

Rick Scott
GOVERNOR

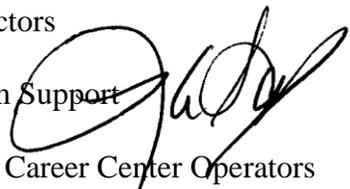


Cissy Proctor
EXECUTIVE DIRECTOR

MEMORANDUM

DATE: August 31, 2016

TO: Local Workforce Development Board Executive Directors

FROM: Lois A. Scott, Chief, Bureau of One-Stop and Program Support 

SUBJECT: Workforce Innovation and Opportunity Act One-Stop Career Center Operators Procurement Questions and Answers

Since the release of the proposed Workforce Innovation and Opportunity Act (WIOA) Regulations, we have received several questions regarding one-stop operator procurement.

Due to varying interpretations of the one-stop operator procurement requirements, the Department of Economic Opportunity (DEO) deferred guidance on this topic until the release of the Final Rule.

Now that the Final Rule has been published, DEO, in consultation with CareerSource Florida (CSF), has finalized the attached Questions and Answers to help guide local workforce development boards (LWDBs) with understanding the WIOA requirements related to one-stop operator procurement.

If you have any additional questions, please contact the WIOA Team at:
WIOA@deo.myflorida.com.

LAS/ocn

Attachment

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ONE-STOP CAREER CENTER OPERATORS PROCUREMENT
QUESTIONS AND ANSWERS

Are One-Stop career center operators required by WIOA?

Yes. At a minimum, a One-Stop career center operator must coordinate service delivery of the One-Stop career center partners and providers at a career center. The Local Workforce Development Board (Local Board) may add additional responsibilities to the One-Stop career center operator. These responsibilities may include providing career services (except training) under the Workforce Innovation and Opportunity Act (WIOA).

Does the Local Board have to competitively procure One-Stop career center operators?

Yes. WIOA requires the selection of the One-Stop career center operator(s) through a competitive process. Subrecipients of federal funding must use a competitive bid process in accordance with federal procurement policies described in Uniform Guidance in 2 CFR 200.318-326. This includes:

- Procurement by sealed bids
- Procurement by competitive proposals
- Procurement by sole source (under limited conditions as described in 20 CFR 678.610).

Local Boards must prepare written documentation describing their decision to select a One-Stop career center operator.

Can a Local Board be selected as a One-Stop career center operator through a sole-source procurement?

Yes. A Local Board may be a “sole sourced” One-Stop career center operator(s) under limited conditions as described in 20 CFR 678.610 and only with agreement of the chief elected official and the Governor. Written documentation must be prepared and maintained concerning the entire process of making such a selection, which must include appropriate “firewalls” establishing conflict of interest policies and procedures.

Does a Local Board need to competitively procure career services under WIOA?

No. With approval from the Chief Elected Official and the Governor, the Local Board may elect to provide career services directly without a competitive procurement.

Who can compete in a One-Stop career center operator procurement?

A One-Stop career center operator may be a single entity or it may be multiple entities working together to form a consortium operator. The operator may be for profit, non-profit, private or public. If the consortium of entities is comprised of One-Stop career center partners, it must include a minimum of three One-Stop career center partners as described in 20 CFR 678.400.

Should a for profit entity (or a consortium that includes a for profit entity) be selected as an operator, there are two points that must be kept in mind. First, except for WIOA Title I funds (Adult, Youth and Dislocated Worker), no profit may be paid from USDOL awards. Second, the Uniform Guidance at 2 CFR 200.323 requires profit to be negotiated as a separate element of price for each contract in which there is no price competition or in which a cost analysis is performed. A cost or price analysis must be performed in connection with every procurement action in excess of the Simplified Acquisition Threshold (currently \$150,000).

Can a Local Board be a One-Stop career center operator?

Yes. Local Boards may compete for and be selected as One-Stop career center operators. Policies are required to eliminate conflicts of interest through establishing "appropriate firewalls" in regards

ONE-STOP CAREER CENTER OPERATORS PROCUREMENT
QUESTIONS AND ANSWERS

to the competition, and subsequent oversight, monitoring, and evaluation of performance of the provider. (20 CFR 679.430)

What other entities may be One-Stop career center operators?

Examples of One-Stop career center operators are (but not limited to):

- A public, private, for-profit or non-profit organization
- An institution of higher education
- A community based, non-profit organization
- A Local Board, with approval from the Chief Elected Official and the Governor.
- Local chambers of commerce, business organizations, or labor organizations
- Nontraditional public secondary schools, night schools, adult education schools, career and technical education schools
- (as well as others).

Are there entities ineligible to be One-Stop career center operators?

Elementary schools and secondary schools are ineligible.

How often are One-Stop career center operators competitively procured?

WIOA requires One-Stop career center operators to be competitively procured at least every four years. WIOA does not prohibit the State of Florida, CareerSource Florida or a Local Board requiring competitive procurement more frequently. At this time there is no indication the State Board may require a shorter time and, in the absence of a State Board policy shortening the time, each Local Board may shorten the time at its discretion.

Who defines the role of the One-Stop career center operator?

The Local Board defines the role and responsibilities of One-Stop career center operators in its local area. The Local Board may vary roles and responsibilities for career centers within its local area.

Can a One-Stop career center operator also be a service provider?

Yes. However the Local Board must create appropriate “firewalls” through policies and procedures that ensure competition, oversight, and evaluation of the provider’s performance. Internal controls must be in place to avoid all conflicts of interest. All organizations, including the Local Board, administrative entities, fiscal agents, One-Stop career center operators, and service providers who perform multiple functions, must develop written agreements with the Local Board and CEO clarifying how the organization fulfills its responsibilities and demonstrates compliance with WIOA and relevant Uniform Administrative Guidance.

How should appropriate firewalls be applied to procurement?

The Local Board must apply appropriate policies to ensure participants in a competitive bid are not directly involved with the procurement process itself, including (but not limited to) drafting procurement requirements, establishing review criteria, and conducting the review of responses and the final selection. The entity conducting the procurement must have no financial interest in the outcome of the procurement.

ONE-STOP CAREER CENTER OPERATORS PROCUREMENT
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How can a Local Board compete in a procurement to become a One-Stop career center operator or direct service provider?

For Local Boards to compete in the procurement process to become a One-Stop career center operator or a direct service provider, the Local Board and its staff must arrange for the process to be completed by a “third party.” The “third party” must not bid on, compete for, or have any financial interest in the contract for procurement or its outcome.

Under these circumstances, the “firewall” established through Local Board policies and procedures would allow the Local Board to provide the required information to the third party needed to properly arrange, notice and process the procurement. However, the Local Board cannot draft specifications, contract requirements, statements of work, or procurement documents. These activities must be exclusively the actions of the third party *after* appropriate guidance is provided by the Local Board. The third party must meet the Uniform Administrative Guidance in 2 CFR 200.318-326.

Who can be a *third party* in the procurement process?

The third party may be a consultant, a professional, or any other independent entity retained specifically to arrange, notice, and process the procurement. Such entities may be retained locally or statewide and retained by one or more Local Boards. A Local Boards must use discretion in retaining entities with whom it previously has done business to avoid conflicts of interest or any appearance of favoritism toward the Local Board in its final selection.

The third party may be the Chief Elected Official, a local area consortium, or its staff. Discretion should be used in retaining one Local Board to process the competitive procurement of another Local Board as there is potential for conflicts of interest and the appearance of impropriety. Neither the Department of Economic Opportunity nor CareerSource Florida are able to act as a third party in the procurement process as either may be involved in disputes or appeals arising from the process.

What is the effective date for competitively-procured One-Stop career center operators to be in place and providing services?

June 30, 2017. All One-Stop career center operators selected under the competitive procurement process (or sole sourced) must be in place and providing services no later than June 30, 2017. This means that procurement procedures must be developed and the procurement process completed well before June 30, 2017 so all One-Stop career center operators are under contract and in place ready to provide its services no later than June 30, 2017.

WIOA Final Rules were published in the Federal Register on August 19, 2016 and become effective on October 18, 2016, thus every Local Board must demonstrate it is taking steps to prepare for competitive procurement of its One-Stop operator(s). Further, Local Boards are advised they should already be preparing for One-Stop career center operator(s) procurement in order to make the June 30, 2017 deadline. Under WIOA, “taking steps” may include, but is not limited to market research, requests for information, and/or conducting a cost and price analysis.