



May 31, 2022

Fiscal Administrative Procedure Manual Transmittal Letter (FAPMTL) No. 466

To: Fiscal Administrative Procedure Manual Holders

From: Matt Damschroder, Director

Subject: Standards for Acquisitions and County Written Standards of Conduct

As the result of an internal rule review, the Ohio Department of Job and Family Services (ODJFS) has amended Administrative Code rules 5101:9-4-02 "Standards for Acquisition" and 5101:9-4-04 "County Written Standards of Conduct." Minor updates to terms and citations were made to reflect the most current funding practices and procedures.

Please direct inquiries to your ODJFS Fiscal Supervisor or the CFIS Helpdesk CFIS_HELP_DESK@jfs.ohio.gov.

Instructions:

Location	Remove	Insert
Chapter 4	5101:9-4-02 (3/5/2015)	5101:9-4-02 (effective 6/6/2022)
Chapter 4	5101:9-4-04 (5/5/2015)	5101:9-4-04 (effective 6/6/2022)

5101:9-4-02

Standards for acquisition.

(A) Federal and state acquisition requirements

(1) For the purpose of this rule, acquisition is defined as purchases of services, supplies and equipment funded by state or federal funds received from the Ohio department of job and family services (ODJFS).

~~(1)(2)~~ Each county family services agency (CFSA) and ~~workforce development agency (WDA)~~ Workforce Innovation and Opportunity Act (WIOA) local area shall ensure that all ~~purchases of services, supplies, and equipment funded by state or federal funds received from the Ohio department of job and family services (ODJFS)~~ acquisitions meet applicable federal and state statutes, regulations, rules, and 2 C.F.R. 200 and 45 C.F.R. 75, ~~as in effect December 19, 2014~~. These requirements include, but are not limited to, Chapter 125. of the Revised Code, this chapter, and:

(a) 29 C.F.R. 95 when not-for-profit organizations expend department of labor (DOL) funds; and

(b) 29 C.F.R. 97 when governments expend DOL funds;

~~(2)(3)~~ This chapter contains a number of provisions from the applicable federal rules, but not all such provisions.

(4) For the purpose of this rule, acquisition is defined as charges made by a CFSA or WIOA local area to a project or program for which a state or federal award was received.

(B) Acquisition standards

(1) Development of written standards

Each CFSA and ~~WDA~~ WIOA local area shall develop written acquisition standards. These acquisition standards shall comply with all applicable federal and state acquisition statutes, regulations, rules; and circulars. The written standards shall also contain all relevant requirements of the provisions of this chapter, including the requirements listed in rule 5101:9-4-07 of the Administrative Code.

(2) Application of standards

(a) The CFSA and ~~WDA~~ WIOA local area shall follow written acquisition standards whenever making any acquisition funded in whole or in part by state or federal funds.

- (b) These acquisition standards are also applicable to any sub-grantee of the CFSA or ~~WDA~~WIOA local area that is funded in whole or in part by state or federal funds.
- (c) The acquisition standards referred to in this rule and the requirements contained in this chapter do not apply to those acquisitions made exclusively with county funds that are not used to match state or federal funds received from ODJFS.

(3) Assurances

- (a) Each CFSA and ~~WDA~~WIOA local area is legally responsible to ensure that all acquisitions funded in whole or in part by state or federal funds meet the acquisition standards established under this chapter.
- (b) Each CFSA and ~~WDA~~WIOA local area shall ensure that all of its employees involved in procurement activities know and comply with these acquisition standards.
- (c) Each CFSA and ~~WDA~~WIOA local area shall ensure that any sub-grantee entity or contractor funded in whole or in part by state or federal funds is aware of the requirements contained in paragraph (A) of this rule. The agency shall ensure that any grant agreement or contract, specify that any acquisition shall conform to these requirements.

Effective: 6/6/2022

CERTIFIED ELECTRONICALLY

Certification

05/26/2022

Date

Promulgated Under: 111.15
Statutory Authority: 5101.02
Rule Amplifies: 125.04, 329.04, 307.86
Prior Effective Dates: 09/12/2005, 01/22/2010, 03/05/2015

5101:9-4-04

County written standards of conduct.

- (A) Each county family services agency (CFSA) and ~~workforce development agency (WDA)~~ Workforce Innovation and Opportunity Act (WIOA) local area shall maintain written standards of conduct covering conflicts of interest and governing the performance of their officers and employees engaged in awarding, recommending, approving, monitoring, administering contracts, other purchases of goods and services, and ~~grants~~ sub-awards. The CFSA and ~~WDA~~ WIOA local area are responsible for the conduct of agents who are not CFSA and ~~WDA~~ WIOA local area employees. For the purpose of this rule, an "agent" is anyone that is acting on behalf of an agency in awarding, recommending, approving, monitoring, administering contracts, other purchases of goods and services, and ~~grants~~ sub-awards. The CFSA and ~~WDA~~ WIOA local area shall also ensure that this code governs the conduct of such agents.
- (B) The CFSA and ~~WDA~~ WIOA local area shall provide a copy of the written standards of conduct to each employee or agent engaged in awarding or administering contracts and shall ensure that such employees and agents receive sufficient training to understand how to apply the written standards of conduct.
- (C) The CFSA's and ~~WDA's~~ WIOA local area's written standards of conduct shall at a minimum comply with the following federal and state requirements:
- (1) All provisions included in 2 C.F.R. 200.318, 2 C.F.R. 400.2(b), 29 C.F.R. 97.36 (b)(3), and 45 C.F.R. 75.327(c); and
 - (2) Chapter 102. and sections 187.01, 2921.42, and 2921.43 of the Revised Code.
- (D) In addition to meeting the requirements of state and federal law listed in paragraph (C) of this rule, the CFSA's and ~~WDA's~~ WIOA local area's written standards of conduct shall, at a minimum, include all of the following requirements and prohibitions.
- (1) The CFSA and ~~WDA~~ WIOA local area employees or agents shall not solicit or accept gratuities, favors, or anything of value, as defined in section 102.01 of the Revised Code from anyone doing business with or seeking to do business with, or regulated by the agency, including:
 - (a) Contractors and potential contractors;
 - ~~(b) Vendors and potential vendors; and~~
 - ~~(c) Grantees~~ Sub-recipients and potential ~~grantees~~ sub-recipients.

- (2) The CFSA and ~~WDA~~WIOA local area employees or agents shall not participate in the following contract, purchase, or grant related activities if a real, potential, or apparent conflict of interest could arise:
- (a) Selections;
 - (b) Award recommendations;
 - (c) Approval;
 - (d) Monitoring; and
 - (e) Administering contract, purchase, or grant.
- (3) A conflict of interest could arise when the entities listed in paragraphs (D)(3)(a) to (D)(3)(c) of this rule have a financial, personal, or other interest in the individual or company selected for the award of a contract, purchase, or grant in the following instances:
- (a) The employee or agent or any member of his or her immediate family as defined in division (D) of section 102.01 of the Revised Code;
 - (b) The partner or business associate of the employee or agent; or
 - (c) Any person or organization that employs or is about to employ the employee or agent, a member of his or her immediate family, his or her partner or business associates.
- (4) The written standards of conduct shall ensure that each CFSA and ~~WDA~~WIOA local area employee or agent engaged in awarding, recommending, approving, or administering a CFSA and ~~WDA~~WIOA local area contract, purchase, or grant receives a copy of the Ohio ethics commission's Ohio ethics law (Chapter 102. of the Revised Code). The written standards of conduct shall advise such employees and agents on the following information:
- (a) How to obtain educational information related to Ohio ethics law;
 - (b) The identification of the contact person in the CFSA, ~~WDA~~WIOA local area; or the prosecuting attorney's office for any employee who is unsure as to whether any particular course of conduct violates the requirements of the CFSA's or ~~WDA's~~WIOA local area's standards of conduct or Ohio's ethics law; and

- (c) Employees/agents may discuss concerns on the telephone or obtain an advisory opinion from the Ohio ethics commission. The advice should be obtained before the employee engages in the conduct.
- (5) CFSA and ~~WDA~~WIOA local area employees are prohibited from selling or attempting to sell any goods or services to the Ohio department of job and family services (ODJFS), a county department of job and family services (CDJFS), a public children's services agency (PCSA), a child support enforcement agency (CSEA), a ~~WDA~~WIOA local area, or a ~~one-stop~~an Ohio means jobs center agency with whom they are employed or otherwise affiliated.
- (6) CFSA and ~~WDA~~WIOA local area employees are prohibited from soliciting or accepting employment from anyone doing business with such agencies unless the employee completely withdraws, with the agency's approval, from the CFSA or ~~WDA~~WIOA local area activities regarding the party offering employment.
- (7) CFSA and ~~WDA~~WIOA local area employees and the employee's immediate family members and business associates are prohibited from benefiting from any contract, purchase, or grant authorized or approved by the CFSA and ~~WDA~~WIOA local area unless all criteria established by section 2921.42 of the Revised Code are met.
- (8) CFSA and ~~WDA~~WIOA local area employees are prohibited from voting, authorizing, recommending, or in any other way using his or her position to secure approval of a CFSA and ~~WDA~~WIOA local area contract, purchase; or grant in which any of the following have any interest:
- (a) Employee;
 - (b) A member of the employee's immediate family; or
 - (c) Anyone with whom the employee has a business or employment relationship.
- (9) CFSA employees, ~~WDA~~WIOA local area employees, and previous employees that have left public employment for twelve months or less shall not act in a representative capacity, in any manner, before a public agency on behalf of any contractor or other person on any matter in which the employee personally participated in any of the following activities:
- (a) Decisions;
 - (b) Approvals or disapprovals;

- (c) Recommendations; or
 - (d) Other substantial exercise of administrative discretion.
- (10) Any contractor or grantee acting on behalf of the CFSA or ~~WDA~~WIOA local area is prohibited from activities that could result in violations of this rule. A contractor, grantee, individual, company, or organization seeking a contract or grant or seeking to sell goods or services to a CFSA and ~~WDA~~WIOA local area shall not:
- (a) Promise or give to any CFSA and ~~WDA~~WIOA local area employee anything of value, including employment or promise of employment within the scope of his or her job duties; nor
 - (b) Ask a CFSA and ~~WDA~~WIOA local area employee to violate any of the standards of conduct requirements.
- (11) A CFSA and ~~WDA~~WIOA local area shall reserve the right to exercise civil remedies against a contractor that violates paragraph (D)(10) of this rule. Any contractor, sub-grantee, or potential contractor or potential sub-grantee who violates the requirements and prohibitions of paragraph (C)(2) or (D)(10) of this rule is subject to the following actions:
- (a) The CFSA and ~~WDA~~WIOA local area may refuse to enter into a contract;
 - (b) Contract termination; or
 - (c) Prosecution.
- (12) Employees, contractors, and sub-~~grantees~~recipients who violate the prohibitions or requirements in paragraph (C)(2) of this rule may be prosecuted for criminal violations.
- (13) The signature of any CFSA and ~~WDA~~WIOA local area employee on the following documents shall be considered to be a certification that he or she has complied with the requirements and prohibitions of this rule:
- (a) Requisitions;
 - (b) Invoices; and
 - (c) Documents requesting or approving the purchase of or payment for goods and services.

- (E) When a CFSA or ~~WDA~~WIOA local area employee, agent, or contractor violates the standards of conduct, the CFSA and ~~WDA~~WIOA local area shall enforce the requirements contained in the agency's written standards governing the following:
- (1) Penalties;
 - (2) Sanctions; and
 - (3) Disciplinary actions including suspensions and removal.
- (F) All CFSA and ~~WDA~~WIOA local area contracts and ~~grants~~sub-awards shall contain the following provisions:
- (1) The contractor or grantee shall not promise or give to any CFSA or ~~WDA~~WIOA local area anything of value that is of such character as to manifest a substantial and improper influence upon the employee with respect to his or her duties;
 - (2) The contractor or grantee agrees that it shall not solicit a CFSA or ~~WDA~~WIOA local area employee to violate the county agency's standards of conduct or prohibitions or requirements in paragraph (C)(2) of this rule; and
 - (3) The contractor or grantee shall not engage in direct or indirect conflicts of interest.
- (G) The CFSA and ~~WDA~~WIOA local area contract or grant shall also include the following:
- (1) A certification by the contractor or grantee that it is in compliance with and will maintain compliance with the requirements described in paragraph (C)(2) of this rule;
 - (2) Portions of the CFSA's and ~~WDA's~~WIOA local area's standards of conduct applicable to contractors and ~~grantees~~sub-recipients; and
 - (3) A provision stating that the contractor or grantee shall promptly notify the CFSA and ~~WDA~~WIOA local area of any newly arising conflicts of interest or potential violations of state ethics law.

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