

## West Virginia State Workforce Development Board

**Policy Area:** One-Stop Service Delivery

**Title of Policy:** One-Stop Operator Requirements

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### I. Purpose

This issuance outlines the policy and procedures for competitive selection of one-stop operators under the Workforce Innovation and Opportunity Act (WIOA). This policy incorporates and supersedes WorkForce West Virginia (WFWV) Policy 04-17.

### II. Summary

WIOA requires that one-stop operators be chosen through a competitive process in Section 121(d)(2)(A). A one-stop operator is different than a service provider, and is an entity responsible for management functions of a one-stop career center. A local workforce development board (LWDB) is responsible for conducting the competitive procurement for selection of a one-stop operator. The competitive procurement must occur no less than every four years; therefore, the one-stop certification process that occurs at least every three years is intended to inform the LWDB regarding successful operation of one-stop centers in the local workforce development area.

Any number of entities may serve as a one-stop operator. These include: an institution of higher education, a state agency that administers the Wagner Peysner employment services program or any state agency, a community-based organization, a private for-profit organization, any other organization with demonstrated ability to operate a one-stop center, and a consortium of entities that includes at least three WIOA partner programs. There may be multiple one-stop operators in a local workforce development area.

### III. References

- Workforce Innovation and Opportunity Act Section 121(d)(2)(A)
- United States Department of Labor, *Workforce Innovation and Opportunity Act; Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule*, 20CFR, Part 678, Subpart D, One-Stop Operators
- Office of Management and Budget, “Uniform Administrative Guidance”
- Training and Employment Notice No. 05-14, *Workforce Innovation and Opportunity Act Announcement and Initial Informational Resources*
- Training and Guidance Letter No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*

### IV. Policy

Each LWDB shall implement a policy articulating the role of the one-stop operator, which shall be reflected in all competitive solicitations for procurement of a one-stop operator. While a LWDB has discretion in defining the role of a one-stop operator, to ensure consistency across the State of West Virginia, all one-stop operators shall perform the following duties:

1. Manage the overall operations of One-Stop Center. This may include performance accountability and/or fiscal management.
2. Coordinate the service delivery of required one-stop partners and service providers, such as ensuring coverage during working hours, developing a one-stop center customer intake flow, and implementing other important customer service processes to meet the employment and training needs of the service region.
3. Coordinate the provision of career services in one-stop centers, including coordination with WIOA Title III Wagner-Peyser employment services.

One-stop operators shall not:

1. Convene stakeholders to assist in the development of the local plan.
2. Prepare and submit local plans (as required of the LWDB under WIOA section 107).
3. Conduct oversight or monitor its own service provision.
4. Manage or significantly participate in the competitive selection process for one-stop operators.
5. Select or terminate one-stop operators, career service providers, or youth providers.
6. Negotiate local performance accountability measures.
7. Develop or submit budgets for activities of the LWDB.

A one-stop operator 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
- A local chamber of commerce

- A business organization
- A labor organization

If a consortium of entities is a consortium of one-stop partners, such consortium shall include at least three one-stop partners as identified in 20 CFR § 678.400 that are operating in the local workforce development area.

Each LWDB must administer a one-stop operator competition consistent with the principles of competitive procurement in the OMB Uniform Administrative Guidance. A LWDB may also serve as one-stop operator if sole source requirements are met, and only if the chief local elected officials in the local workforce development area and the Governor agree. A LWDB serving as the one-stop operator shall have the appropriate conflict of interest and firewalls in place.

If a LWDB wants to operate a one-stop center(s), then approval must be granted by the West Virginia State Workforce Development Board on behalf of the Governor. The LWDB must submit a request for sole source approval that includes details concerning the provision of career and training services, details on the entity serving as the fiscal agent, and appropriate firewalls and conflict of interest protections and disclosures in place. The LWDB must also detail the justification of the sole source operation of one-stop centers and why a competition is not feasible, or if a competition has occurred, why the LWDB is the most feasible entity to operate the one-stop center(s).

If the LWDB determines the role of one-stop operator includes the provision of service(s) or a provider of service(s) within the one-stop system, the entity serving as one-stop operator shall have appropriate firewalls in place and documented to ensure that oversight of service provision is being conducted by the LWDB in coordination with WFWV. Specifically, a written agreement between the one-stop operator providing services and the LWDB and Chief Local Elected Official(s) shall outline how the one-stop operator will carry out its roles and responsibilities while demonstrating compliance with the WIOA statute and regulations and relevant state and local policies.

The first one-stop operator competition under WIOA had to occur in time for an operator to be in place by July 1, 2017, and then a new competition must occur no later than every four years from that point. Each LWDB is required to develop a Request for Proposals (RFP) for one-stop operators using the approach and required elements described in this policy and other guidance uniformly across the entire state.

## **V. Procedures**

One-stop operators shall be selected through a competitive process following the principles of competitive procurement in the Uniform Administrative Guidance and any applicable locally adopted procurement policies.

Maintenance of records regarding the procurement process including, but not limited to, documentation of the local determination of the competitive procurement process to be followed, as well as the specific details of that process and its results, are crucial to

demonstrating compliance in the selection of the one-stop operator.

Acceptable processes include:

- Procurement by sealed bid
- Procurement by competitive proposal, and
- 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:
  - o There is only one entity that could serve as the one-stop operator, or
  - o An unusual and compelling urgency exists that will not permit a delay resulting from a competitive solicitation, or
  - o The results of the competitive procurement were determined to be inadequate.

LWDBs must 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.

LWDBs should only serve as one-stop operators and/or provide services as a default, when other options will not effectively meet local needs.

LWDBs must inventory the availability and quality of service providers as part of their planning processes. LWDBs may choose a number of approaches to determine if there are insufficient service providers, including, but not limited to, conducting a Request for Information or asset mapping with stakeholders and community partners.

LWDBs must procure one-stop operator and other services through open and competitive processes. This includes providing sufficient public notice of the intent to procure services to board members and the community. Public notice must be provided for at least 30 days in media where prospective local, state, and national bidders typically identify such opportunities (e.g., local print newspapers, on-line newspapers, LWDB web site, other community web sites, etc.)

LWDBs must document, in writing, (1) efforts to identify the availability of providers and (2) the allowable procurement process used and how it was followed, including the selection criteria by which bids were scored to award a contract. All of this documentation must be maintained and provided to the State upon request.

The Governor must approve a waiver for LWDBs to provide one-stop operator and/or other services. The appropriate forms for making such requests are referenced in each section below and provided as attachments to this policy.

Specific procurement requirements are contained in Attachment A to this policy.

### **Attachment A**

#### **Specific Procurement Requirements**

##### **Procurement of One-Stop Operators**

- 1) One-stop operators must be designated and certified through a competitive procurement

process.

- 2) The competitive process used by LWDBs to procure one-stop operators must be conducted at least once every four years and follow the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318-326.
- 3) The allowable forms of competitive procurement processes are as follows:
  - (a) Sealed Bids
  - (b) Competitive Proposals
  - (c) Sole Source, only if documented factors, 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, 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, and only with the agreement of the Chief Local Elected Official and Governor.
    - (i) LWDBs 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.
    - (ii) LWDBs must have in place and demonstrate adherence to appropriate internal controls and conflict of interest policies and procedures that are approved by the Governor. Such policies must identify the appropriate internal controls.
    - (iii) 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.
    - (iv) 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.
    - (v) LWDBs must complete Attachment A (Request for Waiver to Serve as a One- Stop Operator) and submit it to the State Workforce Development Board (SWDB).
- 4) LWDBs may serve as one-stop operators in the region for which they are designated if they are determined to be the successful bidder in a solicitation that conforms to the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318-326, and only if approved internal control and conflict of interest policies are followed. Internal controls include the requirement that the solicitation and scoring process be managed by an impartial third party free of conflicts of interest and that LWDB staff and the agency that employs such staff cannot develop the solicitation for proposals, facilitate the scoring process, or score proposals.

### **Procurement of Youth Service Providers**

- 1) LWDBs must competitively award grants/contracts for eligible providers of youth workforce investment activities, except in the case of sole-source awards/contracts and only then if there is satisfactory and demonstrable evidence that there are an insufficient number of providers with the expertise required for serving in-school or out of school youth. Bid solicitations must include a rubric of the selection criteria to be used in this process and must be maintained as documentation of the process.
- 2) LWDBs must be able to document, in writing that they have made their board members and the public aware of the competitive process that will be used identify youth service providers. This includes providing at least 30-day public notice through media where prospective bidders typically identify such opportunities.
- 3) LWDBs must 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 state and local procurement laws to procure eligible providers of youth workforce investment activities.
- 4) 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 LWDBs determine that they can more appropriately provide these activities.
- 5) LWDBs must establish local policies and procedures to assess the ability of youth program providers to meet performance accountability measures based on the primary federal indicators of performance for the youth program.

### **Procurement of Adult or Dislocated Worker Training Services**

- 1) LWDBs cannot provide Adult or Dislocated Worker training services unless granted a written waiver by the Governor based on satisfactory and demonstrable evidence that:
  - (a) The LWDB determined that there were an insufficient number of eligible providers with expertise in serving Adults or Dislocated job seekers to meet local demand. Note: LWDBs must have come to this determination after having conducted a competitive procurement;
  - (b) The LWDB meets the requirements of an eligible training provider under WIOA Section 122;
  - (c) The LWDB's proposed training services prepare participants for in-demand industry sectors or occupations in the local area; and
  - (d) The LWDB subjected its waiver determination and request to a minimum 30-day public comment period and included all comments received in the final waiver request.
  - (e) LWDBs must complete Attachment C (Request for Waiver to Provide WIOA Adult and/or Dislocated Worker Training Services) and submit it to the State Workforce

Development Board (SWDB).

**Procurement Related Fiscal Requirements**

- 1) Subawards are not procurement actions governed by this policy or other procurement laws, rules, or policies unless:
  - (a) Required by statute;
  - (b) Required by specific policies and procedures; or
  - (c) Awarded on a competitive basis, in which instance the subaward will be governed by procurement rules detailed in 2 CFR 200.318-326
- 2) When a competitive procurement process is not used in the selection of a subrecipient, it must be guided by:
  - (a) Documented internal controls, including written procedures for employee conduct and conflict of interest provisions;
  - (b) The service provider's track record, considering past record of performance, cost principles, record of compliance, and audit and monitoring results.
- 3) 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.
- 4) 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:
  - (a) Performance requirements defined in measurable, mission-related terms;
  - (b) Performance standards (e.g., quality metrics, required quantities, and timeliness) tied to performance requirements; and
  - (c) Quality assurance plan describing how the contractor's performance will be measured against performance standards.
- 5) All other non-federal entities, including LWDBs, must:
  - (a) Follow general procurement standards established through state law, rule and policy, as well as through 2 CFR 200.318-326;
  - (b) 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;
  - (c) Ensure full and open competition, where necessary;
  - (d) Use the most economical approach to the procurement of goods and services;
  - (e) Award only to responsible contractors;

- (f) Maintain oversight in order to monitor contractor performance regarding contract terms, conditions and specifications; and
- (g) 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.