

	<b>NCWorks Commission</b>
	<b>NCWorks Commission Policy Number: CPS XX-2022</b>
	<b>Date: May 11, 2022</b>
	<b>Subject: Requirement to Use Competitive Selection Processes to Procure Training Providers and One-Stop Operators</b>
	<b>From: <span style="color: red;">Draft</span></b>
	<hr/> <b>Tom B. Rabon, Jr.</b> <b>Chair, NCWorks Commission</b>

**Purpose:** To inform Local Area Workforce Development Boards (WDBs) of the requirement to use a competitive procurement process to select providers of Workforce Innovation and Opportunity Act (WIOA) Adult, Youth, and Dislocated Worker services, as well as, for the One-Stop Operator of a local certified NCWorks Career Center.

This policy has been updated to include clarification concerning the contract period for subrecipients that have been procured to be both the One-Stop Operator and service provider of WIOA Adult, Dislocated Worker, and/or Youth training services.

This Commission Policy Statement rescinds Policy Statement PS 19-2017, Change 2 and the procedures herein supersede all previous policy, procedures, and guidelines regarding the Competitive Selection Processes.

**Background:** Adult, Youth, and Dislocated Worker Training Services: Section 107(g)(1)(A) of WIOA mandates that WDBs shall not provide training services to customers. This requirement is reiterated in 20 Code of Federal Regulations (CFR) § 679.410(b). A WDB acting as a direct provider of services is not optimal, as the WDB is designed to oversee the One-Stop System and its services, not provide them. WDBs must competitively procure these training services in compliance with all state and federal regulations. Section 107(g)(1)(B) of WIOA provides limited authority to waive these procurement requirements (see attachment).

One-Stop Operators: Requirements for the competitive procurement of One-Stop Operators are set forth in 20 CFR § 678.605, which requires the One-Stop Operator to be selected through a competitive process. Although applicable regulations allow a WDB to be the One-Stop Operator in limited circumstances, the Division of

Workforce Solutions (DWS) opposes such an arrangement because the WDB's principal role is to provide strategic direction and oversight to service delivery.

Section 121(d)(2)(A) of WIOA and 20 CFR § 678.605(a) require the One-Stop Operator to be selected through a competitive process at least once every four (4) years. The DWS will allow this procurement interval as an exception to the other subrecipient contracts governed by DWS Commission Policy Statement: CPS 02-2022 Procurement and Contracting Policy. In addition, the WDB may enter into a four-year contract, if and only if, the local Financial Management/Procurement Policy allows for four-year contracts for the One-Stop Operator.

Applicable regulations (20 CFR § 678.625) allow a One-Stop Operator to be a service provider. In the event the One-Stop Operator has also been procured as the service provider, the contract may be for a four-year period. Proper internal controls and firewalls must be in place to ensure that the entity's dual roles as Operator and service provider do not conflict. To guard against possible conflicts of interests, these internal controls and firewalls must ensure that the Operator is not overseeing itself as a service provider.

Extreme care should be taken to ensure that Local Area WDBs continue to provide strategic direction and maintain an arm's length relationship in the day-to-day delivery of services to Career Center customers.

**Action:**

Adult, Youth, and Dislocated Worker Training Services: Each WDB must competitively procure Adult, Youth, and Dislocated Worker services and maintain a very clear and distinct firewall between the WDB and the services delivered to customers.

If the competitive procurement process fails, the WDB may seek other noncompetitive options for the first year or request a waiver from the DWS to allow it to provide training services directly to customers. All waiver requests must comply with the attached Waiver of Training Prohibition guidelines and be submitted to the WDB's DWS Planner within thirty (30) days of the failed procurement.

One-Stop Operators: Operators of certified NCWorks Career Centers must be competitively procured at least once every four (4) years. This extended service period is an allowed exception to the requirements regarding contract terms set forth in Attachment 1 of Commission Policy Statement: CPS 02-2022 Procurement and Contracting Policy.

Local Area WDBs must follow all applicable federal, state, and local procurement requirements (with the exception of the extended procurement interval/service period discussed above) in selecting service providers and One-Stop Operators to deliver services funded by WIOA resources. Federal requirements include, but are not limited to:

- 1) Sections 200.317 through 200.326 of 2 CFR Part 200 (the United States Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards); Procurement Procedures which establish principles and standards for determining costs for all federal awards carried out by state and local governments; and
- 2) 20 CFR Sections 678.605(a) and 678.610.

The DWS will provide oversight of compliance through:

- 1) Reviewing the Local Area Plan responses outlining procurement procedures;
- 2) monitoring activities including online and direct site visits; and
- 3) oversight summary reports.

**Effective Date:** Immediately

**Expiration:** Indefinite

**Contact:** DWS Fiscal Monitor  
DWS Planner

**Attachment:** Waiver of Training Prohibition