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POLICY # 28

Title:	Procurement and Selection of One Stop Operators, Youth and other Service Providers	
Program:	Workforce Innovation and Opportunity Act	
Effective:	May 1, 2017	
Revision #:		Original policy date: April 28, 2017

Purpose: To communicate requirements for the procurement and selection of one-stop operators and service providers under the Workforce Innovation and Opportunity Act (WIOA) whose contracts are effective July 1, 2016 or later.

References: Workforce Innovation and Opportunity Act of 2014, Sections 107(d)(10), (g)(1), 121(d)(1-2)(A), 122, 123 and 134(c)(3)(C); 20 CFR 678.600-615, 678.610, 678.615, 679.410, 679.430, 680.160, 680.300 and 681.400; Title 2, Subpart A, Chapter 11 CFR 200.317-326; OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; TEGL 21-16; TEGL 15-16; WorkForce West Virginia WIOA Policy 4-17

Background: WIOA brought about changes to the law and rules governing procurement and selection of one-stop operators and service providers. Changes in procurement requirements also occurred with issuance of Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly known as the OMB Super Circular), which consolidated eight previous circulars into one Uniform Guidance document and introduced new requirements for performance-based contracting.

WIOA expects Local Workforce Development Boards (LWDBs) to conduct open and competitive procurement processes to identify appropriate providers of one-stop operator and other services. LWDBs are required to determine whether the amount and quality of providers is sufficient to meet the needs of the community and to work with the Governor and others to increase the availability of service providers as part of their planning process.

Overview: At a minimum, the one-stop operator is responsible for coordinating the service delivery of required one-stop partners and service providers. Their role may range from simply coordinating services provided to being the primary provider of services at the center. The competition for one-stop operator must clearly articulate the role.

One-stop operators shall be selected through a competitive process following the principles of competitive procurement in the Uniform Administrative Guidance at Chapter II of 2 CFR 200.318 through 200.326. As with any local procurement, locally adopted procurement policies must also be adhered to.

Role of the One-Stop Operator

The WDBMOV one-stop system will provide the required activities authorized for American Job Center operators by the Workforce Innovation and Opportunity Act of 2014. The one-stop system is designed to enhance access to services and improve long-term employment outcomes for individuals seeking assistance. In general, these activities are:

- to establish a one-stop delivery system described in section 121(e);
- to provide access to career services (both basic and individualized) described in Section 134(c)(2) to youth, adults and dislocated workers, respectively, through the one-stop delivery system
- to provide access to training services described in Section 134 (c) (3) to youth, adults and dislocated workers, respectively
- to establish and develop relationships and networks with large and small employers and their intermediaries
- to develop, convene, or implement industry or sector partnerships.

The one-stop operator will carry-out the following activities:

- Facilitate integrated partnerships that seamlessly incorporate services for customers served by multiple program partners of the American Job Center.
- Develop and implement operational policies that reflect an integrated system of performance, communication, and case management, and uses technology to achieve integration and expanded service offering.
- Organize and integrate American Job Center services by function (rather than by program), when permitted by a program's authorizing statute and, as appropriate, through coordinating staff communication, capacity building and training efforts. Functional alignment includes having AJC staff who perform similar tasks serve on relevant functional teams (skills development team or business services teams).
- Service integration focuses on serving all customers seamlessly (including targeted populations) by providing a full range of services staffed by relevant functional teams, consistent with the purpose, scope and requirements of each program
- Integrated AJC's also ensure that:
 - Center staff are trained and equipped with the skills and knowledge needed to provide superior service to job seekers, including those with disabilities and businesses in an integrated, regionally focused framework of service delivery, consistent with the requirement of each of the partner programs.
 - Center staff are cross-trained, as appropriate, to increase staff capacity, expertise, and efficiency. This allows staff from differing programs to understand other partner programs' service, and share their own expertise related to the needs of specific populations so that all staff can better serve all customers.
 - Center staff are routinely trained so they are keenly aware as to how their particular work function supports and contributes to the overall vision of the WDB-MOV, as well as within the AJC network. This enhances their ability to ensure that a direct linkage to partner programs is seamlessly integrated within the center.

The WDBMOV's one-stop system will meet the needs of the workforce of the counties in Region by ensuring the following attributes are prevalent in all services offered through the one-stop system:

- Universality
- Accessibility/Accommodation
- Mechanism(s) for customer feedback
- Customer choice
- Effectiveness
- Coordination of Services
- Integration
- Performance-driven, outcome-based measures
- Customer driven (job seeker/employer/worker)
- Understandable and useable information
- Continuous improvement

There must also be proper internal controls and firewalls in place to ensure the one-stop operator does not conflict with its role as a service provider through a written agreement with the WDB and Chief Elected Official(s) to clarify how they will carry out the roles and responsibilities while demonstrating compliance with WIOA, WIOA Regulations, relevant OMB circulars and Local and State Policies, particularly conflict of interest policies.

The one-stop operator role shall not include:

- Convening stakeholders to assist in the development of the local plan
- Preparing and submitting local plans (as required of the Local Board under sec. 107 of WIOA)
- Being responsible for oversight of itself
- Managing or significantly participating in the competitive selection process for one-stop operators
- Selecting or terminating one-stop operators, career service providers, or youth providers
- Negotiating local performance accountability measures
- Developing or submitting budget for activities of the LWDB

The one-stop operator may perform some or all of these functions in another capacity it also serves when those roles are applicable to that other capacity provided it has established sufficient firewalls and conflict of interest policies in place to fully separate the functions of the multiple capacities. Additional safeguards for entities acting in more than one capacity includes a written agreement with the LWDB and Chief Elected Official to clarify how the selected entity will carry out its roles and responsibilities while demonstrating compliance with WIOA, WIOA Regulations, relevant OMB circulars and Local and State Policies, particularly conflict of interest policies.

Eligible Entities for One-Stop Operator

One-stop operators may be a single entity or a consortium of entities. Types of entities that may be a one-stop operator include:

- An institution of higher education
- A State Employment Service agency established under the Wagner-Peyser Act
- A community based organization, nonprofit organization, or workforce intermediary
- A private for-profit entity
- A government agency
- A LWDB, with the approval of the chief elected official and the Governor
- Another interested organization or entity capable of carrying out the duties of one-stop operator
- Local chamber of commerce
- Business organization
- Labor organization

If the consortium of entities is a consortium of one-stop partners, it must include three of the one-stop partners. A consortium of one-stop partners is a minimum of three separate entities, each responsible for at least one of the following programs and activities in the local area:

- Programs authorized under title I of WIOA:
 - Adults
 - Youth
 - Dislocated Workers (DW)
 - Job Corps
 - Youth Build
 - Native American Programs
 - Migrant/seasonal farmworker
- Employment services authorized under the Wagner-Peyser Act (W-P)
- Adult education and literacy authorized under title II of WIOA (AEL)
- Vocational Rehabilitation program authorized under title I of the Rehabilitation Act of 1973 (VR)
- Senior Community Service Employment Program authorized under title V of the Older Americans Act
- Career and technical education programs at the post-secondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006
- Trade Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974 (TAA)
- Jobs for Veterans State Grants programs authorized under chapter 41 of title 38, U.S.C.
- Employment and training activities carried out under the Community Services Block Grant (CSBG)
- Employment and training programs carried out by the U.S. Department of Housing and Urban Development (HUD)
- Programs authorized under State Unemployment Compensation Laws (UI)
- Programs authorized under the Second Chance Act of 2007
- Unless specifically exempted by the Governor, Temporary Assistance for Needy Families (TANF) authorized under Part A title IV of the Social Security Act.

Any entity competing to become the one-stop must have adequate firewalls and conflict of interest policies and procedures in place to prevent them from being involved in the planning or execution of the competitive process.

POLICY:

Procurement of One-Stop Operators

One-stop operators will be designated and certified through a competitive procurement process.

The competitive process used by the WDB-MOV to procure one-stop operators must be conducted at least once every four years, with renewal of contract and negotiated performance to be conducted annually as necessary.

The WDBMOV reserves the right to contract out the RFP process including solicitation and scoring so that the WDBMOV may bid on the RFP to be the one-stop operator in Region 4. An impartial third party would develop the solicitation for proposals, facilitate the scoring process, supervise the scoring of proposals by the WDBMOV selected committee, then report to the WDBMOV Board and LEO's as to the outcome. If the WDBMOV is determined to be the successful bidder in a solicitation that conforms to the principles of competitive procurement, they may serve as one-stop operator in the region.

- (A) The WDBMOV may use any of the following for procurement of one-stop operators or other program service providers:
- a. Procurement by sealed bid
 - b. Procurement by competitive proposal, or
 - c. Under limited conditions, procurement by sole source, only with the approval of the CLEO and Governor after rigorous analysis of market conditions and other factors lead to a determination sole source procurement is necessary due to:
 - i. There is only one entity that could serve as the one-stop operator, or
 - ii. An unusual and compelling urgency exists that will not permit a delay resulting from a competitive solicitation, or
 - iii. The results of the competitive procurement were determined to be inadequate.

(B) And will:

- Adhere to applicable sections of the law and regulations and State policy in selecting one-stop operators and service providers and awarding contracts under WIOA.
- Only serve as one-stop operator and/or provide services as a default, when other options will not effectively meet local needs and seek approval from the Governor for a waiver to provide one-stop operator and /or other services. *See attached forms.*
- Inventory and document the availability and quality of service providers as part of the planning processes. To determine if there are insufficient service providers, the WDBMOV may conduct a Request for Information or asset mapping with stakeholders and community partners.
- Provide sufficient public notice of the intent to procure services to board members and the community for at least 30 days in media where prospective local, state, and national bidders typically identify such opportunities, e.g., local print newspapers, online newspapers, WDBMOV website, other community web sites, etc.

(C) If sole source is used where documented factors lead to a determination that only one entity could serve as an operator, (including published notice(s) of intent made available to the public for at least 30 days in media where prospective local, state and national bidders typically identify such opportunities), compelling circumstances outweigh the delay that would result from a competitive solicitation, or results of the competition conducted are determined inadequate, then only with the agreement of the Chief Local Official and Governor.

- a. The WDBMOV may serve as one-stop operators under a sole source agreement for no more than the completion of the contract period or the completion of the program year, whichever comes first.
- b. WDBMOV has internal controls and conflict of interest policies and procedures in place that are approved by the Governor.
- c. Inadequate responses are those judged by a panel of impartial reviewers to score below a pre-determined minimum level on the scoring criteria published as part of the solicitation.
- d. Examples of compelling circumstances that outweigh delays that would result from competitive solicitations include the need to avoid a break in services if an operator is terminated for cause or is unable to continue providing services through the end of the contact period.

Records documenting the procurement process used in the selection of the one-stop operator, how it is followed, including the selection criteria used to score bids to award the contract, and its results will be maintained to document compliance.

Procurement of Youth Service Providers

WDB-MOV will follow the above guidelines (A and B) for competitive selection of eligible youth service providers to award grants/contracts for youth workforce development activities, except in the case of sole source awards/contracts. Then, only if there is satisfactory and demonstrable evidence that there is an insufficient number of providers with the expertise required for serving in-school or out of school youth, should sole source occur; in this instance, the above process (C) will be adhered to.

- Bid solicitations will include the selection criteria to be used in this process and will be maintained as documentation of the process.
- WDB-MOV will establish and use criteria, including the ability of service providers to meet performance accountability measures based on common measures, as well as full and open competition consistent with 2 CFR parts 200 and 2900 in addition to applicable Federal, State and local procurement laws to procure eligible providers of youth workforce investment activities.
- Design framework services (intake, objective assessment, development of individual service strategies, case management, and follow-up services) may be exempted from a competitive process if the WDB-MOV determines that we can more appropriately provide these activities.

Procurement of Adult or Dislocated Worker Training Services

WDB-MOV will not provide adult or dislocated worker training services unless a written waiver, submitted to the State Workforce Development Board, (see Attachment B) and granted by the Governor based on satisfactory and demonstrable evidence that:

- It is determined that there were an insufficient number of eligible providers with expertise in serving adults or dislocated job seekers to meet local demand. (Note: after having conducted competitive procurement described above).
- WDBMOV meets the requirements of an eligible training provider under Section 122; and
- The proposed training services prepare participants for in-demand industry sectors or occupations in the local area; and
- The waiver determination and request was put out for a minimum 30-day public comment period (all comments received will be included in the final waiver request).

Procurement Related Fiscal Requirements

(A) Sub-awards are not procurement actions governed by this policy or other procurement laws, rules or policies unless:

- (1) Required by statute
- (2) Required by own policies and procedures; or
- (3) Awarded on a competitive basis, in which instance the sub award will be governed by procurement rules detailed in 2 CFR 200.318-326

(B) When a competitive procurement process is not used in the selection of a subrecipient for a subaward, it must be guided by:

- (1) Documented internal controls, including written procedures for employee conduct and conflict of interest provisions;
- (2) The service provider's track record, considering past record of performance, cost principles, record of compliance and audit and monitoring results.

(C) Procurement standards must ensure fiscal accountability and prevent waste, fraud, and abuse in WIOA programs. Where applicable, standards must support fair and competitive procurement of goods and services.

- (D) Wherever possible and where required, all agreements must be performance-based, as defined in Federal Acquisition Regulations (FAR) 37.6, and include the following minimum requirements:
- (1) Performance requirements defined in measurable, mission-related terms;
 - (2) Performance standards e.g., quality metrics, required quantities, and timeliness tied to performance requirements;
 - (3) Quality assurance plan describing how the contractor's performance will be measured against performance standards; and,
- (E) All other non-federal entities, including LWDBs, must:
- 1) Follow general procurement standards established through State law, rule and policy, as well as through 2 CFR 200.318-326;
 - 2) Develop and document their own procurement policies, procedures and standards that reflect applicable State law, rule and policy and conform to Federal law and standards of OMB Uniform Guidance;
 - 3) Ensure full and open competition, where necessary;
 - 4) Use the most economical approach to the procurement of goods and services
 - 5) Award only to responsible contractors;
 - 6) Maintain oversight in order to monitor contractor performance regarding contract terms, conditions and specifications; and,
 - 7) Maintain records detailing the history of the procurement, including the rationale for the selected method of procurement, selection of contract type, basis for contractor selection or rejection, and basis for contract price.

Action: WDBMOV and their contractors will distribute this policy throughout the region to ensure that staff are familiar with its content and requirements.

Expiration Date: Effective until rescinded or modified by the Workforce Development Board Mid-Ohio Valley.

Attachments:

- Attachment A – Request for Waiver to Serve as One-Stop Operator
- Attachment B – Request for Waiver to Provide WIOA Adult and/or Dislocated Worker Training Services

ATTACHMENT A
Request for Waiver to Serve as a One-Stop Operator



Date:

WDB Director:

E-mail Address:

The WDB-MOV is requesting a waiver to serve as the one-stop operator in Region 4.

WDBMOV will provide the following information:

1. Written documentation of the entire process for making a sole source selection consistent with Section 4(g)(i)(3)(c) of WIOA Policy 4-17, including why the WDBMOV was unable to secure any one-stop operator bids in response to its solicitation, what the WDBMOV qualifications are to be a one-stop operator, and how the WDBMOV will balance its role as strategic coordinator of the local one-stop system with the role of one-stop operator.
 2. The internal controls, firewalls and conflict of interest policies and procedures the WDBMOV will impose upon itself as the operator of the one-stop system.
 3. Documentation (signed and dated letter) that the local Chief Elected Official reviewed the information prepared for the waiver request (items 1 and 2 above) and approves of the waiver request.
- * *Sole source, only if documented factors, including published notice(s) of intent made available to the public for at least 30 days and directed to prospective local and national non-profit, for-profit, and governmental bidders, lead to a determination that only one entity could serve as an operator, compelling circumstances outweigh the delay that would result from a competitive solicitation, or results of the competition conducted per Section 4(g)(i)(3)(a-b) of this policy are determined inadequate.*

The completed waiver request will be submitted to:

WorkForce West Virginia
112 California Avenue
Charleston, WV 25305

ATTACHMENT B

Request for Waiver to Provide WIOA Adult and/or Dislocated Worker Training Services



709 Market Street, Parkersburg, WV 26101
304-424-7271

Date:

WDB Director:

E-mail Address:

Please indicate the program(s) for which the waiver request is being submitted:

☐

Adult Program

☐

Dislocated Worker Program

Attached Documentation includes:

1. The WDB-MOV's competitive procurement conducted as per WIOA Section 3(b)(i)(C) and how its outcome resulted in a determination that there were insufficient eligible providers with expertise in providing training services to Adult participants to meet local demand. Supporting documentation attached.
2. Description of how the WDBMOV meets the requirements of an eligible training provider under WIOA Section 122.
3. Description of how the WDB-MOV's proposed training services prepare adult participants for in-demand industry sectors or occupations in the local area.
4. Description of how the WDB-MOV subjected its waiver determination and request to a minimum 30-day public comment period. Supporting documentation, including all comments received during the comment period attached.
5. Documentation (signed and dated letter) that the local Chief Elected Official reviewed the information prepared for the waiver request (items 1-4 above) and approves of the waiver request.

Submit the completed waiver request to:

WorkForce West Virginia
112 California Avenue
Charleston, WV 25305