

# PROCUREMENT & RECORDS RETENTION

An Overview for Workforce Providers and  
Fiscal Agents

# What is Procurement?

- The “process” to purchase a specific property, product, or service that is a necessary need for the success of your Federal program. 2 CFR 200.317 – 200.326
- Examples: One-Stop Operator, Computers, Legal Consultation, Mobile Units <https://doleta.gov/wioa/FAQs.cfm>

# Who Can Procure Things?

- States (2 CFR 200.317 and 20 CFR 678.605(b))
- Local Governments (2 CFR 200.318 – 200.326)
- Non-Profits (2 CFR 200.318 – 200.326)
- Higher Educational Institutions (2 CFR 200.318 – 200.326)
- For-Profits (2 CFR 200.318 – 200.326)

...From the Statute

Transparency (WIOA sec. 107(e) and 101(g)):

- All information/processes/steps should be available for the public, auditors, and reviewers

# Federal Regulations

## All Local Areas:

- Must have a formal process (2 CFR 200.318)
  - Must be written in detail, expressing step by step how to apply, compete and win the contract.
- Must be full, fair, and open for competition (2 CFR 200.319)
  - Must provide sufficient time for all steps of procurement to take place so that it allows unrestricted competition.
  - Requirements must be reasonable and general enough that multiple entities can apply; must be specific enough to meet your needs.

# Federal Regulations, cont.

## Conflicts of Interests (2 CFR 200.318):

- Individuals and organizations that have “possible/probable” conflicts of interests should have documented proof of recusing themselves from any part of the decision making of the procurement process.

Example: Local board members, although are allowed to remain in the meeting, are not permitted to vote on any procurement items that they (or the company that they represent) are applying for.

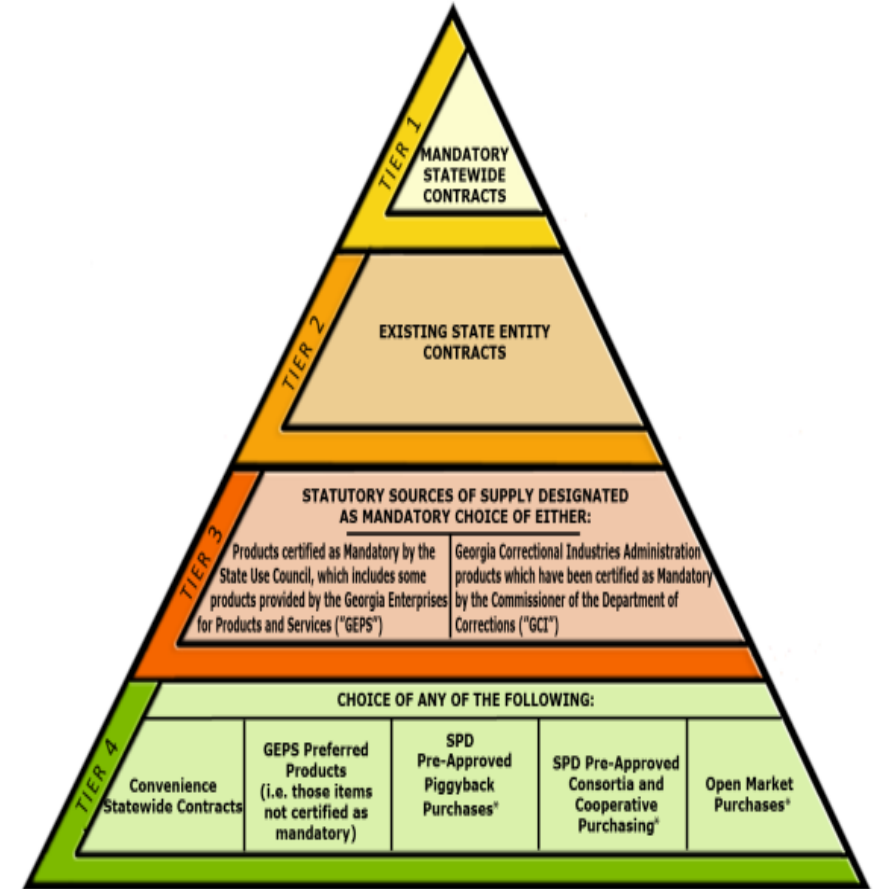
## **Technical College System of Georgia procures all goods and services according to the following:**

- Georgia Annotated Code:  
50-5-50 – 50-5-84  
DOAS State Purchasing
- Georgia Procurement  
Manual
- TCSG Accounting Procedures Manual –  
Purchasing Section
- Education Department General Administrative  
Regulations (EDGAR) – Section 2 C.F.R Part 200

# Order of Precedence

## HOW SHOULD STATE PURCHASES BE PROCESSED?

- Statewide Contract
- Agency Contract
- Mandatory Source
- Open Market
  - Under \$25,000
  - Exempt NIGP Commodity Codes
  - Sole Source Notice of Intent to Award
  - Competitive Bid





# Statewide Contracts

- Established by DOAS State Purchasing
- For common purchasing needs used by all state agencies
- Better pricing for consolidated usage
- Two types of Statewide Contracts

Mandatory Statewide Contracts – Tier 1

Convenience Statewide Contracts - Tier 4

- Statewide contracts can be accessed via <http://doas.ga.gov/state-purchasing/statewide-contracts>

# Agency Contracts

- Established for only one agency or a group of agencies
- Uses standardized, pre-approved terms and conditions
- Terms contracts for generally one year with renewal language up to a possible 60 months
- Total contract values over \$25,000 require competitive bidding or sole source justification

# Open Market

- Under \$25,000 – No Bid Limit
- Exempt NIGP Commodity Codes
- Sole Source Notice of Intent to Award
- Competitive Bids:
  - Request for Quote
  - Request for Qualified Contractor
  - Request for Proposal

# Two Types of Purchasing Exemptions

## 1. Designated in Georgia Code

Professional Services (OCGA 50-5-58) – Services rendered by the following professions while acting in a professional capacity: Architecture, Engineering & Land Survey

- Technical Instruments/Equipment
- School Textbooks
- Books and periodicals for use in Library

## 2. Designated by DOAS State Purchasing:

DOAS State Purchasing Division has established a list of goods/services by NIGP™ Code which are either exempt from the State Purchasing Act or represent goods for which DOAS has waived the competitive bidding requirements

# Sole Brand/Sole Source

**SOLE BRAND** - When a particular brand/model is the **ONLY** acceptable brand that will meet requirements and no alternates will be accepted

**SOLE SOURCE** – When a “Sole Brand” purchase is only available from **ONE (1) source**

# Types of Open Market Competitive Bidding

Any non-contract goods/services exceeding \$25,000.00 **must** be competitively bid.

- Request for Quotes (RFQ)
- Request for Qualified Contractor (RFQC)
- Request for Proposal (RFP)

Strategic Sourcing is utilized to competitively bid goods and services

# Request for Quotes (RFQ)

- Specify detailed minimum requirements
- *Price driven award – to low responsive and responsible bidder meeting specifications, terms and conditions*
- Can be used for one time buys or to set up Entity/Agency Contracts
- Awards in excess of \$100,000 require NOIA (Notice of Intent to Award) to be posted for 10 days prior to NOA

# Request for Qualified Contractors (RFQC)

- Used to ensure you have qualified and capable vendors to provide product or services needed
- Two step process to result in award
- *Step 1 is RFQC to qualify contractors based on specific criteria that must be met*
- Step 1 results in Qualified list being posted after vendor responses are scored
- Step 2 is RFQ to obtain pricing from the vendors that have been deemed as Qualified
- *Step 2 results in award to low monetary bidder*



# Request for Proposal (RFP)

- Generally for more complex procurements
- More lengthy processing time (1-3 months)
- Vendors technical and cost responses are weighted – cost is not the primary concern
- Allows for scoring of vendor responses on how they will meet your requirements
- Allows for more consideration of vendor qualifications and experience

# Definition of Specification

- Specifications describe the physical, functional characteristics or the nature of a product, service or construction item. It outlines the requirements that are to be satisfied by the supplier
- Specifications is a description of what the purchaser seeks to buy and what the bidder must respond to in order to be considered for award of a contract

# Specifications Should.....

- ✓ Describe physical characteristics
- ✓ Describe minimum requirements and if applicable maximum requirements
- ✓ Outline what is to be done – Scope of Work
- ✓ Outline standards or performance requirement
- ✓ Identifies timelines and or deliverables

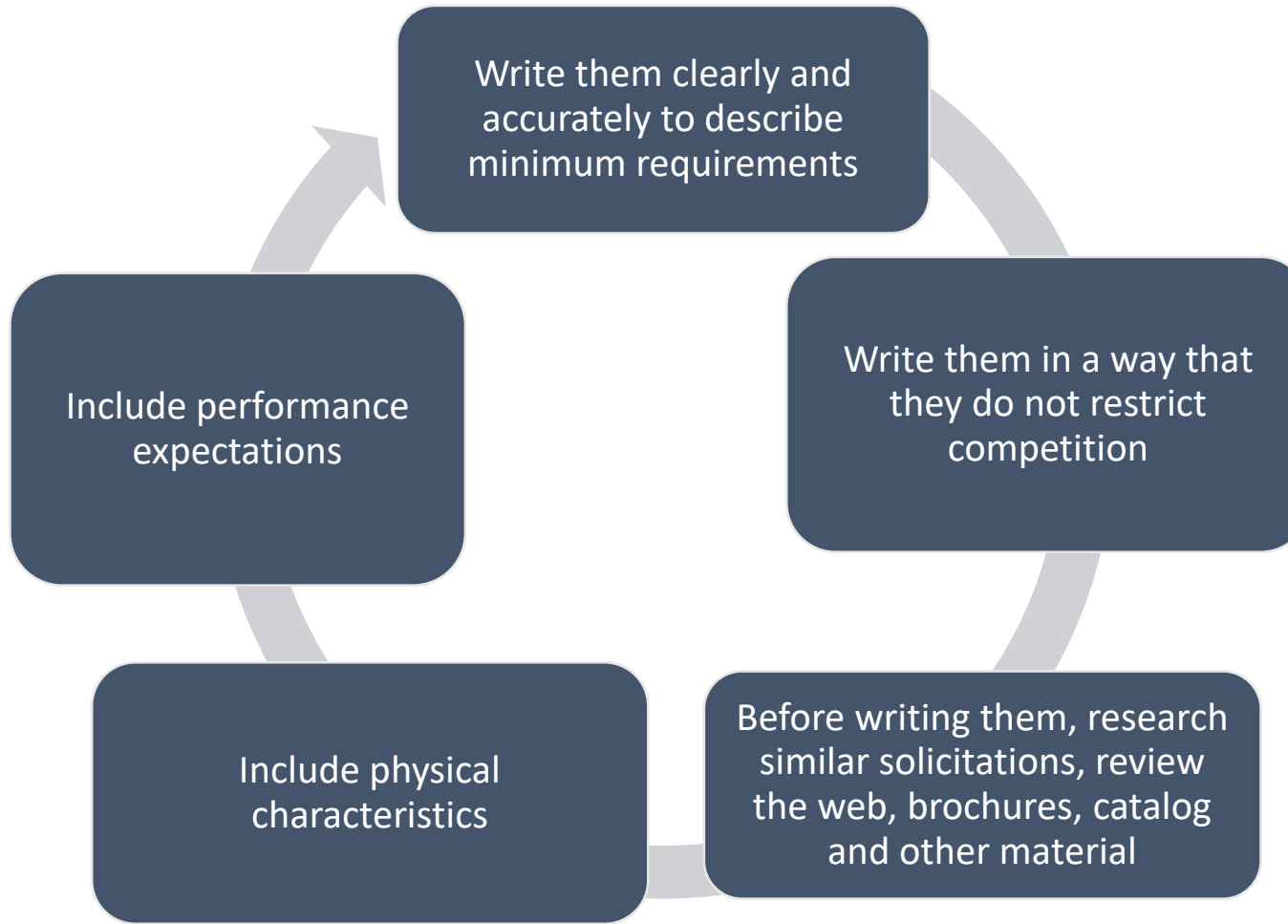
Specifications indicate what you **NEED** and what is **REQUIRED** from the suppliers

# Effective Specifications

The function of effective specifications is to:

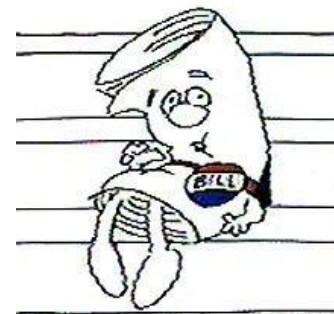
- ✓ Identify minimum requirements
- ✓ Allow for competitive participation of suppliers
- ✓ Provide an equitable award at the lowest possible cost to responsive and responsible supplier

As a whole, specifications are important components of the solicitation. Remember develop the specifications by following these guidelines:





# Procurement: Vendors vs. Subawards



## **I'm a Vendor**

- I am NOT a Subaward
- I am a tool that you use to purchase a good/property or service needed to carry out a specific part/piece of a project or program
- I address a need of the entity providing a service to the WIOA customer(s).

## **I'm a Subaward (Subrecipient)**

- I am an awarded contract that is provided to an entity for SERVICES on the behalf of the Primary Grant recipient (i.e. LWDA).
- I typically am NOT a simple purchase nor one time need.
- I typically am an ongoing service to the WIOA customer(s).

# Procurement: Vendors

- Provide goods or services to many different buyers
- Provide goods or services that are within normal business operations and are ancillary to the operation of the Federal Program
- Are not subject to the compliance requirements of the Federal program
- Are used to assist or augment the LWDA's operations to serve the needs of the public
- Require minimal monitoring or oversight

# Procurement: Subawards

- Tailored to the specific need(s) of the purchaser (partner)
- Funded by a subaward and IS responsible for adhering to applicable Federal program requirements
- Used to carry out the programmatic needs, performance goals and compliance stipulations of the LWDA's grant award
- Performance is measured by whether the objectives of the Federal program are met
- MANDATED monitoring is required by Subaward provider to subrecipient



# Examples: Vendors & Subrecipient

## **Vendor Examples**

- Mobile Unit Purchases
- Branding Purchases
- Software Purchases
- .....your turn

## **Subrecipient Examples**

- Youth services providers
- One-Stop Operators
- Trainings
- ....your turn

# Scenario 1

An RFP is delivered at 2:30 pm by a 3<sup>rd</sup> party service (e.g. UPS), but the deadline for submission was 12:00 noon. Do you accept the RFP?

What if the applicant has documentation stating that the package was to be delivered at 11:30 am, and the delay was the error of the delivery service?

# Large Purchase Approval

LWDAs must request prior approval for all purchases where the unit price is \$5,000 or greater and the useful life of the proposed purchase is more than one calendar year. Requests must include:

- narrative detailing the need for the purchase
- documentation to illustrate that all local, state, and federal procurement regulations were met; and
- copies of all quotes (as available) and supporting documentation to be considered in selecting a vendor.
- Additional information will be required if the unit price is \$50,000 or greater.

*OWD will review all requests and provide a written determination within 30 days of receiving all documentation necessary to support the request for approval.*

# Procurement/Purchase Categories

- **Micro-purchases (\$0 - \$3,000)** – All LWDAs are authorized to make purchases via micro-purchase. To the extent practicable, the LWDA must distribute micro-purchases equitably among all qualified suppliers. If the price is considered to be reasonable, then no competitive quotations are required.
- **Small Purchase procedures (\$3,001-\$150,000)** - All LWDAs may purchase items with a value of \$3,001 to \$150,000 (the Federal Simplified Acquisition Threshold), by obtaining quotes from perspective vendors, or as specified by your local policy.
- **Competitive Proposals and Sealed Bids:** Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. (2 CFR 200.320(c))

# Phases of Procurement

Planning

Release and Evaluation

Selection and Negotiation

Implementation (Monitoring and Oversight)

Closeout

# How to procure what you need in Georgia

- Documentation... Documentation... Documentation
  - All documentation should be kept for EVERY step/phase of the competitive procurement process (2 CFR 200.318(i))
  - Documentation should include:
    - All proposals received (possibly including those received AFTER deadline)
    - Metrics used to evaluate/rank/rate proposals (as well as how the ratings are defined and tabulated) (20 CFR 678.605(d))
    - Rationale for the method of procurement
    - Selection of who receives said procurement
    - Rejection of all denied proposals/bids
    - Any appeals, disputes, complaints
    - Negotiated/final contractual price

# Procurement Packet

All Agreements, Contracts or MOUs must have:

1. Statement of Work
2. Schedule of Deliverables
3. Payment Terms
4. Authorized Signatures of Officials
5. Legal Terms and Conditions

## Scenario 2

You have a formal contract, statement of work, and supporting documentation with your regional One-Stop Operator. Is that One-Stop Operator a vendor or a sub-award recipient?

...and why?



In Summary, LWDAs are responsible for knowing:

Applicable federal procurement regulations

State procurement regulations

Local procurement policies

Fund balances to support prospective purchase

# Records Retention

**THE DOCUMENTATION SHOULD SPEAK FOR  
ITSELF**

# Records Retention

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from when the final expenditure report is submitted.

For Federal awards that are renewed annually, records must be maintained for 3 years from the date the grant recipient submits the annual financial report, as reported to the Federal awarding agency or pass-through entity (PTE) in the case of a subrecipient.

2 CFR 200.333

# Records Retention

- Types of Records
  - Record in support of the expenditure of Federal funds
    - Compliance with Federal statute and regulations
    - Compliance with WIOA grant terms and conditions
  - Records that:
    - Identify all Federal awards received and expended and the Federal programs under which they were received
    - Provide accurate, current and complete disclosure of the financial results of each Federal award and/or program
    - Identify adequately the source and application of funds for Federally-funded activities

# Records Retention

- In other words:
  - Financial records includes (but are not limited to)
    - General ledgers and supporting documentation
    - Statistical records
    - Negotiated Indirect Cost Rate Agreements/Cost Allocation Plans
    - Property Records (as well as it's depreciation schedule)
  - Personnel records
  - Program performance records
  - Other type of records

# Records Retention

WIOA and 2 CFR says:

1. Records sufficient to prepare title I WIOA required reports and to permit the tracing of funds to ensure funds have not been spent unlawfully
2. Records required to support title I WIOA programs' performance and activities
3. Records to determine compliance with the nondiscrimination and equal opportunity provisions of sec. 188 of WIOA, or 29 CFR Part 38

WIOA sec. 185(a) and 2 CFR 200.302

# Exceptions to 3-year Records Retention Rule

Exceptions occur in the following circumstances:

- Litigation, claim or audit that is initiated before the 3-year period expires
- Upon notice of extension by the cognizant agency (USDOL)
- Upon transfer of records to the pass-through entity or Federal awarding agency

# Exceptions, cont.

- Program income is earned after the period of performance, and must be reported. Record retention begins from the end of the fiscal year during which program income is earned.
- Indirect Cost Rate:
  - For negotiated cost rates, the 3-year retention period begins from the date of submission of the cost rate proposal
  - For non-negotiated cost rates, the 3-year retention period for the proposal starts from the end of the fiscal year covered by the proposal



# Things to Remember

- When LWDA terminates a legal agreement with a service provider, the local fiscal agent must maintain and retain records, unless OWD asks custody of the records.
- Records must be stored in a manner that will preserve the records' integrity and admissibility as evidence in any audit/litigation or other proceeding. The burden of production and authentication is the responsibility of the custodian of the records.

# Quiz

- Your local area decides to contract out your youth services, including case management, work experience and career advisement. Due to circumstances, you have to terminate the contract with that entity, 8 months after services began.

What do you have in place, currently, to make sure that you have access to all documents and files?

What records do you keep? What items do you NOT have to keep?

# QUESTIONS

