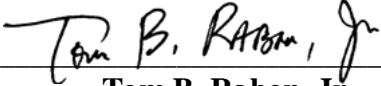
	NCWorks Commission
	NCWorks Commission Policy Number: CPS 04-2022, Change 1
	Date: May 8, 2024
	Subject: Requirement to Use Competitive Selection Processes to Procure Training Providers and One-Stop Operators
	From: <div style="text-align: center;">  <hr style="width: 20%; margin: auto;"/> Tom B. Rabon, Jr. Chair, NCWorks Commission </div>

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 regarding the services to be competitively procured for a WIOA Adult, Dislocated Worker, and/or Youth and to revise the waiver request submission process.

This Commission Policy Statement rescinds Commission Policy Statement 04-2022 and the procedures herein supersede all previous policies, procedures, and guidelines regarding the Competitive Selection Processes to Procure Training Providers and One-Stop Operators.

Background: Adult, Youth, and Dislocated Worker Services: 20 Code of Federal Regulations (CFR) § 679.410 states career services for adults and dislocated workers can be provided by the Local Area with the approval of the Chief Elected Official and the Governor. With respect to youth, TEGL 21-16 provides guidance that elaborates on the State’s ability to require the competitive selection of Youth service providers, as the Division of Workforce Solutions (DWS) has the ultimate accountability for Youth performance with the U.S. Department of Labor. 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. All WDBs must competitively procure career and training services in compliance with all state and federal regulations.

The DWS, as the designee of the Governor, has chosen to implement waivers, as the preferred mechanism to approve the direct provision of both career and training

services to provide consistency in the process. This mechanism can only be used by the WDB when procurement efforts fail.

In the event the competitive procurement process fails, the DWS may, at its discretion, ask for reasonable additional information, provide technical assistance about how to have a successful competitive procurement, and/or request that the procurement be redone prior to approving a waiver. Failure to make reasonable efforts to have a successful competitive process or failure for successive years will be taken into consideration when evaluating waiver requests.

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 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 the 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 interest, 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 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 Career and Training Services: Each WDB must competitively procure Adult, Youth, and Dislocated Worker career and training 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 the Provision of Career/Training Services 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 200.327 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 the Provision of Career/Training Services