



**POLICY
NUMBER
120**

Administrative Policy

Title:	Youth Service Provider Selection
Program:	Workforce Innovation and Opportunity Act
Effective:	February 28, 2022

I. PURPOSE AND SCOPE

The purpose of this policy is to provide Local Workforce Development Boards (LWDBs) with the criteria for awarding grants and contracts for youth workforce services under the Workforce Innovation and Opportunity Act (WIOA). Additionally, this policy outlines procurement requirements that govern the youth service provider selection process.

II. BACKGROUND

One of the responsibilities of LWDBs is to select providers of youth workforce services through competitive grants or contracts. LWDBs have the option of directly providing some or all youth workforce services rather than awarding grants or contracts for these services. LWDBs are encouraged to award grants or contracts to youth service providers when local areas have access to experienced and effective youth service providers.

III. AUTHORITY

Workforce Innovation and Opportunity Act of 2014, [Public Law 113-128](#), Section 123

2 Code of Federal Regulations (CFR) Parts [200](#) and [2900](#)

[20 CFR 681.400](#)

[48 CFR 2.1](#)

[Training and Employment Guidance Letter \(TEGL\) No. 21-16](#), Third WIOA Title I Youth Formula Program Guidance

[Chapter 287](#), Florida Statutes

Sections [445.003](#) and [445.007\(9\)](#), Florida Statutes

[Chapter 60A-1](#), Florida Administrative Code

[2020-2024 Florida Workforce Innovation and Opportunity Act Unified Plan](#)

IV. POLICIES AND PROCEDURES

A. Determination to Directly Provide Youth Services or Procure a Youth Service Provider

LWDBs that choose to award grants or contracts for youth workforce services must do so through a competitive procurement process as required by WIOA Section 123 and the criteria established in this policy. Competition is expected to improve the delivery of efficient and effective youth workforce services. Though LWDBs have flexibility in determining which WIOA youth services to procure, LWDBs are expected to contract with youth service providers for the program elements youth service providers are best positioned to offer. The intent of this flexibility is to allow LWDBs to directly provide WIOA youth program elements they can most efficiently and cost-effectively provide, such as labor market and employment information, and framework services including assessment, intake, supportive services, and follow-up services.

If LWDBs choose to directly provide youth workforce services, situations may arise where a single entity serves multiple roles, such as fiscal agent, service provider, and/or one-stop operator. Please refer to [Administrative Policy 110 – Local Workforce Development Area and Board Governance](#) for guidance on LWDBs serving multiple functions.

B. Criteria for Youth Service Provider Selection

When LWDBs award grants or contracts to youth service providers, they must do so in accordance with the following criteria that demonstrate the ability of the provider(s) to:

- (1) Effectively provide the youth services sought by the LWDB; specifically, the execution of the 14 youth program elements.
- (2) Coordinate services with other community organizations, vendors, or the LWDB.
- (3) Provide services at a reasonable cost¹ and provide an accurate project budget.

¹ Costs that LWDBs may want to consider in the proposed budget narrative include: program staff wages and fringe benefits, travel, supplies, materials, training costs, work experience wages, stipends, and incentives. Leveraged costs and indirect costs should be requested.

- (4) Demonstrate an understanding of the WIOA program statutory and regulatory requirements, and any other federal, state, and local policies impacting youth program operations.
- (5) Identify partners the provider will work with to help youth achieve successful outcomes.²
- (6) Offer or provide access to a continuum of services that allow participants to obtain a General Education Development or high school diploma, enroll into post-secondary education, and obtain employment within their chosen career paths, as applicable.
- (7) Utilize career pathways and sector strategy models with a structured sequence of activities, as well as multiple entry and exit points that provide adequate supportive services, as applicable.
- (8) Meet or exceed performance indicators that will be used to measure the success of the youth served by the program, and the minimum standards and targets set by the LWDB to ensure the LWDB's indicators of performance negotiated with the state for the youth program are met.
- (9) Meet established reporting requirements.
- (10) Demonstrate past performance providing youth services, if applicable.
- (11) Demonstrate strong community and business linkages to ensure the ability to develop work-based learning opportunities and meet the skill and training needs for the state's talent pipeline.

Further, LWDBs must ensure the provider has been in business for at least six months prior to submitting a bid or response to provide services and has a current business license or proof of active compliance with the Secretary of State Corporations Division. LWDBs must also ensure the provider has not been found at fault in criminal, civil, or administrative proceedings related to its performance as a training provider or educational institution, and they must disclose any pending criminal, civil, or administrative proceeding as either a defendant or a respondent.

Further, LWDBs may establish additional criteria to ensure they use providers best positioned to deliver required program elements resulting in strong outcomes for youth participants. If an LWDB establishes additional criteria, it must describe such criteria in its WIOA four-year local plan.

C. Phases of the Competitive Procurement Process

Formal competitive processes may include several phases and steps, which may take place concurrently with other activities. The following phases and steps are designed

² LWDBs are not required to procure all 14 program elements through a competitive process; therefore, the Request for Proposals might allow vendors to propose to collaborate with other organizations to leverage available resources in the community.

to ensure the competitive procurement process is open and transparent: (1) planning, (2) release and evaluation, (3) negotiation and selection, (4) implementation, and (5) closeout.

D. Procurement Standards and Requirements

LWDBs must award youth service provider grants and contracts in accordance with the procurement standards found in the Uniform Guidance at 2 CFR parts 200 and 2900, in addition to applicable state and local procurement requirements. For the acquisition of property or services required under a federal award or subaward, LWDBs must use documented procurement procedures, consistent with state and local laws and regulations and the standards outlined in 2 CFR 200.318 and further prescribed below.

General procurement requirements under WIOA must also be followed as part of the competitive process. The requirements must be consistent with Uniform Guidance and include the following.

1. Written Policies and Procedures

LWDBs must establish written policies and procedures that describe the competitive process for selecting youth service providers and the manner in which the LWDB will address the settlement of all contractual and administrative issues, such as protests, appeals, and disputes. LWDBs' documented procurement procedures must conform to the procurement standards identified in 20 CFR 200.317 through 200.327. Written policies and procedures must allow for sufficient time for all phases of the procurement process to be carried out in a manner that does not unduly restrict competition. The policies and procedures must also outline a timetable to ensure the selection of youth service providers through a competitive process is conducted at a specified frequency.

2. Appropriate Methods of Competitive Procurement

LWDBs are required to use one of the following methods of procurement:

- (1) Sealed Bids, such as an invitation for bids (IFB), pursuant to the requirements outlined in 2 CFR 200.320(b)(1).
- (2) Proposals, such as a request for proposals (RFP), pursuant to the requirements outlined in 2 CFR 200.320(b)(2).

3. Full and Open Competition

LWDBs must conduct full and open competitions for all procurement transactions.

Pre-qualified lists of potential bidders or offerors must be current, include enough qualified sources to ensure open and free competition, and must not preclude bidders and offerors from qualifying during the solicitation period.

Restricting competition is not allowed. Activities that may be considered to be restrictive of full and open competition include, but are not limited to:

- (1) Placing unreasonable requirements on firms for them to qualify to do business.
- (2) Requiring unnecessary experience and excessive bonding.
- (3) Non-competitive pricing practices between firms or between affiliated companies.
- (4) Non-competitive contracts to consultants that are on retainer contracts.
- (5) Organizational conflicts of interest.
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement.
- (7) Any arbitrary action in the procurement process.

4. Simplified Acquisition Threshold

Procurements that exceed the simplified acquisition threshold (currently set at up to \$250,000 by 48 CFR 2.1) cannot use the small purchase procedures. LWDBs are responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. Such procurements must not exceed \$250,000.³ If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources, as determined appropriate by the LWDB.⁴

5. Cost and Price Analysis

When performing a competitive procurement, LWDBs must ensure the proposed costs of the youth service provider are allowable, meaning they are reasonable, necessary, and allocable. Before awarding funds to a subrecipient or vendor, LWDBs must perform a cost or price analysis to determine the reasonableness of individual cost elements and/or the overall price. Price analysis should be used to verify that the overall price offered is fair and reasonable.⁵

³ 2 CFR 200.320(b)

⁴ 2 CFR 200.320(a)(2)

⁵ 2 CFR 200.324

LWDBs must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the LWDB in accordance with cost principles defined in 2 CFR subpart E. LWDBs may also reference their own cost principles that comply with the federal cost principles.

Additionally, cost realism analyses must be performed on cost-reimbursement contracts to determine the probable cost of performance for each bidder or offeror.

6. Standards of Conduct

LWDBs must have written standards of conduct that require fairness, objectivity, ethical standards, and other related standards of conduct during all phases of the procurement process. Written standards of conduct must address:

- (1) Mitigating apparent or real conflicts of interest. Conflicts of interest arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated has a financial or other interest or a tangible personal benefit from a firm considered for a contract.
- (2) Disclosure of any real or apparent conflict of interest, whether individual, or organizational. Written standards of conduct must identify the process for recusal of individuals or organizations that are members of the LWDB who disclose a real or apparent conflict of interest.
- (3) A description of the firewalls and internal controls to mitigate conflict of interest in circumstances including, but not limited to, situations where an entity acts in more than one role in the one-stop delivery system or performs more than one function in the procurement process, as well as situations where the LWDB uses a sole source selection.
- (4) Confidentiality of information contained in the proposals submitted for consideration.
- (5) Not allowing any entity that develops or drafts specifications, requirements, statements of work, IFBs or RFPs, or evaluates proposals, to compete under the procurement.

7. Transparency and Responsibility

The procurement process must be conducted with transparency and responsibility from the planning phase to the closeout phase. Information about the selection and certification of youth service providers must be made available to the public on a regular basis through electronic means and open meetings, as specified in rule and statute. This provides an avenue for public comment and participation in the process. Information must also be made available to state auditors and federal reviewers.

When selecting an entity as a youth service provider, LWDBs must consider the entity's integrity, compliance with public policy, record of past performance, and other factors that demonstrate transparency and responsibility. LWDBs must also ensure that a potential provider is not debarred, suspended, or otherwise excluded from or ineligible to participate in federal assistance programs or activities.

E. Non-Competitive Procurement of Youth Service Providers (Sole Source)

Where the LWDB determines there are an insufficient number of eligible youth providers in the local area, such as a rural area, the LWDB may award grants or contracts on a sole source basis. LWDBs must follow the criteria outlined in 20 CFR 681.400(b)(4) and 2 CFR 200.320(c) to award sole source grants or contracts for youth services when one of the following occurs:

- (1) Services are available only from a single source.
- (2) The public exigency or emergency for the service will not permit a delay resulting from publicizing a competitive solicitation.
- (3) The United States Department of Labor or DEO expressly authorizes a non-competitive procurement in response to a written request from the LWDB.
- (4) After solicitation of a number of sources, competition is determined to be inadequate, whether for reasons of number or quality of proposals/bids.

LWDBs that use the sole source selection must prepare and maintain written documentation describing the entire process of making the selection.

F. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Firms

LWDBs must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, as further prescribed in 2 CFR 200.321(a).

G. Youth Service Provider Selection

Any response received to publicized requests for proposals from bidders or offerors must be considered to the maximum extent practical. LWDBs must have a written method for conducting technical evaluations of the proposals received and making selections. Contracts must be awarded to the responsible bidder or offeror whose proposal is most advantageous to the LWDB, with price and other factors considered.

If the LWDB has an established standing youth committee, it may assign the committee the function of selecting youth service providers. LWDBs, or their standing youth committee, must select youth service providers best positioned to provide the required youth program elements.

H. Legally Binding Agreement

Once the LWDB has competitively selected a youth service provider, the LWDB and the youth service provider must execute a legally binding agreement. At a minimum, the agreement must include the following elements:

- (1) *Statement of Work (SOW)*. The SOW specifies:
 - (a) the period of performance or the start and end date of the contract.
 - (b) the services to be performed, including measurable performance goals to be delivered under the agreement.
- (2) *Authorized Officials and Purpose*. Authorized officials are persons authorized to enter into legally binding agreements and must be on record as the signatory official. Signatures of the authorized persons must be a part of the written agreement.
- (3) *Additional Terms and Conditions*. Funding agreements must include standard terms and conditions that are required by either the federal agency, state law, or local policies. The agreement must identify that youth service providers are sub-recipients of federal funds.

I. Recordkeeping

LWDBs must maintain sufficient records to detail the history of procurement in accordance with 2 CFR 200.318(i) and 2 CFR 200.333. These records must include, but are not limited to, the following:

1. All proposals/bids received.
2. Ratings of all proposals/bids received.
3. Rationale for the method of procurement.
4. Selection of agreement or contract type.

5. Selection or rejection of proposals/bids.
6. Appeals and disputes.
7. Basis for the agreement price.

LWDBs that make the selection for sole source must prepare and maintain written documentation of the entire sole source selection process. The documentation should provide evidence the review was performed by an impartial entity or organization and verify that firewalls were in place during the review of the proposals.

J. Conflict of Interest

Recognizing that membership of LWDBs is comprised of key providers and leaders from the business, workforce and education communities, and other community-based organizations, WIOA allows LWDBs to contract with members of the LWDB and standing committees for the provision of WIOA-funded services if there are processes in place to prevent or cure a conflict of interest.

When an actual or potential conflict of interest exists between the LWDB and any local board member, employee of the local board, a relative of a local board member, or employee of the local board, or an organization or individual represented by or employing a local board member, the criteria and procedures set forth in the Grantee-Subgrantee Agreement executed between DEO and all LWDBs, and any related administrative policies upon issuance, must be followed.

K. Local Operating Procedures

Local operating procedures (LOPs) guide how LWDBs operationalize policies related to the selection of youth providers. Each LWDB must develop LOPs, consistent with this policy as well as federal and state requirements that:

1. Establish the competitive procurement process that will be used to select youth service providers when the LWDB will not provide all or some youth activities.
2. Define what would constitute an insufficient number of eligible youth providers for a sole source procurement.

L. State and Local Monitoring

DEO will monitor the requirements outlined in this policy and LOPs. Additionally, LWDBs must establish local monitoring policies and procedures that include, at a minimum:

1. Roles of the youth service provider and LWDB staff; and
2. Local monitoring procedures for implementation of this policy.

When the LWDB is the youth service provider, there is an inherent conflict of interest due to the LWDB being unable to effectively monitor itself. In this circumstance, an outside organization or entity must conduct the monitoring and report the results to the Chief Local Elected Official.

V. DEFINITIONS

Competitive Procurement – Also referred to as “competitive solicitation” means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors (bidders or offerors) in accordance with the terms of a competitive process, regardless of the method of procurement.

Cost Analysis – The review and evaluation of any separate cost elements and profit or fee in an offeror’s or contractor’s proposal, as needed to determine a fair and reasonable price or to determine cost realism, and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

Cost Realism Analysis – The process of independently reviewing and evaluating specific elements of each offeror’s proposed cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror’s technical proposal.

Firewall – In this context, a firewall consists of documented procedures and security measures, physical and electronic, designed to maintain a competitive environment that prevents conflicts of interest and ensures that internal processes are transparent, fair, and unbiased.

Proposals – A procurement method in which either a fixed price or cost reimbursement type of contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids.

Sealed Bid – A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all material terms and conditions of the invitation for bids, is the lowest in price.

Simplified Acquisition Threshold – The dollar amount below which a non-federal entity may purchase property or services using small purchase methods/procedures.

Sole Source – Also referred to as “exceptional purchase.” Any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation, including, but not limited to, purchases from a single source; purchases upon receipt of less than two responsive bids, proposals, or replies; purchases made by an agency after receiving approval from the department, from a contract procured, pursuant to s. 287.057(1), or by another agency; and purchases made without advertisement in the manner required under s. 287.042(3)(b).

VI. ATTACHMENTS

[WorkforceGPS: Building Quality Request for Proposals \(RFPs\) for WIOA Youth Program Services Brief](#)

[WorkforceGPS: Contracting Strategies that Facilitate Serving Youth in Need](#)