

Northwest Arkansas Workforce Development Board

Workforce Innovation and Opportunity Act

SUBJECT: One-Stop Operator and Service Provider Procurement Policy

1. Purpose:

To communicate the process used in the Northwest Arkansas Local Workforce Development Area for the procurement and selection of a one-stop operator and/or service provider under the Workforce Investment and Opportunity Act (WIOA).

This policy is in effect for all future competitive bid processes for one-stop operator(s) and service provider.

2. Background:

WIOA changed the law and rules governing procurement and selection of one-stop operators and the individuals/groups allowed to serve as operators. The Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly known as the OMB Super Circular) also changed procurement requirements and consolidated eight previous circulars into one Uniform Guidance document, amongst other changes.

Local Workforce Development Boards (WDBs) must select their One-Stop Operator through a competitive process at least once every four years (WIOA sec. 121(d)(2)(A)). The competitive process must comply with 2 CFR § 200, including the Department of Labor specific requirements at 2 CFR part 2900. As part of that competitive process, Local WDBs are required to clearly articulate the expected role(s) and responsibilities of the One-Stop Operator (20 CFR § 678.620(a)) and include the role(s) and responsibilities in the resulting contract.

3. Policy:

- a. LWDBs must have local procurement policies that adhere to applicable sections of federal law and regulations and state policy in selecting one-stop operators and service providers and awarding contracts under WIOA.
- b. LWDBs must document, in writing, (1) efforts to identify the availability of one-stop operators and service providers and (2) the allowable processes used to select one-stop operators and service providers and how they were followed, including procurement processes (including selection criteria by which bids were scored), where applicable. All of this documentation must be maintained and provided to the State upon request.
- c. Federal Requirements

i. Procurement of One-Stop Operators and Service Providers

- A. One-stop operators must be designated and certified through a competitive procurement process. LWDBs must be able to document, in writing, that they made their board members and the public aware of the competitive process to be used. That includes providing at least 30-day public notice through media where prospective local, state, and national bidders typically identify such opportunities (e.g., local print newspapers, on-line newspapers, LWDB web sites, other community web sites, etc.). Solicitations must include the selection criteria to be used in the process and must be maintained as part of the documentation.
- B. The competitive process used by LWDBs to procure one-stop operators must be conducted at least once every four years and follow the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318-326.
- C. Local Boards are encouraged to use the same procurement process to select Adult, Dislocated Worker, Youth Service Providers.
- D. The allowable forms of competitive procurement processes are as follows:
 1. Sealed Bids
 2. Competitive Proposals
 3. Sole Source
 - I. Sole source can be exercised as per local policies that comply with state and federal procurement laws and regulations and only if documented factors, including published notice(s) of intent made available to the public for at least 30 days in media where prospective local, state, and national bidders typically identify such opportunities, lead to a determination that only one entity could serve as an operator and/or service provider, compelling circumstances¹ outweigh the delay that would result from a competitive solicitation, or results of the competition conducted per Section 3(c)(i)(C)(1-2) of this policy are determined inadequate², and only with the agreement of the local Chief Elected Official and Governor.

¹ Examples of compelling circumstances that outweigh delays that would result from competitive solicitations include the need to avoid a break in services if an operator is terminated for cause or is unable to continue providing services through the end of the contact period.

² Inadequate responses are those judged by a panel of impartial reviewers to score below a predetermined minimum level on scoring criteria published as part of the solicitation.

II. LWDBs may be selected as one-stop operators under a sole source agreement only if they demonstrate adherence to appropriate internal controls and establish conflict of interest policies and procedures that identify appropriate internal controls and are approved by the Governor. LWDBs must complete a request for a waiver to serve as a one-stop operator and submit it to the State Workforce Development Board (SWDB).

E. LWDBs may serve as one-stop operators in the region for which they are designated if they are determined to be the successful bidder in a solicitation that conforms to the principles of competitive procurement set forth in Uniform Administrative Guidance at 2 CFR 200.318- 326, and only if approved internal control and conflict of interest policies are followed. Internal controls include the requirement that the solicitation and scoring process be managed by a fair and impartial third party free of conflicts of interest and that LWDB staff and the agency that employs such staff cannot develop the solicitation for proposals, facilitate the scoring process, or score proposals. The SWDB and LWDBs may work together to establish a list of pre-qualified bidders for this role.

d. Local Procedures

i. Competitive Bid Process

A. Procurement Task Force

1. The Northwest Arkansas Workforce Development Board will form an ad hoc Procurement Task Force to oversee the vendor selection process.
2. The Procurement Task Force will include board members and may also include Chief Elected Officials.
3. The Procurement Task Force must be chaired by a board member.
4. An independent contractor will be contracted with to facilitate the procurement process and work with the Procurement Task Force.
5. The Procurement Task Force will keep meeting minutes that will be made available for State or Federal inspections as needed. The meeting minutes will not be made public prior to the Operator and/or Service Provider award as this would compromise the procurement process. Minutes can be made available upon request once contract award is made and approved by the Northwest Arkansas Workforce Development Board in coordination with the Chief Elected Official.

6. Northwest Arkansas Workforce Development Board's Conflict of Interest Policy applies to the Procurement Task Force members that are also board members. In addition, members of the Procurement Task Force and the independent contractor will sign a specific declaration of no conflict as it relates to the procurement process.

B. Request for Proposals/Qualifications

1. The Procurement Task Force will work with the independent contractor to create and issue a Request for Proposals (RFP) or Request for Qualifications (RFQ).
2. The independent contractor will set up a closed dropbox file for Procurement Task Force members to communicate and share documents throughout the process.
3. The RFP/RFQ will be emailed to Board Members, Chief Elected Officials, Partner Agencies, and to potential offerors who have requested to be on the local bidders lists. Following distribution, the RFP shall be posted on the Board's website and a notice and url provided in a local newspaper.
4. The RFP/RFQ shall include a required Intent to Apply be submitted.
5. The RFP/RFQ shall allow for a period to ask questions. All questions and answers will be communicated to any organization submitting an Intent to Apply and also will be posted on the Board's website.

C. Selecting the One-Stop Operator and/or Service Provider

1. The Procurement Task Force will review and score all proposals and submit a selection recommendation to the Executive Committee or full Board for vote.
2. In the case that no proposals are received, one proposal is received, or, none of the proposals received a score high enough, the Northwest Arkansas Workforce Development Board will exercise the sole source option with the Chief Elected Officials and Governor's approval.

ii. Contracting Procedures

- A. Once directed by the Northwest Arkansas Workforce Development Board, the Administrative Entity on behalf of the Board, will create and manage the contract. In the event the selected vendor also serves as Board staff or Board Support, an Agreement will be executed between the Successful Offeror and the Board that clearly defines roles and responsibilities as well

as a description of internal controls and related conflict of interest requirements.

iii. Performance Monitoring

- A. The Administrative Entity typically provides monitoring and oversight on behalf of the Board. In the event the existing Administrative Entity is the Successful Offeror, an independent consultant will be contracted with to conduct program monitoring at least one time each program year and will report findings directly to the Board.