

Region VI Workforce Development Board 17 Middletown Road White Hall, WV 26554	WIOA One Stop Operator Procurement and Selection
	Date June 9, 2017

Region VI Guidance Letter No. 23-16

To: All WorkForce West Virginia Center Supervisors and Staff  
All Partners and Stakeholders of the Region VI Workforce Development Board One-Stop System

From: Region VI Workforce Development Board (WDB)

Subject: One Stop Operator Procurement and Selection

1. PURPOSE: To communicate requirements for the procurement and selection of one-stop operators under the Workforce Innovation and Opportunity Act (WIOA).
2. REFERENCE: WorkForce West Virginia Policy No. 4-17 and Workforce Innovation and Opportunity Act of 2014 (WIOA) Section 121, and 20 CFR, section 361.605.
3. 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 sets the expectation for Local Workforce Development Boards (LWDBs) to conduct open and competitive procurement processes to identify appropriate providers of one-stop operator and other services.
4. POLICY: The Region VI WDB adopted the Workforce West Virginia Policy 4-17 relating to the Procurement and Selection of One-Stop Operators.
5. ACTION: 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 (in particular 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 Region VI WDB will clearly articulate the role of the One-Stop Operator in the solicitation for bids. The WDB has a great deal of discretion in defining the role of a One-Stop Operator to meet the unique needs of the local area.

At a minimum, the One-Stop Operator must coordinate the service delivery of the required one-stop partners and service providers.

At the discretion of the WDB, the One-Stop Operator may also:

- Coordinate the service delivery of partners and providers
- Act as the primary provider of service within a center
- Provide specific services within a center
- Provide other services, not otherwise prohibited

If the WDB determines the role of One-Stop Operator includes the provision of service(s) or a provider of service(s) within the one-stop system is selected as the One-Stop Operator, the entity selected must have firewalls in place to ensure the operator is not conducting oversight of itself. There must also be proper internal controls and firewalls in place to ensure the entity, in its role as 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 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.

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 Region VI WDB

An entity selected as 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 WDB and Chief Elected Official(s) 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 local Board, 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 and seasonal farmworker programs (MSFW)
  - 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, including a current operator or the Region VI WDB, 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. Such involvement would be an inherent conflict of interest.

### **Selection of One-Stop Operator(s)**

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 (in particular 2 CFR 200.318 through 200.326) 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 CEO and Governor after
  - Rigorous analysis of market conditions and other factors lead to a determination sole source procurement is necessary due to:
    - There is only one entity that could serve as the one-stop operator, or
    - An unusual and compelling urgency exists that will not permit a delay resulting from a competitive solicitation, or
    - The results of the competitive procurement were determined to be inadequate.
- a) The WDB 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.
- b) The WDB should only serve as a one-stop operator and/or provide services as a default, when other options will not effectively meet local needs.
- c) The WDB 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, the WDB web site, other community web sites, etc.)
- d) The WDB 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.
- e) The Governor must approve a waiver for the WDB to provide one-stop operator and/or other services. The appropriate form for making this request is referenced below and provided as an attachment to this policy.
- f) Procurement Related Programmatic Requirements
- i) 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 the Region VI WDB 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 local Chief Elected Official and Governor.
    - (i) The WDB 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) The WDB 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) The WDBs 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) The WDB 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 the Region VI WDB staff and the agency that employs such staff cannot develop the solicitation for proposals, facilitate the scoring process, or score proposals.

The Region VI Workforce West Virginia One Stop System Partners and Stakeholders will be made aware of this policy. Each WDB and LEO Board Member will be given a copy of this policy.

3. EXPIRATION DATE: This policy will become effective June 9, 2017, and shall be in effect until revised or cancelled by the Region VI WDB.



Jim Justice, Governor  
H. Wood Thrasher, Commerce Cabinet Secretary  
Russell L. Fry, Acting Executive Director

ATTACHMENT A

Request for Waiver to Serve as a One-Stop Operator

Date:

Local Workforce Development Board (LWDB): Contact Person/Title:

Phone:

E-mail Address: Mailing Address:

Please indicate the one-stop site(s) for which the LWDB is requesting a waiver to serve as the one-stop operator:

- 1.
- 2.
- 3.

Note: Add sites if needed.

The LWDB must provide the following information for each site for which it is requesting a waiver to serve as the one-stop operator:

1. Provide 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 LWDB was unable to secure any one-stop operator bids in response to its solicitation, what the LWDB's qualifications are to be a one-stop operator, and how the LWDB will balance its role as strategic coordinator of the local one-stop system with the role of one-stop operator.

2. Describe the internal controls, firewalls, and conflict of interest policies and procedures the LWDB will impose upon itself as the operator of the one-stop site.

3. Attach 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.*

Submit the completed waiver request to:

WorkForce West Virginia  
112 California Avenue  
Charleston, WV 25305