

Executive Summary

Workforce Services Policy – One-Stop Operator and Service Provider Procurement

1. What is the purpose of this policy?

This policy requires the Local Workforce Development Boards (LWDBs) to procure the One-Stop Operator (OSO) and Career Service Provider (CSP). The policy also outlines federal requirements to be followed during the procurement process including:

- Bidder's list requirements
- Documentation requirements
- Evaluation response requirements
- Evaluation criteria requirements, and
- Competitive procurement of youth service providers

2. Has this policy been updated? If so, what is the purpose of the policy update?

This policy demonstrates the following updates:

- Clarification that the One-Stop Operator (OSO) and career service provider (CSP) must be procured as separate entities during the request for proposal. Prior to the update, when the OSO and CSP could exist as the same entity, LWDA staff expressed concerns regarding reporting structure and violation of the firewall within the American Job Centers (AJCs). This update in workforce structure strengthens a firewall by allowing the CSP to focus on assisting customers to enroll in WIOA services; furthermore the policy clarifies that the OSO is responsible for oversight of program performance and provision of technical assistance to improve CSP performance.
- Requirement that the request for proposal (RFP) bidders list is shared regionally (this was previously suggested as a best practice). Furthermore, dissemination of the RFP has been increased to a minimum of five (5) legal publications and the sub-recipient's website.

- Added requirements for procurement of youth service providers, including assurance that the fourteen (14) youth elements will be provided, competitive selection criteria, and leveraging partner resources.
- Added guidance on conducting Regional procurement for the One-Stop Operator and/or Service Provider.
- Added language to guide on conducting a Request for Information (RFI) process.



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Workforce Services Policy - One-Stop Operator and Service Provider Procurement

Effective Date: June 5, 2020

Duration: Automatic Annual Renewal

Purpose:

This policy sets the requirement that each Local Workforce Development Board (LWDB) must competitively procure¹ the One-Stop Operator (OSO) and Career Service Provider (CSP) for the American Job Center (AJC) System. This policy outlines the federal criteria² regarding procurement for the OSO and CSP. Tennessee has added criteria to state that the OSO and CSP must be procured separately and be different entities. To ensure proper firewalls are established to allow for proper oversight, monitoring, and evaluation of performance of the service provider at the LWDB level³, Tennessee is adopting this policy to allow for a natural firewall to be established. This policy also outlines the requirements to procure Youth Service Providers and that the procurement of these services must be conducted with separate Request For Proposal (RFP) than those RFPs for the OSO and CSP.

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); **Title I** – Adult, Dislocated Worker, and Youth Programs, **Title II** – Adult Education and Family Literacy Act Program(AE); **Title III** – Wagner-Peyser Act Program (WP); **Title IV** – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (Operator); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners).

¹ 2 CFR 200.319

² 20 CFR 678.605

³ 20 CFR 678.625

I. Competitive Procurement Requirements for One-Stop Operator and Career Service Provider:

The minimal requirements, to inform LWDBs in developing the competitive procurement documents (request for proposals) at the local level, are listed at the end of this section. Each RFP for the OSO and CSP must include the duties set forth in currently-existing federal regulations, which define the OSO's role within the workforce system⁴. Under this policy, the State strengthens federal guidance—which states that OSOs can be CSPs⁵—to require that the OSO and CSP be different entities. This requirement creates a natural firewall between the OSO and CSP to ensure compliance with roles and duties. In addition, the LWDB is expected to procure multiple service providers to ensure proper coverage of effective youth, adult, and dislocated worker services. This competitive procurement for the OSO and Service Providers must take place, at minimum, every four (4) years⁶. The LWDB may choose to procure more than once every four (4) years.

Upon approval of this policy, current contracts with single entity providers for the One-Stop Operator and Service Provider will be grandfathered into the newly established requirements of this policy until those existing contracts have expired.

The below items are additional requirements the LWDBs must follow when procuring an OSO and CSP.

The RFP must be conducted using the non-federal entity's own document procurement procedures that conform to general procurement standards⁷.

A. Bidder's List Requirements:

- LWDBs must maintain a comprehensive list of eligible entities able to provide OSO and CSP services.
- LWDBs must share and compare bidder's list within the same planning region to facilitate quick reference of available providers.
- LWDBs must distribute the RFP to a minimum of five (5) applicable legal publications, as well as on procuring entity's website.

B. Documentation Requirements:

- In order to be considered, the LWDB must receive two (2) years of audited financial history from the bidding entity.
- In order for a bidder to be considered, an organizational chart must be submitted. Bidders must describe whether current or newly-hired staff will provide services. This must be accompanied with resumes of current staff or title and job description of any new positions.
- All bidders must provide their Dun & Bradstreet number (DUNS number) to the Grants and Budgets unit at Grants.Budgets@tn.gov.
- The reviewing entity must verify that the bidders are not on the federal debarment and suspension list, including documentation of verification.

C. Evaluation Response Requirements:

- Bidders must state how they will comply with all federal/state/local regulations, as well as provide oversight to ensure compliance.

⁴ 20 CFR 678.620

⁵ 20 CFR 678.625

⁶ 20 CFR 678.605(a)

⁷ 2 CFR 200.318

- OSO bidders must include how they will incorporate all partners into the comprehensive One-Stop system, including assurance that all partners will still fulfill all federal and state requirements of their respective programs.
- Bidders must detail all implementation plans for training of all partner staff, to include: co-enrollment of participants and outreach to target populations.
- Bidders must describe their customer service experience, to include: management of complaints and/or concerns, oversight of staff teams, and experience in development and delivery of technical assistance.
- Bidders must propose outcome measures that comprehensively capture and evaluate their effectiveness at providing services as they relate to the local and regional plans.

D. Evaluation Criteria Requirements:

- There must be at least one (1) evaluation criterion that assesses the bidder's financial capabilities.
- There must be at least one (1) evaluation criterion that assesses the bidder's technical/programmatic capabilities.
- There must be at least one (1) evaluation criterion that assesses the bidder's service delivery experience.

E. Conflict of Interest:

- All evaluators must disclose any potential conflict of interest they may have with the potential bidders for the OSO and CSP. This form must be collected and maintained along with the required procurement documents.
- If an evaluator of the bidders knowingly has information that they have connection with an entity who has bid on the contract(s), the evaluator must recuse themselves from evaluation and disclose that information to the LWDB Chair.

II. Procurement Requirements for Youth Service Providers:

The following items are the requirement set by Federal Law and the State Workforce Development Board (SWDB) on the procurement requirements for Youth Service Providers:

- The LWDB must identify the eligible providers of youth workforce development activities in the Local Workforce Development Area (LWDA) through a separate RFP. Some⁸ or all of the youth program elements may be delivered by one more service providers, including the local grant recipient so that LWDA's will be best positioned to provide program elements resulting in strong outcomes. If the LWDB chooses to award grants or contracts to CSPs for some or all of the youth program elements, the contracts must be awarded on a competitive basis.
- The LWDB must identify eligible youth providers based on the recommendation of the youth standing committee, if they choose to establish a standing youth committee and assign it that function. If a youth standing committee is not established for the LWDA, this responsibility falls to the LWDB. Any member of the LWDB with a potential conflict of interest must recuse themselves from the selection process.
- Bidders must demonstrate the ability to successfully meet Federal and State performance accountability measures to include performance indicators established by ETA and Key Performance Indicators (KPIs) set by the SWDB in their delivery of services. Bidders must also commit to successful outcomes for all contracted services. In all cases, the LWDBs must ensure that all sub-recipients and contractors are monitored for quality of services and achievement of the above performance standards.

⁸ TEGL 21-16

- LWDBs must ensure that each of the fourteen (14) youth program elements is available in the LWDA. Each program element may be delivered by one (1) or more eligible CSPs (including the local grant recipient). The State expects the LWDB to use youth service providers who are best positioned to provide program elements resulting in strong economic growth outcomes. Each program element must be made available through the following identification or selection methods:
 - A. Provided by the Local Grant Recipient:** Service Providers and/or LWDBs may directly provide some or all of the fourteen (14) program elements. All written agreements, to include amendments, must be sent to Workforce.Board@tn.gov prior to the execution of contracts and the contracts must be submitted once executed.
 - B. Competitive Selection:** If the LWDB chooses to award grants or contracts to service providers, LWDBs must conduct a full and open competition to secure youth service providers⁹ in addition to applicable State or county procurement codes.
 - C. Non-Competitive Selection (Sole Source):** In situations where the LWDB identifies an insufficient number of youth service providers in the LWDA, such as a rural area, then WIOA allows for the LWDB to noncompetitively procure services¹⁰. The LWDB must establish a policy that defines what would constitute an insufficient number of eligible youth providers. LWDBs must still follow applicable state or county procurement codes for contractor selection by sole source.
 - D. Leveraging of Partner Resources:** LWDBs are encouraged to leverage partner resources to provide one or more of the program elements if WIOA Title I funds are not used to pay for services. However, the LWDB must ensure that if a program element is not funded with WIOA Title I Youth funds, the local program has an agreement in place with a partner organization to ensure that the appropriate services will be offered. The LWDB must ensure that the services are closely connected and coordinated with the WIOA Title I Youth program.
- When the LWDB has selected youth service provider(s) to administer youth workforce investment activities, the funding award notice(s), amendments, and/or Letter of Intent must include the following:
 - WIOA Title I Youth eligibility criteria;
 - All applicable expenditure requirements; and
 - All State and Federal performance requirements.

III. Regional Procurement:

Each of the Grand Planning Regions has the option to procure their OSO and/or CSP through regional procurement. This means that all three LWDA's within a region will share the same organization as either their OSO, CSP, or both. This organization will take direction from Regional Planning Council (RPC) on how to carry out business within all three LWDA's.

If a region decides to procure through regional procurement it must:

- Follow the standards set for procurement as stated in this policy.
- The agency that is selected through the RFP will contract with one (1) LWDA and receive direction from the RPC
- All LWDA's will sign a Memorandum of Understanding (MOU) that contains:
 - A summary of the purpose of the MOU;

⁹ 2 CFR Parts 200 and 2900

¹⁰ WIOA Section 123

- A list of participating OSOs and CSPs;
- A description of how the OSOs and CSPs will meet regional performance metrics as they relate to fiscal and programmatic performance;
- An explanation of how the LWDBs will pool applicable resources to support the funding of the procured agency;
- A description of how policies will be aligned within the region to provide a consistent service strategy.
- Set procedures on how to resolve issues if one LWDB becomes dissatisfied with the performance of the procured agency, to include arbitration procedures if a resolution is not reached within a period of time defined within the MOU;
- A description of how all applicable parties will have an opportunity to amend the agreement, to include the process to formally approve any changes; and
- A signature from all the LWDB Chairpersons within the region.
- At least one (1) member from each LWDB must participate in the scoring and selection committees for the RFP.

IV. Request for Information (RFI)¹¹

A “Request for Information” or “RFI” is a solicitation sent to a broad base of potential suppliers for the purpose of developing strategy, building a database, or preparing for a Request for Proposals (RFP). A RFI enables an equitable and simultaneous comparison of vendors. LWDBs are encouraged to use this tool to gather information about the availability of services. A RFI should be utilized when:

- The LWDB has a procurement need, but requires more information to fully understand the industry;
- The LWDB to identify vendors who are available to supply the needed service; or
- When the LWDB determines that a RFP process will benefit from a RFI

References:

2 CFR 200.318-326; 20 CFR 678.200, 678.600, 678.605, 678.610, 678.400, 678.625, 679.430; WIOA Sec. 134(c)(2)(C); TEGL 21-16; WIOA Section 123; Central Procurement Policy 2013-002

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.



Tim Berry, State Workforce Development Board Chair

¹¹ Central Procurement Policy 2013-002