



INDIANA
WORKFORCE
DEVELOPMENT
AND ITS **WorkOne** CENTERS

To: Workforce Development Board Chairs
Workforce Development Board Directors
Regional Chief Elected Officials

From: Regina Ashley, Chief Strategy Officer *REA*
Josh Richardson, Chief Operating Officer *JOR*

Date: January 17, 2017

Subject: DWD Policy 2016-07
Guidance for the Competitive Procurement of One-stop Operators

Purpose

To provide guidance and a timeline for the competitive procurement of one-stop operators.

Rescission

DWD Policy 2007-24

References

- Workforce Innovation and Opportunity Act (WIOA), Section 121
- WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions: Final Rule Subpart D – One-Stop Operators
- Uniform Administration Guidance, 2 CFR 200.317-326

Content

WIOA requires the Local Workforce Development Board (WDB), with the agreement of the chief elected official, to select one-stop operators through a competitive process. The law requires the one-stop operator selected through the competitive process to be in place no later than **July 1, 2017**. The law also requires each Local WDB to demonstrate it is taking steps to prepare for one-stop operator procurement by **November 17th, 2016**.

Role of the One-Stop Operator

The role of the competitively procured one-stop operator is to coordinate the service delivery of required one-stop partners and service providers. Local WDBs may establish additional roles of the one-stop operator, including, but not limited to:

- Coordinating service providers across the one-stop delivery system;
- Being the primary provider of services within the one-stop center;
- Providing some of the services within the one-stop center; or
- Coordinating service delivery in a multi-center area, which may include one-stop center affiliated sites.

The role of the one-stop operator may not include:

- Convening system stakeholders to assist in the development of the local plan;
- Preparing and submitting local plans;
- Being responsible for oversight of itself;
- Managing or significantly participating in the competitive selection process for one-stop operators;
- Select or terminate one-stop operators, career services, and youth providers;
- Negotiating local performance accountability measures; or
- Developing and submitting budget for activities of the Local WDB in the local area.

Note: An entity serving as a one-stop operator, that also serves a different role within the one-stop delivery system, may perform some or all of these functions when it is acting in its other role, if it has established sufficient firewalls and conflict of interest policies and procedures. The policies and procedures must conform to the specifications in § 679.430 of the WIOA regulations for demonstrating internal controls and preventing conflict of interest. This is described in more detail below.

Entities Eligible to Operate One-stop Centers

One-stop operators may be a single entity (public, private, or nonprofit) or a consortium of entities. If the one-stop operator is a consortium of entities, it must include a minimum of three of the one-stop partners described in § 678.400 of the WIOA regulations. One-stop operators may operate multiple one-stop centers and there may be multiple one-stop operators in a local area. The types of entities that may be one-stop operators include:

1. An institution of higher education;
2. A nontraditional public secondary school such as a night school, adult school, or an area career and technical education school;
3. A community-based organization, nonprofit organization, or workforce intermediary;
4. A private for-profit entity;
5. A government agency;
6. An Employment Service State agency established under the Wagner-Peyser Act;
7. A Local WDB, with the approval of the chief elected official and the Governor; or
8. Another interested organization or entity, which is capable of carrying out the duties of the one-stop operator.

Elementary schools and secondary schools, except as listed in #2 above, are not eligible as one-stop operators.

One-stop Operator Selection Requirements

As required by sec. 121(d)(2)(A) of WIOA, the Local WDB must select the one-stop operator through a competitive process at least once every 4 years. This process must be based on local procurement policies and procedures and the principles of competitive procurement in the Uniform Guidance set out at 2 CFR 200.318 through 200.326. The WIOA regulations interpret “noncompetitive proposals” (as used in the Uniform Guidance) to have the same meaning as “sole source procurement” for the purpose of one-stop operator selection. DWD requires a competitive process in the selection of a one-stop operator, and therefore, a sole source procurement is NOT permitted. Please note, if only one entity submits a bid to the properly executed request for proposals and that entity is subsequently selected as the one-stop operator, this will satisfy the requirements for a competitive process.

Any competition for a one-stop operator must clearly articulate the role of the one-stop operator. Where State merit staff perform functions and activities in the one-stop center, the Local WDB and one-stop operator must establish a system for management of merit staff in accordance with DWD policies and procedures and any programs or services with state merit staffing requirements must be included in the competition for and final contract with the one-stop operator.

The process by which the competition was determined must be documented in writing and be made available to DWD upon request. Within the competitive process Local WDBs must ensure that in carrying out WIOA programs and activities, one-stop operators:

1. Disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;
2. Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term career and training services; and
3. Comply with Federal regulations and procurement policies relating to the calculation and use of profits, including those at § 683.295, the Uniform Guidance at 2 CFR part 200, and other applicable regulations and policies.

WDB as the One-Stop Operator

If the WDB intends to submit a bid to be the One-stop Operator, the WDB may not conduct the procurement process or evaluate the bids submitted.

Procurement Process

If the WDB intends to submit a bid, the WDB has the following two options for conducting the competitive procurement *process*¹:

¹ The competitive procurement process includes: developing or drafting the RFP specifications, requirements, statements of work, and invitations for bids or requests for proposals.

1. **State.** The local WDB may elect to have DWD, acting on behalf of the State, conduct the competitive procurement process. Under this option, the local WDB may assist DWD to clearly articulate the desired role of the one-stop operator, but the state will have the ultimate authority to develop and draft the RFP. DWD will follow the same policies and procedures it uses for procurement with non-Federal funds.
2. **Third-Party Entity.** The local WDB may select a third party entity to conduct the competitive procurement process with the approval of DWD. In its request for approval of a third-party entity to run the procurement process, the WDB shall submit to DWD the following information and documentation: the name of the proposed entity to conduct the competitive procurement process, a copy of the procurement process/policies to be followed by the entity that conform to the principles identified in OMB's Uniform Administrative Guidance, and a conflict of interest statement demonstrating the appropriate firewalls are in place and there are no real, apparent, or organizational conflicts of interests.

Evaluation

Under either of the above options, the State will be solely responsible for scoring and evaluating the bids received. To ensure fairness and consistency, the state evaluation and scoring team will be a committee of the State Workforce Innovation Council (SWIC).

Contract Requirement

If the local WDB submits a bid to be the one-stop operator and is subsequently not selected as the winning bidder, the local WDB is required to enter into a contract with the winning bidder. The Local WDB is not permitted to negotiate terms and conditions different from those denoted in the winning bidder's response unless approved by DWD.

Conflicts of Interest

Local organizations often function simultaneously in a variety of roles, including local fiscal agent, Local WDB staff, one-stop operator, and direct provider of services. For any organization that performs more than one of these functions, a written agreement with the Local WDB and CEO must be developed to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant Office of Management and Budget circulars, and the State's conflict of interest policy.

In addition to the written agreement between the Local WDB and CEO described above, WIOA requires additional measures to be put in place for specific situation where conflict of interest must be addressed. These include:

Local WDB as the One-stop Operator

A Local WDB may compete for and be selected as one-stop operators, as long as:

- The bids are submitted through a competitive procurement process conducted by the state or an approved third-party entity;
- The bids are scored and evaluated by the designated SWIC committee;
- Agreement of the chief elected official in the local area and the Governor has been reached;
- Firewalls and conflict of interest policies and procedures are in place;

- The State ensures certification of one-stop centers in which the Local WDB is also the one-stop operator; and
- The one-stop operator does not perform prohibited one-stop operator activities (as listed above in this policy) unless it is serving in a different role within the one-stop delivery system and sufficient firewalls and conflict of interest policies and procedures are in place.

State or Local Agency as the One-stop Operator

State and local agencies may compete for and be selected as one-stop operators by the Local WDB, as long as appropriate firewalls and conflict of interest policies and procedures are in place.

Steps to Demonstrate Preparation for Competition

No later than November 17, 2016, each Local WDB must demonstrate it is taking steps to prepare for the competition of its one-stop operator(s). Methods to demonstrate readiness include conducting market research, requests for information, cost and price analyses, and any other steps the Local WDB can demonstrate which meet WIOA requirements in §687.635. Steps the Local WDB has taken must be documented, and must be submitted to DWD in upon request.

The one-stop operator(s) must be in place no later than **July 1, 2017**.

Existing One-Stop Operator Agreements

In the event the one-stop operator(s) has already been selected in a region and the contract extends beyond **July 1, 2017**, an independent assessment of the procurement process must be conducted by DWD to ensure the competition complied with the requirements in this policy. These regions will be responsible for informing the policy department of this arrangement so the proper documentation may be requested and an independent assessment can occur.

Procurement Protest

If the state conducts the procurement process and a bidder wishes to protest the award recommendation, the state will follow the Indiana Department of Administration's "Procurement Protest Policy."

Effective Date

Immediately

Ending Date

Upon rescission.

Contact for Questions

policy@dwd.in.gov

Action

Finalized contracts for one-stop operators consistent with this policy must be completed no later than July 1, 2017 and at least every four years thereafter.