services from the service provider or vendor must be in writing.
 - b. All communications regarding procurement matters among providers, STAFF and/or GR/FA must be reduced to writing and placed in the appropriate provider and/or procurement files.
4. **Procurement Policy**-- The LEO/COWIB shall provide each service providers with a copy of the Procurement/Contracting Policy.
5. **Certificate of Insurance and Boilerplate Contract** – The LEO/COWIB incorporates by reference and/or attachment into this Procurement/Contracting Policy the Boilerplate Contract and Certificate of Insurance. Any deviations from the boilerplate forms must have prior approval of the LEO/COWIB and GR/FA before executing the contract. Any unresolved issues regarding such deviation, shall be presented to OESC for resolution.
6. **Sanctions**—The penalty for a violation of the Code of Conduct by a LEO, COWIB, or YC member may result in termination of membership in the LEO, COWIB, or YC and/or rejection of the services proposed by the alleged offending service provider. All violations or suspected violations will be submitted in writing to the LEO for appropriate action. All grievances will be submitted in writing to the COWIB Staff EEO officer.

- B. Certificate Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (29 CFR Part 98)**--With each purchase of goods or services of \$25,000 or more in the aggregate, the vendor or service provider must submit a Certificate Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for it and its principals at the time that the vendor submits its proposal in connection with a covered transaction.

The COWIB will require their subcontracts in lower tier covered transactions to include the certificate for the vendor and its principals in any proposal submitted in connection with any lower tier covered transaction (Attachment A, Certification Regarding Debarment, Suspension, and other Responsibility Matters Form).

- C. Drug-Free Workplace**—The COWIB will comply as required by the Drug-Free Workplace Act of 1988, codified at 29 CFR Part 98 (Attachment B, Drug Free Workplace Act of 1998).

- D. Competition**-- The COWIB will adhere to the following procurement methods and procedures.

1. Free and Open Competition--The procurement procedures of the COWIB will promote free and open competition. Some of the situations considered being restrictive of free and open competition includes, but are not limited to:

- a. Placing unreasonable requirements on firms or organizations in order for them to qualify to do business,
- b. Requiring unnecessary experience and excessive bonding,
- c. Noncompetitive pricing practices between firms or organizations or between affiliated companies or organizations,
- d. Noncompetitive awards to consultants that are on retainer contracts,
- e. Organizational conflicts of interest;
- f. 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;
- g. Overly restrictive specifications; and
- h. Any arbitrary action in the procurement process.

2. Solicitations – The Request for Proposals (RFP) document shall be comprehensive and detailed in order to secure responsive proposals. The LEO/COWIB will ensure the RFP, at minimum, includes the elements as follows:

- a. Solicit offers by disseminating a RFP to an adequate number of qualified sources to ensure competition (generally, sources included on the bidders source lists), or advertising in one or more newspapers designed to reach service providers;
- b. Includes a Statement of Work or specifications, including a description of the requirements for time, place, and methods for performance of the service; and
- c. Includes the deadline date and time the proposals must be submitted, and that all proposals have the stamped date and time the original proposal was received; and
- d. Requires a line item budget;

- e. Includes the boilerplate terms and assurances that will be included in any resulting contract; and
- f. Includes certifications, assurances, and representations, including:
 - (1) A certificate regarding debarment, when required by regulations;
 - (2) A certification regarding lobbying;
 - (3) A certification that to the best of its knowledge and belief, the cost data submitted by the bidder is accurate, complete, and current at the time of agreement on price; and
 - (4) Identify contract renewal and extension limitations.
- g. Describes the solicitation process, including provisions for protest or appeal of the final award;
- h. Changing the service provider cannot affect the current active clients from participating in the program, the new service provider must factor in this additional cost when they submit their proposal based on current client data;
- i. Identifies all significant evaluation or rating factors and the relative importance of each factor;
- j. Evaluation factors include minimum thresholds that, if not met, require disqualification;
- k. Will negotiate with any or all bidders determined through the rating process to be responsive and advantageous to the program to clarify, explain, or verify any aspect of a submitted proposal in response to an RFP, and notify unsuccessful bidders in a reasonable amount of time;
- l. Will award a contract to the bidder (s) who is (are) successful pending the availability of federal funds;
- m. Include a statement for renewal of the contract for additional years, subject to review/approval by LEO/COWIB, subject to performance and availability of funds.
- n. Include a statement that the LEO/COWIB has the right to accept or reject any and all proposals received;
- o. Includes a statement permitting the LEO/COWIB to cancel all or portions of RFP and reject any contract or to pay any of the applicant's cost in preparing or submitting a response as a result of the RFP;
- p. Require the individual signing on behalf of the organization has the authority to submit the proposal and carry out services solicited in the RFP;
- q. Include the COWIB'S code of conduct and conflict of interest policies;
- r. Will contain a definition of terms used in the RFP;
- s. Will contain a statement that copies of all legislation and regulations are available upon request;
- t. Include a statement to identify funds that may directly impact the services solicited under the RFP, i.e., Pell Grants or other funding sources;

- v. Information concerning applicant's staff qualifications and licensing and/or certification necessary to provide services, including possibly resumes and job descriptions; and
 - w. Requires the following information regarding training:
 - Days/hours
 - Sequence
 - Duration
 - Course curriculum
 - Skills to be achieved
 - Measurement of achievement
 - Pre/post testing
 - Entrance minimums/maximums
 - Attendance.
3. **Bidders List**: The LEO/COWIB will ensure that all pre-qualified lists of persons, firms, or their organizations, which are used in acquiring goods and services, are current and include sufficient numbers of qualified sources to ensure maximum open and free competition.
4. **Bidders Conference**: The LEO/COWIB may hold a conference for potential applicants to acquaint them with procurement policies and procedures, the service/s being procured, and the requirements of the RFP. If a conference is scheduled due to anticipated competition or complexity of RFP materials, the date, time, and place of the conference is stated in the RFP. Following a conference, all questions will be addressed in writing and provided to all potential contractors who received RFP packets. The bidders' conference may be required to be mandatory.
5. **Notifying Bidders**: All bidders will be notified, in writing, of the results of the technical evaluation. Failed bidders will be notified, in writing, that they have the right to protest the decision. The procedures to receive, investigate, and resolve grievances, and to conduct hearings to adjudicate disputes are set forth in Section E as follows.

E. Dispute Resolution: Any entity proposing services to the LEO/COWIB who believes the process of approving service providers and/or awarding contracts did not receive due consideration and/or believe other irregularities existed may file a written grievance to the LEO/COWIB as follows:

- 1. The entity must submit a grievance in writing within 10 working days of the occurrence of the action being grieved to the LEO/COWIB stating the reasons for the grievance with the procurement or contract award process. Any grievance received after this deadline will not be considered or reviewed by the COWIB.
- 2. All written grievance will be reviewed by the LEO/COWIB Staff and presented to the appropriate LEO/COWIB committee and LEO/COWIB and/or LEO for review and decision within 60 working days of receipt by the LEO/COWIB Staff.

3. The entity submitting the appeal will receive a written response from the LEO/COWIB Staff stating the findings of the LEO/COWIB and /or LEO within 10 working days of the LEO/COWIB and/or LEO decision.

F. Oversight: The LEO/COWIB shall maintain:

1. **Contract Administration:** A written contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The LEO/COWIB will basically follow the Oklahoma Employment Security Commission's (OESC) procurement and contracting policy described in more detail in following sections.
2. **Monitoring:** The LEO/COWIB will conduct and document oversight of their procurements to ensure compliance with state policies and Federal guidelines incorporated into this document.

III. METHODS OF PROCUREMENT

The LEO/COWIB will use the following procurement methods as recognized by OESC as being appropriate:

A. Non-Competitive Procurement Purchases

The LEO/COWIB will minimize its use of non-competitive procurements to the extent practicable and any such procurement shall be justified. Purchases may be made with no price or rate quotations when the training purchase is made at off-the-shelf or catalog prices, and the purchase in the aggregate is less than \$2,500. When a Non-Competitive Procurement purchase is made, no contract is necessary. However, provision IV A below, shall be followed.

The only exception to this would be when writing a contract for On-the-Job Training (OJT) or Customized Training. The following process will be used.

1. **On-the-Job Training**

The OJT contract procurement process will include the following:

- a. **Employer Contact** – Businesses will be contacted by OWD or CCC staff to assist them in understanding the intent of the OJT activity and benefits to the employer;
- b. **Referral** – Customers will be referred to the interested business for an interview and selection;
- c. **Training Plan** - A training plan is developed through the combined efforts of the business and OWD or CCC staff to establish customer's training deficits and training to be provided by employer along with timeline to complete.
- d. **OJT Contract**- A written contract is established and signed by the employer and appropriate staff of OWD or CCC incorporating the Training Plan, duration of training, and a maximum reimbursement rate of 50 percent for training associated costs.
- e. **Verification**- At the end of each month the employer submits an evaluation form and time card stating training hours, and acquired skills in accordance with the Contract.

The OJT procurement and contracting process will comply with the attached Policies and Procedures in conformance with requirements further described in Oklahoma Employment and Training Issuance (OETI) #27-2000 (Attachment C).

2. Customized Training

The Customized Training contract procurement process will be as follows:

- a. A need for customized training has been identified by a local employer or group of employers to meet their job requirements;
- b. OWD or CCC staff must recognize the training is required and limits the training period to enable the participant to become proficient in the occupation for which the training is being provided;
- c. An incumbent worker/s may be provided customized training if the training is related to new technologies, an introduction to new production or service procedure, upgrading for new jobs that need additional skills, workplace literacy or other appropriate reasons determined by the COWIB.
- d. The employer will be reimbursed up to 50 percent of the employee's wage to compensate for the employer's extraordinary costs for training;

The Customized Training procurement and contracting process will comply with the attached OETI #28-2000 (Attachment D).

B. Competitive Small Purchases

Small purchase procedures may be used for the purchase of goods or services under Twenty Five Thousand dollars (\$25,000.00), in the aggregate, for any given Fiscal Year. A purchase in excess of the small purchase limitations of \$25,000.00 shall not be split in order to circumvent the small purchase limit. When a Small Purchase is made, no contract is

necessary. The following process requires the STAFF and Career Connection Center (CCC) staff to begin at item 2.

1. The first priority in all purchases made by the GR/FA staff, regardless of dollar amount, will be contracted vendor(s) through existing contracts, agreements, and resolutions authorized by the Oklahoma City Council and signed by the Mayor.
2. Single item purchases under \$2,500, that are not available under a contract, will be made at the discretion of the STAFF, CCC, GR/FA based on a reasonable and informed price comparison.
3. Single item purchases over \$2,500 and under \$25,000 that are not under contract, will be made at the discretion of the STAFF, CCC, GR/FA based on the documentation of at least three informal competitive price quotations. The price quotations must include the name of (STAFF, CCC, or GR/FA) and name of buyer, description of item/s, name of vendor along with vendor's address, phone number, date, and delivery price. Price quotations may be by direct mail request to prospective vendors, telephone, public notice, e-mail, facsimile, or electronic posting by Internet service provider.
4. After receiving the appropriate quotes in accordance to 1-3 above, a Purchase Request or similar procurement document is prepared and the information regarding the quotes is attached. The continuing process to procure targeted item/s from a vendor may vary slightly. However, in all instances the STAFF, GR/FA staff, or CCC staff will follow their respective procurement policies to purchase item/s from a vendor and meet the minimum requirements previously stated under 1, 2, and 3.

C. Competitive Bids

1. Conditions: The LEO/COWIB will use a competitive, Invitation for Bids (IFB) sealed bid method of procurement for the purchase of goods or services in excess of \$25,000.00 if the following conditions are present:
 - a. A complete, adequate, and realistic specification or purchase description is available; and
 - b. There are two or more responsible suppliers willing and able to compete effectively for the award; and
 - c. The procurement lends itself to a firm fixed-price contract, and selection can appropriately be made based on lowest and best price.
2. Requirements: If this method is used, the LEO/COWIB shall:
 - a. Allow sufficient time, prior to the date set for opening bids, for potential suppliers to respond; and
 - b. Solicit bids by issuing an "Invitation for Bids" (IFB) to known suppliers, and by publicly advertising the Invitation in one or more newspapers designed to reach suppliers;
 - c. The "Invitation for Bids", clearly define the items or services needed in order for the bidder to properly respond to the Invitation;
 - d. Open all bids publicly at the time and place stated in the Invitation for Bids; and
 - e. Award a firm fixed-price contract (lump sum or unit price) by written notice to the responsible bidder whose conforming bid is lowest and best in price, or reject any or all bids when there are sound documented business reasons for doing so.
 - f. Single bids may be accepted when:
 - (1) The bid received is the result of a third advertisement
 - (2) The bid is received at the end of the fiscal year and there is insufficient time to re-advertise the requirements and there is an immediate need
 - (3) The requirement is determined to be a sole source (proprietary item or service)
 - (4) The administrative cost of processing the third advertisement is determined to be greater than the savings that may be realized.

Whenever the lowest bid is not the best bid, documentation for selecting another vendor who is the lowest and best bid will be included in the procurement file.

In determining the lowest and best bid, in addition to price, the following factors may be considered:

- (1) The ability, capacity and skill to perform under the contract or provide the services required;
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

- (4) The quality of performance of previous contracts or services;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- (6) The sufficiency of the financial resources and ability to perform under the contract;
- (7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required;
- (8) The ability to provide future maintenance and service;
- (9) The number and scope of conditions and/or exceptions attached to the bid; and
- (10) Pending litigation.

D. Competitive Negotiation for RFP's

The LEO/COWIB will use competitive negotiation for Request for Proposal (RFP) for the purchase of goods or services in excess of \$25,000 when the following conditions are present:

1. Conditions
 - a. **The nature of the item or service needed precludes developing a specification or a purchase description so precise that all potential suppliers have an identical understanding of the requirements; and**
 - b. In addition to price, other factors will be significant in the award decision.
2. Technical Evaluation Methodology

The LEO/COWIB will use the following methodology for technical evaluation of competitive proposals and award to responsible bidders whose proposals are most advantageous to the program with price, technical, and other factors considered. This methodology will contain at a minimum the following:

- a. **Evaluation Planning:** The technical evaluation process is included in the RFP and will include estimated dates for the completion of primary steps in the RFP process.
- b. **Evaluation Approaches and Procedures:** The evaluation factors and their relative weights to be used, as well as the scoring system to be used is included in each RFP. The factors, tailored for each RFP, are used along with the price or cost proposed to award contracts. Other factors considered may include:
 - (1) Adequate financial resources or the ability to obtain them;
 - (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 and the ability to provide or arrange for appropriate supportive services;
 - (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 organization, experience, accounting and operational controls;

- (7) The technical skills to perform the work; and
 - (8) Meet or exceed the minimum requirements stated in the RFP to be considered as an acceptable proposal.
- c. **Assignment of Reviewers:** Staff and/or others are selected by the LEO/COWIB to form a Proposal Review Committee to conduct the technical evaluations. Prior to the evaluation of the proposals the LEO/COWIB meets with the Committee to discuss: 1) The process of scoring proposals; 2) the minimum threshold score a proposal is required to receive for consideration of negotiations and possible contract award; 3) discuss the documentation required to be included and properly signed; 4) receive guidance in proper use of the evaluation form; and 5) point out all other required elements designated in the RFP. The Committee is provided the critical dates and deadlines, a copy of the RFP, a copy of the proposals, the evaluation factors, and evaluation forms. The Committee is reminded of the conflict of interest policies of the LEO/COWIB prior to the review.
- d. **Conducting evaluations:** All timely proposals meeting the minimum requirements of the RFP will be reviewed against the evaluation factors. Each proposal receives a weighted score on each evaluation factor from each member of the Committee. An average of all Committee members' scores on each evaluation factor is determined. A total of all evaluation factors scores determine the overall proposal score. All proposals receiving a score of less than the minimum threshold score identified in the RFP will not be considered for a possible contract with the COWIB.

The LEO/COWIB will send a written notice on all unsuccessful proposals stating they will not receive further consideration due to the stated reasons.

- e. **Approval and Negotiation:** The RFP includes a calendar providing approximate dates for: 1) RFP release; 2) proposal due date; 3) proposal evaluation time frame and who will evaluate; 4) review by LEO/COWIB Committee; 5) review by COWIB; 6) contract negotiations, and 7) contract awards.

The proposals are reviewed by the LEO/COWIB Committee, selected and recommended to the LEO/COWIB for contract negotiations. Other considerations besides the proposal score in making the recommendation may include:

- (1) Funds available for contracting;
 - (2) Cost for services proposed;
 - (3) Comparable services proposed by others; and
 - (4) Other.
- f. Contracts will be negotiated and a tabulation of the results presented to the LEO/COWIB for approval to write contracts and process for signatures.
- g. **Awarding contracts:** Final documents are sent to the GR/FA to write the contract after being approved by LEO/COWIB. GR/FA processes multiple copies of contract and mails to the contractor for approval and signature. The signed contracts are circulated for signatures of Assistant Municipal Counselor and Chair of Local Elected Officials. Copies of signed contracts are mailed to the contractor, LEO/COWIB and one retained in GR/FA files.

- h. **Contract Modifications:** Contract modifications are made to the contract to adjust line items within the budget, extend contract period, change language for clarity, and other reasons under the following conditions.
 - (1) Line item change limited to 10 percent of total budget and requires written request of contractor and approval of GR/FA
 - (2) Line item changes or other changes in the contract that change the dollar amount of a line item or total contract, require a written request from the contractor justifying the change with sufficient documentation to support change requested.
 - (3) All changes that alter the scope and intent of the contract will require a written request from the contractor justifying the change with sufficient documentation to support change requested.
 - (4) All modifications to the contract as stated in (b), (c) or as directed by the LEO/COWIB will require the same approval process as required for the original contract prior to any deviation from the original contract.

- i. **Documenting evaluation results:** All proposals received in response to a RFP that score equal to or above the minimum threshold score are entered on a spreadsheet. The spreadsheet is used to record the scores, reviewer comments, and is retained in procurement files. The individual scores and comments provided by each reviewer are summarized on one spreadsheet for ease of reading and for the records.

Each proposal is summarized and entered on a form, providing all pertinent information and is used to present information to the designated LEO/COWIB Committee for review and recommendation. The decision of the LEO/COWIB Committee is entered on the form for each proposal. This form is submitted to the LEO/COWIB for consideration and approval for contract negotiations. The decision of the LEO/COWIB is entered on the form. This becomes the tracking record for the procurement process.

E. Non-Competitive Negotiation

In accordance with the ACT only On-the-job training (OJT) contracts and customized training contracts may be sole sourced. OJT brokering awards will be procured competitively.

The LEO/COWIB may use Sole source procurement only when the award of a contract is infeasible under small purchase procedures (under \$2,500.00), or competitive proposals and one of the following circumstances applies:

1. The item or service is available from only a single source; or
2. An emergency situation that will not permit the time required for a competitive solicitation; or
3. After solicitation from a number of sources, competition is determined inadequate; or
4. The purchase of workers compensation insurance coverage from the State of Oklahoma, State Insurance Fund, the rates of the State Insurance Fund are established by a commission and are not subject to competition.

When writing On-the-job training (OJT) and customized training contracts the sole source method of procurement may be used. Note: OJT brokering awards must be selected competitively.

When hiring Board Staff without following a competitive procurement process, procedures must be established which includes advertising the position and the qualifications required, conducting interviews of the applicants and a system for rating and selection of the individual or individuals. The Board staff does not have to be an employee of the Fiscal Agent or the COWIB, however when this occurs, arrangements must be made for an employer of record.

The cost of professional and consultant services rendered by persons or organizations that are members of particular profession or possess a special skill are allowable if charged in accordance with OMB A-87 Attachment B Item 33. Professional service costs or OMB A-122 Attachment B Item 39. Professional service costs or OMB A-21 Section J.32 Professional service costs as appropriate.

F. Individual Training Accounts (ITA)

The ACT mandates that all training services (except for on-the-job training and customized training) are provided through the establishment of an ITA and that eligible adults and dislocated workers shall receive an ITA through the one-stop delivery system.

ITA'S are funded with adult and dislocated worker funds authorized under Title I of WIA. Payments are made from an ITA for training services in demand occupations as defined by the COWIB. Payments can only be made to an eligible training provider.

1. Eligible Training Provider - Each local Workforce Investment Boards submits their respective list of eligible service providers, after determining they have met the requirements of the application process, to OESC. All eligible service providers approved by OESC are placed on the Statewide Training Provider web site for all local WIA programs to utilize. Payments for training services are made after the customer completes the training provider's class drop period and receipt of a valid invoice.
2. Individual Training Account – ITA are used for eligible Adults and Dislocated Worker customers in an amount not to exceed \$5,000 for a 12 month actual training period and a maximum of \$10,000 per 24 month actual training period per customer as approved by the COWIB. The ITA process for procurement of training services is as follows:
 - a. The customer makes an informed choice of a training provider where they wish to receive training.
 - b. An ITA multi copy form is completed by an OWD or CCC staff providing the following information (Attachment E, ITA Form):
 - (1) Name of Training Provider;
 - (2) Vendor Number;
 - (3) WIA Funding Source;
 - (4) Customer Name;
 - (5) Social Security Number;
 - (6) WIA Program
 - (7) Course or Program (course number, course title, and course hours)
 - (8) Beginning and Ending Dates
 - (9) Tuition

- (10) Cost of Fees
- (11) Cost of Books

- c. An ITA modification form is completed, if necessary, by the appropriate OWD or CCC staff to make necessary and approved adjustments to the ITA (Attachment F, ITA Modification Form).

G. WIA Consumer Choice

The COWIB, through the One-Stop Centers, provides training services in a manner that maximizes informed consumer choice in selecting an eligible training services provider in accordance with the goals and objectives outlined in the participant's individual employment plan. The COWIB, through the local one-stop centers, provides in the Resource Room many computers with access through Internet to the Statewide Eligible Training Provider list to enable the customer to make an informed choice on where he/she receives training

The LEO/COWIB follows OETI #10-2000 (Attachment G) when developing their policies and local operating procedures concerning the cost of training and training-related expenses that reflect prudent fiscal management and results in outstanding customer satisfaction. Every effort is made to honor the commitments made to participants, but participants must also understand they must assume the responsibility of obtaining their planned goal and objectives.

H. Eligible Training Providers

The LEO/COWIB uses the OESC provided list of eligible training providers maintained on the OESC web site. The eligible training provider is:

1. A postsecondary educational institution that-
 - a. is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);and
 - b. provides a program that leads to an associate degree, baccalaureate degree, or certificate
2. An entity that carries out programs under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or
3. Another public or private provider of a program of training services.

I. Individual Referral Voucher

The COWIB, through the One-Stop Centers, uses an Individual Referral Voucher to provide authorization only for the training provider to deliver training and services to students for those costs at the current rates that are published on the OESC web site and are standard costs charged to all students. The One-Stop Centers issuing the Individual Referral Voucher will not be liable for any charges made by a student unless the charges are shown on the original signed referral voucher. Proper invoices must be submitted before payment can be made.

The One-Stop Centers issuing the Individual Referral Voucher will abide by the attendance and refund policies written in the training providers catalogs or brochures.

J. Pass Through

This policy does not apply to pass through of monies from any unit of State or local government to other such units, such as a local educational agency or public housing authority. To qualify as a pass through, the LEO/COWIB must either further pass through the monies to another such entity or procure services in accordance with the procurement policies.

IV. REASONABLENESS OF COST

Determination Required

The LEO/COWIB will document cost reasonableness for every procurement action, including contract modifications (except for modifications where a determination has been made that they do not have a monetary impact). The LEO/COWIB will determine cost reasonableness by price analysis and cost analysis and retain documentation in procurement file. In addition to other evaluation factors used for price or cost analysis, the LEO/COWIB shall make independent estimates before receiving bids or proposals and retain in the procurement file.

A. Price Analysis

1. Price analysis is the process of examining and evaluating a price without looking at the estimated cost elements and proposed profit of the offeror whose price is being evaluated.
2. Price analysis is performed on every procurement action.
3. Price analysis techniques include:
 - a. Comparison of proposed prices with independent estimates of cost developed by the LEO/COWIB;
 - b. Comparison of competitive price quotations;
 - c. Comparison of prior quotations and contracts with current quotations for the same or similar items;
 - d. Use of yardsticks or parametric relationships to point up apparent gross differences (e.g., dollars per placement, price per instruction hour, price per participant-training hour, etc.); or
 - e. Comparison of prices on published price lists with published market prices of commodities, together with discount or rebate schedules.

B. Cost Analysis

1. Cost analysis is the review and evaluation, element by element, of the cost estimate supporting a company's proposal for the purpose of pricing a contract.
2. A cost analysis is necessary when the offeror is required to submit the elements of the estimated cost, when adequate price competition is lacking, and for sole source procurements, including contract modifications (except for modifications where a determination has been made that they do not have a monetary impact), unless price reasonableness can be established on the basis of a catalog or market price of a

commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

3. Cost analysis includes evaluation of the:
 - a. supporting data submitted by the offeror,
 - b. cost elements, and
 - c. factors the offeror considered in projecting from the data to develop the estimate of cost to perform the specified work.

C. Profit or Program Income

1. If profit or program income is included in the price, the LEO/COWIB shall negotiate profit or program income 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 required.
2. To establish a fair and reasonable profit or program income, consideration shall be given to:
 - a. The complexity of the work to be performed;
 - b. The risk borne by the contractor;
 - c. The contractor's investment;
 - d. The amount of subcontracting;
 - e. The quality of the contractor's record of past performance;
 - f. Industry profit rates in the surrounding geographical area for similar work; and
 - g. Market conditions in the surrounding geographical area.
3. The cost plus a percentage of cost method of contracting shall not be used.

V. SELECTION OF SERVICE PROVIDERS

A. Youth Service Provider Selection

All youth service providers will be selected by a competitive process as outlined in this policy, except as otherwise provided by the Act.

B. Adult and Dislocated Worker Service Provider Selection

The LEO/COWIB and /or STAFF will not directly provide core services, or intensive services, or be designated or certified as a One-Stop operator, unless agreed to by the LEO and the Governor.

1. Administration Funds— The LEO/COWIB will ensure that, for all services provided to participants through contracts, grants, or other agreement with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration.
2. Duplication of Services—No funds shall 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 in writing that alternative services or facilities would be more effective or more likely to achieve the COWIA'S performance goals.

VI. DOCUMENTATION

The COWIB, through its GR/FA, will maintain a file for each procurement action sufficient to detail the significant history of the procurement. The procurement file will contain, if applicable, the following general procurement items:

A. General Procurement Items

1. Justification for the type of procurement method used;
2. The price and cost analysis performed, including the independent estimates made by the LEO/COWIB prior to receiving bids;
3. Certificates of debarment; and
4. Justification if the lowest priced item is not purchased.

B. Method of Procurement

Each procurement file must contain, if applicable, the following items:

1. Small Purchase Procurement:

The procurement file will contain, if applicable, the following small purchase items:

- a. Copies of price or rate quotations from an adequate number of qualified sources; and
- b. Justification for why less than three (3) price or rate quotations were obtained.

2. Competitive Procurement:

The procurement file will contain, if applicable, the following competitive procurement items:

- a. Copies of any bids or proposal solicitations issued including the evaluation factors;
- b. Copies of advertisements announcing procurement actions;
- c. Copies of all solicited bids or proposals received;
- d. Summary of any negotiations including changes made to the curriculum, price, duration, technical requirements (such as instructor qualifications), or outcomes;
- e. Summary of the negotiations establishing fair and reasonable profit or program income;
- f. Copy of the evaluation results of the bids or proposals received; and
- g. Justification of the sound business reasons for rejecting any bids or proposals;
- h. The original RFP, with the time and date received recorded.

3. Non-Competitive Procurement

The procurement file will contain, if applicable, the following non-competitive procurement items:

- a. Summary of any negotiations including changes made to the curriculum, price, duration, technical requirements (such as instructor qualifications), or outcomes;
- b. Summary of the negotiations establishing fair and reasonable profit or program income; and the demonstrated ability of service providers to effectively deliver the services required will be documented in the procurement file.

VII. PRE-AWARD REVIEW

Upon the completion of the selection and documentation process, the GR/FA will make a determination as to whether a Pre-Award Financial Review should be completed.

A Pre-Award Financial Review will be required when the procurement action will result in the award of funds to:

- (1) A new subrecipient (i.e., one that has not previously had a contract with the GR/FA); or
- (2) A subrecipient that has been previously determined to be in a "High Risk" status.

The purpose of the Pre-Award Financial Review will be to consider what, if any, special conditions or restrictions should be placed on the subrecipient.

Determining "High Risk" Status.

The GR/FA will make this determination based on the following criteria:

- Is proper documentation available to verify that the grantee is financially solvent?
- Does the grantee maintain an adequate financial management system in accordance with 29 CFR 95 and 29 CFR 97? and
- Is there a current cost allocation plan that meets the requirements of the OMB circulars?

A subrecipient may be considered "high risk" if the GR/FA finds that it:

- Has a history of unsatisfactory performance, or
- Is not financially stable, or
- Has a management system which does not meet the management standards set forth in 29 CFR 95 or 29 CFR 97, or
- Has not conformed to terms and conditions of previous awards, or
- Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high-risk condition and shall be included in the award.

If the GR/FA determines that a selected subrecipient falls into a "high risk" classification, then the GR/FA will consider whether any special conditions or restrictions should be placed on the subrecipient.

Special conditions or restrictions may include:

- Payment on a reimbursement basis,
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period,
- Requiring additional and/or more detailed financial reports,
- Additional project monitoring,
- Requiring the grantee or sub-grantee to obtain technical or management assistance, or
- Establishing additional prior approvals.

If the GR/FA decides to impose such conditions, the awarding official will notify the subrecipient as early as possible, in writing, of:

- The nature of the special conditions / restrictions,
- The reason(s) for imposing them,
- The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions, and
- The method of requesting reconsideration of the conditions / restrictions imposed.
- Once the subrecipient has proven, for one entire program year, its ability to meet the expectations of the awarding agency, the subrecipient will no longer be considered “high risk.”

The pre-award review will be conducted as soon as possible after the selection of the subrecipient has been made.

In exceptional circumstances (as determined by the COWIB’s Chief Executive Officer and/or the Chair of the Board of Local Elected Officials), the pre-award review may be postponed until after the award of a contract to the subrecipient. In such a case, the pre-award review will be replaced by an on-site post-award monitoring review to be conducted within 120 days after the award of the contract.

VIII. CONTRACT POLICY

All procurement action requiring a written agreement or contract will be as follows:

- A. **PURPOSE**—These minimum standards are established to ensure that public funds are adequately protected in the subcontract process and that grant recipients are in compliance with applicable laws and regulations.

“Contract” means a mutually binding legal relationship obligation the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate the awarding agency to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements.

- B. **CONTRACT REQUIRED**—The following procurement actions require written contracts between the LEO/COWIB and vendors or sub-recipients.

1. Vendors--A written contract is required when procuring services exceed \$25,000 in the aggregate from any vendor. A written contract is also required when a competitive procurement action is required.
2. Service Provider--A written contract is required when procuring services exceed \$25,000 in the aggregate from any service provider. A written contract is also required when a competitive procurement action is required.
3. Sub-recipients—A written contract is required when procuring services in any amount from a sub-recipient.

- C. **SELECTION OF CONTRACT**—Two basic types of contracts will be used by the LEO/COWIB.

1. Cost Reimbursement Agreements—Provides for the payment of actual costs incurred to the extent as prescribed in the contract. This type of agreement reimburses the

contractor for their best efforts to perform up to the total costs and types of costs authorized in the contract. Detailed documentation demonstrating that all reported costs have been incurred is required to earn payment.

2. Fixed-Price Agreements

- a. A fixed-price agreement pays a contractor a specified price for specified deliverables irrespective of the contractor's actual costs incurred. This form of agreement is used when clear delivery specifications can be stated with little or no uncertainty.
- b. The most widely used form of fixed-price agreement has been the fixed-unit-price, performance-based contract. These agreements make payments to the contractor contingent on successful achievement of specified, measurable performance outcomes. The risk under this form of agreement should be primarily with the contractor since compensation is not owed, regardless of the costs incurred, unless the contractor achieves satisfactory results. Work performed under this type of contract will be allocated to the appropriate cost categories.
- c. Another type of fixed-price agreement is an indefinite quantity contract. They are used when an organization knows what specific goods or services it needs but cannot specify the quantity it will need or the times they will be needed. Such contracts may contain many types of items, as long as each type is clearly described in the statement of work.

D. CHOICE OF CONTRACT—The LEO/COWIB will use a type of contract based on consideration of cost and price analysis, degree of performance certainty, assignment of risk, and the particular characteristics of a given procurement.

1. Cost Reimbursable Contracts--Contracts between units of State or local government, and any other entity organized principally as the administrative entity for COWIA will be conducted on a cost reimbursable basis. Cost plus type awards are not allowable. In the case of procurement transactions with schools that are a part of these entities, such as State universities and secondary schools, when tuition charges or entrance fees are not more than the educational institution's catalogue price, necessary to receive specific training, charged to the general public to receive the same training, and for training of participants, the tuition and/or entrance fee does not have to be broken out by items of cost.
2. Fixed-Price Contracts--An appropriate use of a fixed-price contract is where the contract price is made up of single unit charges and payment is contingent of delivery of the specified units, such as OJT employer agreements and catalogue priced tuition training. A logical use of the indefinite quantity contract would be when contracting for referrals to training that has tuition-based pricing. This will obviate the need to execute small purchases again and again.

E. MINIMUM STANDARDS—Each contract written at the LEO/COWIB level will contain elements as described in this policy. This policy is not intended to prescribe a format or order: however, each element identified in this policy will be addressed in the LEO/COWIB contracts.

1. Signature/Cover Page--All contracts, including modifications, will be executed and signed by the LEO Chair or designee, and will include beginning and ending dates for the contract performance and payments. The signature or cover page will include:
 - a. A Statement of Purpose,
 - b. The names and addresses of the parties to the contract,

- c. The beginning and ending date of the contract,
 - d. A list of contract sections and attachments,
 - f. The typed names and titles of signatories, and
 - g. The signatures and the date of signature.
2. Statement of Work--Each contract will contain a narrative describing the quantity and quality of work to be performed by the contractor. The narrative will provide a timeline of events such as the dates the contract work is to begin and end, and any start-up or close-out dates (if any), and how will performance outcomes be documented and verified.
3. Payment and Delivery Provisions--The conditions under which the LEO/COWIB will make payment or partial payments to the contractor will be clearly stated. Included here will be the budget or benchmarks for payments; frequency of payment if progress or reimbursement payments are used; addresses of where to submit invoices and where to send payments; the types of invoices required, including any backup and supporting documentation; discounts; holdbacks; and other payment-related information. LEO/COWIB will consider holding back some portion of the contract price pending full performance. For example, holding some portion of the agreed upon payment price to any OJT employer until the participant has been employed by that employer for more than 90 days.
4. Boilerplate Terms and Conditions
- a. **Contracts with vendors**--The following terms and conditions will be included in any contract between LEO/COWIB and a vendor or service provider (over \$25,000 in services or goods).
 - (1) Provisions for early Terminations
 - (a) For cause (default)--The termination for default clause will give the LEO/COWIB the right to terminate the contract for the contractor's failure to perform its obligations under the contract.
 - (b) For convenience--This clause will allow the LEO/COWIB to terminate the contract without becoming liable for breaching the contract by giving reasonable notice.
 - (c) Funding--This clause will allow the LEO/COWIB to terminate the contract due to lack of funds
 - (2) Modification to Grants--This following condition will describe the method and circumstances required for modifications of grants to the COWIA.
 - (a) Any revisions, additions, or deletions to the terms of a contract which are required by changes in Federal law or regulations will be automatically incorporated into the contract without the need for a written amendment. All such changes shall become effective on the date designated by law or regulation.
 - (b) Modifications reducing the budget levels of any contract may be considered and implemented during the course of the contract:
 - <> If and when a contractor fails to meet expenditure, client, outcome goals, or
 - <> Upon notification of a funding reduction from the State of Oklahoma or the U.S. Department of Labor.

It is anticipated that if a contractor falls below 90% of planned expenditures, the LEO and the Board may de-obligate the unspent portion and require a revised budget from the contractor.

(c) In general: Modifications -- with the exception of those required by Federal or State Law -- will be submitted for written approval by the LEO and the Board or Contractor before becoming effective.

(d) In general: Either party to a contract may request that the contract terms be re-negotiated when circumstances, which were neither foreseen nor reasonably foreseeable by the parties at the time of contracting, arise during the period of performance of this contract. Such circumstances must have a substantial and material impact upon the performance projected under this contract and must be outside the control of either party.

(e) Modifications increasing the budget levels of any contract may be considered and implemented during the course of the contract only in limited circumstances. For example, an increase in funds may be considered if additional funds become available to the area -- such as NEG funds, reallocation of funds, or any other increase of funds becoming available from USDOL.

The COWIB staff will prepare a Grant Agreement modification form for Grant Agreements received by the GR/FA when conditions warrant. The conditions may include any of the following common reasons for a modification and others determined necessary by the LEO/COWIB.

- Grant increase or decrease;
 - Grant Period Extension;
 - Program Change;
 - Federal Amendments; and
 - Other Appropriate and Necessary Reasons.
- (b) COWIB staff submits the Grant Agreement modification form to the GR/FA for approval that contains the following information (Attachment H, Modification of Grant Agreement Form)
- Grant Number;
 - Modification Number;
 - Change Made Necessary by Modification;
 - Signature Block for Chair of LEO;
 - Signature of Board approval; and
 - Appropriate Dates.
- (3) Provision Against Assignment—The GR/FA will ensure that the contractor will not assign its interest in the contract without written approval from the LEO/COWIB.

- (4) Subcontracting—It is the intent of the GR/FA that no contractor will be permitted to subcontract away its contract responsibilities to the LEO and/or LEO/COWIB without the prior written approval of the LEO and COWIB.
- (5) Indemnification (Hold Harmless)--The provision must protect the LEO/COWIB, the State of Oklahoma, the U.S. Department of Labor, and all agents in case the contractor is sued for acts committed within the contract.
- (6) Dispute Resolution--Will define a method for resolution of disputes related to contract performance.
- (7) Audit Rights--Will give the LEO/COWIB, State of Oklahoma, and others with statutory audit rights the authority to examine documents pertaining to contract performance and enable the auditor to determine whether the contractor is properly performing its contractual obligations, especially in relation to payments received.
- (8) Access to Records--Will give access to the LEO/COWIB, State of Oklahoma, the 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 will include timely and reasonable access to contractors and subcontractors personnel for the purpose of interviews and discussions related to such documents.
- (9) Copyrights and Rights to Data--Will include a notice of the Funding source requirements pertaining to Copyrights and the rights to data. Specifically, the GR/FA, the State of Oklahoma, and the Department of Labor shall have unlimited Rights to any data first produced or delivered under the agreement.
- (10) Pre-agreement Cost Clause--Funds expended prior to the signature date of a contract will be questioned unless the contract contains a pre-agreement cost clause. This clause will allow for the expenditure of funds between the planned beginning, or effective, date of the contract and the actual signature date. Under no circumstances may a pre-agreement cost clause provide for allowable expenditures for more than 30 calendar days after the effective date of the contract.
- (11) Increases and Extensions--Any increase in funds will be based on adequate documentation of past-demonstrated performance outcomes and the rationale provided. The contract may be extended but the limitation on the number of years must be specified and the provisions justifying the extension must be documented utilizing the modification process.
- (12) De-obligation/Re-obligation/Extensions—Will define situations, if any, which contract payments may be decreased or the contract length extended.
- (13) Price Adjustment--If a contract or modification was negotiated in reliance upon cost data supplied by an organization offering a proposal. The GR/FA will ensure that it can adjust the price to exclude any significant sum by which the price was increased, because the contractor had submitted cost data in its proposal that was not accurate, complete, or current as certified.
- (14) Renewal—The State of Oklahoma allows the extension of a contract for two consecutive years (in one year increments) from the original contract ending if

the basis for renewal has been met, documented and verified. Contracts have a negotiated level of performance specified that must be met in order to be renewed. The performance measures reported by the contractor will be analyzed, verified and documented utilizing information contained in Oklahoma Service Link (OSL) by a simple sampling method. Performance will be analyzed on a quarterly basis to ensure reports made by the contractor can be supported by information contained in OSL. The review for renewal will be conducted in the month following the third quarter of performance and a determination as to whether the contract may and will be renewed will be concluded before the end of the tenth month of the contract year. The contractor will be notified in writing as to whether their contract will be renewed.

- b. **Contracts with Providers/Vendors who serve participants**—The GR/FA will consider the conditions in Paragraph E.1 and the following conditions as minimum requirements in contracts with a vendor or service provider (over \$2,500), who provides services to participants (Attachment I, OKC Certificate of Insurance Form)

(1) Provider/Vendors's Insurance. Required insurance shall be carried and maintained throughout the term of this Contract, and certificates of insurance shall contain an understanding by the insurer(s) to the effect that the policy(s) may not be canceled, fail to be renewed, nor the limits decreased without thirty (30) days prior written notice to the City of Oklahoma City as the Grant Recipient/Fiscal Agent (GR/FA) for the COWIA LEO.

- A. During the term of the Contract, the Provider/Vendor shall provide, pay for, and maintain with companies satisfactory to the GR/FA, the types of insurance described herein. All insurance shall be from responsible insurance companies eligible to do business in the State of Oklahoma. All liability policies shall provide that the City of Oklahoma City and/or the Central Oklahoma Workforce Investment Area Local Elected Officials (COWIA LEO, which includes the City of Oklahoma City and Oklahoma, Canadian and Logan Counties) are named additional insured as to the operations of the Provider/Vendor under this Contract and shall also provide the following Severability of Interest Provision:

With respect to claims involving any insured hereunder, each such interest shall be deemed separate for any and all other interest herein, and coverage shall apply as though each such interest was separately insured.

The insurance coverage and limits required must be evidenced by properly executed Certificates of Insurance on the forms furnished by the City, showing the contract number and description as indicated in the Contract. The Certificate must be signed by the Authorized Representative of the insurance company(s) shown in the Certificate with proof that he/she is an authorized representative thereof. In addition, certified, true and exact copies of all insurance policies required shall be provided to the GR/FA, on a timely basis, if requested by the GR/FA. The required policies of insurance shall be performable in Oklahoma City, and Oklahoma, Canadian and Logan Counties, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

No less than thirty (30) days prior written notice by registered or certified mail shall be given to the GR/FA of any cancellation, intent not to renew, or reduction in the policies' coverage except in the application of the aggregate limits provisions. In the event of a reduction in any aggregate limit, the Provider/Vendor shall take immediate steps to have the full amount of the limits appearing on the certificate reinstated. If at any time the GR/FA requests a written statement from the insurance company(s) as to any impairment to the aggregate limit, the Provider/Vendor hereby agrees to promptly authorize and have delivered to the GR/FA such statement. The Provider/Vendor shall make up any impairment when known to it. The Provider/Vendor authorizes the GR/FA to confirm all information so furnished, as to Provider/Vendor's compliance with its bonds and insurance requirements, with the Provider/Vendor's insurance agents, brokers, surety and insurance carriers. All insurance coverage of the Provider/Vendor shall be primary to any insurance or self-insurance program carried by the GR/FA and or the COWIA LEO.

- B. No work or occupancy of the premises shall commence at the site unless and until the required Certificates of Insurance are in effect and the written Notice to Proceed is issued to the Provider/Vendor by the GR/FA.
- C. The insurance coverage and limits required of the Provider/Vendor under this Contract are designed to meet the minimum requirements of the GR/FA. Such coverage and limits are not designed as a recommended insurance program for the Provider/Vendor. The Provider/Vendor alone shall be responsible for the sufficiency of its own insurance program. Should the Provider/Vendor have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed thereof, Provider/Vendor should seek professional assistance.
- D. Any deductibles or self-insured retentions or any scheme other than a fully insured program of general liability, automobile liability and/or employer's liability must be declared by the Provider/Vendor and be approved in advance by the GR/FA. At the option of the GR/FA, either the Provider/Vendor shall require the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to the City and/or the COWIA LEO; or the Provider/Vendor shall procure a bond guaranteeing payment of the losses and related investigations, claim administration and defense expenses not otherwise covered by Provider/Vendor's insurance because of deductibles or self-insurance retentions.
 - 1. Worker's Compensation and Death Liability. The Provider/Vendor shall maintain, during the term of the Contract, Worker's Compensation Insurance as prescribed by the laws of the State of Oklahoma and Employer's Liability Insurance in an amount not less than one hundred thousand dollars (\$100,000.00) each for all its employees employed at the site of the project, and in case any work is subcontracted (if subcontracting is allowed pursuant to the

Contract), the Provider/Vendor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all the subcontractor's employees, unless such employees are covered by the protection afforded by the Provider/Vendor. In the event any class of employees engaged in work performed under the Contract or at the site of the project is not protected under such insurance heretofore mentioned, the Provider/Vendor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.

2. Commercial General Liability Insurance.

- a) The Provider/Vendor shall maintain during the term of the Contract sufficient Commercial General Liability

Insurance to protect the Provider/Vendor and any additional insured(s) from claims for bodily injury, including death, as well as from claims from property damages or loss, which may arise from activities, omissions and operations under the Contract, whether such activities, omissions and operations be by the Provider/Vendor or by any sub-providers/vendors or by anyone directly or indirectly employed by or acting on behalf of or to the benefit of them. The amounts of such insurance shall be not less than the City's maximum liability under the Governmental Tort Claims Act, 25 O.S. § 151 et seq., as amended from time to time and are:

- i) Property Damage Liability in an amount not less than twenty-five thousand dollars (\$25,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages, arising out of a single accident or occurrence.
- ii) All Other Liability in an amount not less than one hundred seventy-five thousand dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.
- iii) Single Occurrence or Accident Liability in an amount not less than one million dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

Note: If the Provider/Vendor's Commercial General Liability coverage is written in a "claims-made" form, Provider/Vendor shall also provide tail coverage that extends a minimum of one year from the expiration of this Contract.

3. Automobile Liability Insurance shall be maintained by the

Contractor as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles, with limits of not less than:

Bodily Injury Liability \$175,000.00 Limit each person
\$1,000,000.00 Limit each accident

Property Damage Liability \$25,000.00 Limit each accident
or

Bodily Injury and
Property Damage Liability \$1,000,000.00
Combined single limit each
accident

Governmental Liability Insurance –

The GR/FA will require on contracts with governmental agencies or other appropriate entities the inclusion of the following statement in lieu of the above requirements in the contract.

The parties agree that the Governmental Tort Claims Act, 50 O. S. 1991, 151 et seq. shall govern all tort actions brought against the City. If the Provider/Vendor is a governmental entity, it warrants that it maintains appropriate insurance or is self-insured for tort liability and/or workers' compensation.

Each party shall be solely responsible for the acts of omissions of its employees and/or agents under this Agreement subject to the limitations set forth in the Governmental Tort Claims Act, 50 O. S. 1991, 151 et seq. It is expressly understood and agreed that nothing herein shall be construed as creating an employment or agency relationship between the parties or between officers, agents, and/or employees or any party with any of the other parties.

- (2) **EEO**—The LEO/COWIB will ensure that no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief. (Attachment J, General Assurances Form)

Grievances—The LEO/COWIB will request the grievance be submitted in writing to address the issues being grieved within 10 working days after the reported occurrence. The LEO/COWIB will review and make the determination of necessary action relative to the nature of the grievance. The LEO/COWIB will provide a written response within 60 day from the date the grievance is received in the LEO/COWIB office.

Duplicate Funding—The LEO/COWIB will ensure that the contractor's costs, which are already allocated to other sources, may not be included in the cost of

the contract. The contractor must inform the LEO/COWIB if the contractor applies for or receives funds, which affect the cost or performance of work under this contract, and how the contractor plans to allocate duplicated funds. LEO/COWIB must have the right to renegotiate the contract relative to changed cost. Federal funds received by GR/FA from OESC will be used only to supplement training resources available through Education Assistance Programs. Federal funds received by GR/FA from OESC may be used in conjunction with PELL, SEOG,

and other programs, but funds from different sources will be used to pay for different services with no duplication.

Participant Rights—LEO/COWIB will ensure that participants receive similar benefits to other persons in similar situations. LEO/COWIB will also ensure that participants receive orientation to the programs funded through OESC sufficient that they understand who will be providing services, what support services are available, and what the participant must do to be successful in the program.

Safety—LEO/COWIB will ensure a safe working or training environment for participants.

(3) **Contracts with Sub-recipients**--The following terms and conditions are considered to be the minimum, in addition to the terms required in paragraphs 1 and 2, in a contract with a sub-recipient.

(a) Compliance with Law--A clause that requires compliance with the Workforce Investment Act, all implementing regulations, and any other applicable laws including but not limited to:

- The Workforce Investment Act,
- The Workforce Investment Act Regulations,
- The Welfare-to-Work Regulations,
- Other Federal laws,
- State laws,
- Oklahoma State Policies,
- Local laws,
- LEO/COWIB Policy, and
- The U.S. Department of Labor Statement 29 CFR 37.20(a)(1), Section 188 of WIA

(b) Record Retention—The LEO/COWIB will include in the contract that the contractor's records will be kept by the contractor for three years from date of contract closeout or audit/litigation resolution, whichever is later. The contractor shall maintain records, which may be audited at any time, to include, but not limited to, supportive documentation for all disbursements. Records must be current and traceable to source documentation. The contractor will turn over all records to the LEO/COWIB, should the contractor go out of business, within 10 working days following the close of Contractor's business.

(c) Reporting—The contract shall require a contractor to furnish the LEO/COWIB any narrative, statistical, and financial reports related to the

- elements of the contract in the forms and at such times as required by the LEO/COWIB.
- (d) Program Income—The contractor will ensure that income earned from federal funds received from OESC is used to further program objectives, in accordance with the regulation, OMB circulars, and state policy.
 - (e) Property/Capital Expenditures--All property purchased from federal funds received from OESC will be handled in accordance with the state's property policy.
 - (f) Corrective Action—The GR/FA will notify the contractor in writing on corrective action procedures relative to contract goals, performance, modification, and termination.
 - (g) Patent Rights--Must include a notice of the OESC requirements pertaining to patent rights.
 - (h) Recruitment--If participant recruitment is the responsibility of the sub-recipient, either wholly or in part, the contract must contain provision for the contingency of low enrollments. The contract must also clearly state any minimum requirements for participants.
 - (i) Disallowed Costs—The contract will require that any costs determined by the COWIB, State of Oklahoma, or the U.S. Department of Labor to be unallowable shall be returned by the contractor in accordance with State and federal debt collection policy.

IX. DOCUMENTATION—The GR/FA will maintain the following documents in a Contract File:

- A. A copy of the contract and any modifications;**
- B. Any program income negotiated;**
- C. Justification of contract failure;**
- D. Summary of negotiation of corrective action;**
- E. The basis for the contract type selected; and**
- F. Current copy of a school catalog, price list, and refund policy for off-the-shelf training contractors.**
- G. U.S. Department of Labor Section 188 of WIA Assurance Statement (Attachment K).**

- X. ACCESS TO RECORDS** – The Secretary of Labor, the DOL Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives (including certified public accountants under contract), shall have access to any books, documents, papers, and records (manual and automated) of the GR/FA and its sub-recipients/contractors for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

POLICY ADDITIONS AND CLARIFICATIONS: The COWIB Chief Executive Officer is authorized to make necessary changes – including the issuance of additional instructions, guidance, forms, revisions, etc. -- to further implement the requirements of this policy, as mandated by changes in state and federal rules or guidance.