POLICY		
SUBJECT:	One Stop Operator Procurement	**Policy/Guidance No.:1 PY2022-25**
PROGRAM:	Workforce Innovation and Opportunity Act (WIOA)	Effective Date:2/16/2023
		Expiration Date:
REFERENCE:	1. Workforce Innovation and Opportunity Act of 2014, Public Law 113-128, Sections 107(d)(10)(A), 107(g)(2), and 121(d),. 2. 20 CFR parts 678.605-625, Workforce Innovation and Opportunity Act Final Rule, August 19, 2016. 3. 2 CFR, Part 2900 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, December 19, 2014. 4. Training and Employment Guidance Letter (TEGL) No. 15-16, Workforce Innovation and Opportunity Act (WIOA) Competitive Selection of One-Stop Operators, January 17, 2017. 5. Florida Statutes, 445.007(6).	

A. PURPOSE

The purpose of this policy is to outline the requirements and procedures for CareerSource South Florida will follow to competitively procure and select one-stop operators under the Workforce Innovation and Opportunity Act (WIOA).

B. BACKGROUND

Under the Workforce Investment Act (WIA) of 1998 many Local Workforce Investment Boards served as one-stop operators. One-stop operators could be designated or certified through three mechanisms: a competitive process; as a consortium of three or more partners; or "grandfathered" in from the Job Training Partnership Act. Many of these entities have continued to be one-stop operators since the inception of WIA.

WIOA requires LWDBs to conduct open and competitive procurement processes to select one-stop operators. Existing entities serving as one-stop operators under WIA will not be grandfathered in under WIOA. LWDBs that would like to serve as the one-stop operator must also fully comply with the procurement process.

C. POLICY AND PROCEDURES

WIOA requires Local Workforce Development Boards (LWDBs) to use a competitive procurement process to select its one-stop operator, and to conduct a re-competition of one-stop operators every four years. Competition is intended to promote the efficiency and effectiveness of one-stop operators by providing a mechanism for LWDBs to periodically evaluate performance and costs against original expectations. WIOA does not allow for the "designation" or "certification" of a one-stop operator, nor does WIOA allow one one-stop operators to be "grandfathered" in based on their current existence as a one-stop operator.

Each LWDB was required to develop procurement procedures, conduct the procurement, review responses, select a one-stop operator and award a contract or agreement for its local one-stop operator no later than June 30, 2017, to ensure the one-stop career center operator was under contract and ready to operate on July 1, 2017.

CareerSource South Florida (CSSF) shall conduct a competitive process in accordance with the CSSF Procurement Policy. The South Florida Workforce Investment Board (SFWIB) shall approve selected respondents as One Stop Operators. In accordance with 20 CFR § 678.605, One Stop Operator must be competitively procured at a minimum every four years. SFWIB, at its sole discretion, may renew One Stop Operator contracts for an additional two (2) one (1) year periods.

A. Roles and Responsibilities

The one-stop operator must coordinate service delivery of one-stop partners and providers at a career center. The SFWIB defines the roles and responsibilities, and these may vary between centers in a local area. Additional responsibilities the SFWIB may assign to the one-stop operator may be to:

- Provide career services (except training).
- Provide some of the services within the center.
- Coordinate service providers within the center and across the one-stop system.
- Coordinate service delivery in a multi-center area, which may include affiliated sites.

The one-stop operator may serve in multiple roles within the one-stop delivery system, as long as sufficient firewalls and conflict of interest policies and procedures exist and are followed. The role of the one-stop operator must be clearly defined in all phases of the procurement process and in the legally binding agreement between the SFWIB and the one-stop operator.

One-stop operators may not:

- Convene system stakeholders to assist in the development of the local plan.
- Prepare and submit local plans (as required under WIOA sec. 107).
- Be responsible for oversight of itself.

- Manage or significantly participate in the competitive selection process for one-stop operators.
- Select or terminate one-stop operators, career service providers, and youth providers.
- Negotiate local performance accountability measures.
- Develop and submit budgets for activities of the LWDB in the local area.

B. Eligible Entities

The one-stop operator must be a public, private, nonprofit entity or a consortium of entities in the local area. A consortium must include at least three or more of the required one-stop partners as described in 20 CFR 678.400. Entities selected and serving as one-stop operators are sub-recipients of a Federal award; therefore, they must follow the Uniform Guidance at 2 CFR part 200. The types of entities that may serve as one-stop operators include but are not limited to:

- A public, private, for-profit or nonprofit organization.
- An institution of higher education.
- Non-traditional public secondary schools, night schools, adult education schools, career and technical education schools.
- An employment service state agency established under the Wagner-Peyser Act.
- A government agency.
- A local board, with approval from the chief elected official and the Governor.
- Local chambers of commerce, business organizations, or labor organizations.
- Indian Tribes.

A for-profit entity (or a consortium that includes a for-profit entity) may compete to be selected as the one-stop operator. Private for-profit entities selected as one-stop operators must adhere to the requirements of 2 CFR 200.323 for earning and negotiating a fair and reasonable profit. The SFWIB 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. Profit should be based on the contractors' efforts and risks in achieving a performance result that typically aligns with the performance measures outlined in the SFWIB's plan. Some conditions to consider in quantifying the opportunity to earn profit are referenced at 48 CFR 15.404-4. LWDBs are allowed to cap the maximum profit potential that can be earned per performance results within the approved budget. Profit may not be earned with federal funds except for WIOA Title I funds (Youth, Adult and Dislocated Worker), Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Program pursuant to §121(d), 122(a) and (134) (b), WIOA. Profit may not be earned with Wagner Peyser or Veteran funds.

SFWIB may serve as a one-stop operator, if selected through the competitive procurement process, pursuant to 20 CFR 678.605(c) and 678.615(a). Additionally, under the Uniform Guidance, there is the flexibility for sole source as a method of procurement, as outlined in Section (G) of this policy. In the event of a failed competitive process, SFWIB may temporarily serve as a One Stop Operator while negotiating with another agency.

DEO or CareerSource Florida (CSF) can facilitate the one-stop operator competition for a SFWIB when SFWIB is competing to be the one-stop operator. However, DEO and CSF must follow the same policies and procedures that the State uses for procurement with non-federal funds. If the CSF is incorporated as a nonprofit organization, it must use a competitive process consistent with the Uniform Guidance.

C. Allowable Methods of Competitive Procurement

The following methods of procurement are permissible to select a one-stop operator through a competitive process:

- Sealed Bids, (formal advertising), such as an invitation for bids (IFB) pursuant to 2 CFR 200.320(c).
- Competitive Proposals, such as a request for proposals (RFP), pursuant to 2 CFR 200.320(d).
- Sole Source - SFWIB may select a one-stop operator through sole source selection only under the criteria outlined in 20 CFR 678.610. The SFWIB must follow its local sole source policies and procedures and the Uniform Guidance outlined in 2 CFR 200.320(f). When utilizing a sole source selection process, SFWIB must prepare and maintain written documentation describing the entire process of making such a selection.

D. Phases of the Competitive Procurement Process

Formal competitive processes may include several phases and steps, which may take place concurrently with other activities. The various phases and steps are designed to ensure that the competitive procurement process is open and transparent, and may include:

- Planning,
- Release and Evaluation,
- Negotiation and Selection,
- Implementation; and
- Closeout.

E. Procurement Standards

When the State conducts the competitive procurement process for the SFWIB, it must follow the same policies and procedures it uses for procurements with non-federal funds, to include appropriate protections from conflict of interest, per the State's own procurement policies and procedures.

All other non-Federal entities, including entities that receive funding from a State (such as Local WDBs), must use a competitive process to select a one-stop operator that is based on local procurement policies that are consistent with the procurement standards of the Uniform Guidance at 2 CFR 200.318 through 200.326.

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

- Written Policies and Procedures which describe the competitive process for selecting a one-stop operator and the manner in which it will address the settlement of all contractual and administrative issues, such as protests, appeals, and disputes. The policies must also outline a timetable to ensure that the selection of a one-stop operator through a competitive process is conducted every four years.
- Appropriate Methods of Procurement for Competitions. Non-Federal entities (such as LWDBs), are required to use the methods of procurement described at 2 CFR 200.320 when selecting a one-stop operator which are:
- Sealed Bids.
- Competitive Proposals.
- Sole Source.
- Full and Open Competition must be conducted for all procurement transactions. Written procedures must allow for sufficient time for all phases of the procurement process to be carried out in a manner that would not unduly restrict competition. Pre-qualified lists must be current and include enough qualified sources to ensure open and free competition, and must not preclude bidders and offerors from qualifying during the solicitation period.
- Procurements that are in excess of the simplified acquisition threshold (currently set at $150,000 by 48 CFR 2.1) cannot use the small purchase procurement.
- Entities performing a competitive procurement must ensure the proposed costs of the one-stop operator are allowable, meaning that they are reasonable, necessary and allocable.
- Restricting competition is not allowed. Activities that may considered to be restrictive of competition include, but are not limited to:
    - Placing unreasonable requirements on firms in order for them to qualify to do business.
    - Requiring unnecessary experience and excessive bonding.
    - Non-competitive pricing practices between firms or between affiliated companies.
    - Non-competitive contracts to consultants that are on retainer contracts;
    - Organizational conflicts of interest.
    - 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.
    - Any arbitrary action in the procurement process.
- Standards of Conduct. Each LWDB 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:
- Mitigating apparent or real conflicts of interest. Conflicts of interest would 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.
- 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.

- 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 non-federal entity uses a sole source selection.
- Confidentiality of information contained in the proposals submitted for consideration.
- Not allowing any entity that develops or drafts specifications, requirements, statements of work, IFBs or RFPs, and evaluation of proposals to compete under the procurement.
- 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 the one-stop operators must be made available to the public on a regular basis through electronic means and open meetings. Information must also be made available to auditors and Federal reviewers. This provides an avenue for public comment and participation in the process. When selecting an entity as the one-stop operation, the LWDB must consider the entity's integrity, compliance with public policy, record of past performance and other factors that demonstrate transparency and responsibility. The LWDB must also ensure that any entity is not debarred, suspended, or otherwise excluded from or ineligible to participate in Federal assistance programs or activities.

F. Competitive Procurement of One-Stop Operators

SFWIB must select its one-stop operator through a competitive process at least once every four years, as required by sec. 121(d)(2)(A) of WIOA. The state may require, or SFWIB may choose to conduct a competitive procurement for one-stop operators more frequently than once every four years. The SFWIB must conduct the competitive procurement based on its local procurement policies and procedures and the competitive procurement requirements in the Uniform Guidance outlined at 2 CFR 200.318 through 200.326. The SFWIB must document, in writing, the process used to conduct the competitive procurement of a one-stop operator.

In instances where the SFWIB competes to be one-stop operators, the procurement process must be completed by a "third party." The third party may be a consultant, a professional, or any other independent entity retained specifically to arrange, notice, and process the procurement. The "third party" must not bid on, compete for or have any financial interest in the contract for procurement or its outcome. 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 requirements outlined in Uniform Guidance in 2 CFR 200.318-326.

The Governor and chief elected official (CEO) must both give approval if the SFWIB is selected as the one-stop operator. The SFWIB must document and use appropriate firewalls and conflict of interest policies and procedures to govern the operations. These policies and procedures must align with 20 CFR 679.430, must include internal controls and must demonstrate how it will prevent conflict of interest.

The SFWIB 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, conducting the review of responses and the final selection. The entity conducting the procurement cannot have any financial interest in the outcome of the procurement.

G. Non-Competitive Procurement of One-Stop Operators (Sole Source)

SFWIB may select a one-stop operator through sole source selection only under the criteria outlined in 20 CFR 678.610 and 2 CFR 200.320(f). Sole source procurement can only be done when:

- The item or service is available only from a single source.
- The public exigency or emergency for the item or service will not permit a delay resulting from competitive solicitation.
- The Federal awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request from the non-Federal entity.
- 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 such a selection. The sole source procurement must be done in accordance with locally established internal control and conflict of interest policies; and procedures pursuant to 20 CFR 679.430.

LWDBs requesting to use sole source procurement for one stop operators must submit a formal request to CareerSource Florida and DEO via email to WIOA@deo.myflorida.com. The request must include justification that all other options were exhausted and identify the reason for sole source from the items listed above. The LWDB must identify the timeline and activities performed prior to the sole source request. The LWDB must also certify that all appropriate measures consistent with WIOA and this policy have been taken.

The following criteria should also be included with the request for sole source:

- Copy of the RFP/IFB;
- Proof of the announcement medium used (newspaper, social media);
- Documentation showing how long the announcement was posted;
- The name of the entity to which the sole source is to be awarded; and
- Documentation showing that the entity has the capacity and ability to perform the one-stop operator functions.

H. Legally Binding Agreement

Once the LWDB has competitively selected a one-stop operator, the LWDB and the one-stop operator must execute a legally binding agreement. At a minimum, the agreement must include the following elements:

- Statement of Work (SOW). The SOW specifies:
  - The period of performance or the start and end date of the contract.
  - The services to be performed, including measurable performance goals to be delivered under the contract, agreement, or Memorandum of Understanding (MOU).
- Authorized Officials and Purpose. Authorized officials are persons authorized to enter into and sign legally binding agreements and must be on record as the signatory official. Signatures of the authorized persons must be a part of the written contract.
- Additional contractual terms and conditions. Contracts, agreements, and MOUs must include standard terms and conditions that are either required by the federal agency, State law, or local area policies. The contract, agreement, or MOU must identify that one-stop operators are sub recipients of Federal funds.
- The legally executed document solidifies the agreement between a LWDB and a one-stop operator is different from the MOUs that are required between the LWDB and its one-stop partners.

I. Recordkeeping

LWDBs must prepare written documentation, in accordance with 20 CFR 678.605(d), explaining the competitive process for selecting a one-stop operator. States and LWDBs must also 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:

- All proposals/bids received.
- Ratings of those proposals.
- Rationale for the method of procurement.
- Selection of agreement or contract type.
- Selection or rejection of proposals/bids.
- Appeals and disputes.
- Basis for the contract 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 that the review was performed by an impartial entity or organization; and clarify that firewalls that are in place during the review of the proposals.

J. Avoiding Conflicts of Interest

Each one-stop operator must disclose potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers. A conflict of interest can arise when actions taken or may appear to be taken by any entity or individual involved in more than one role, when the performance of that entity or individual affects the interest of the other role, thereby making it difficult for the entity or individual to perform the procurement process objectively and impartially. Proper firewalls must be in place to ensure the transparency and integrity of the procurement process, and to demonstrate that the selection process was unbiased and free of preferential treatment toward the awardee. Additionally, due diligence must be exercised to avoid certain conflicts of interest which may arise during the competitive process, including recusal of members of the LWDB with financial or other interests in the entities applying to be the one-stop operator. However, if the number of members who must recuse themselves deprives the LWDB of a quorum, the LWDB must follow an alternative process and outsource the selection to an outside entity. Best practices also require LWDB's procurement policies and procedures to define the requirements for a quorum for decisions made by the LWDB.

No one-stop operator can establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training and education service. The one stop operator must comply with federal regulations and procurement policies governing calculation and use of profits.

If the One-Stop Operator serves as a direct service provider, there must be appropriate firewalls in place for the competition, and subsequent oversight, monitoring, and evaluation of performance of the service provider. In this situation, the One-Stop Operator cannot develop, manage, or conduct the competition of a service provider in which it intends to compete.

In cases where an operator is also a service provider, there must be firewalls and internal controls within the operator-service provider entity, as well as specific policies and procedures at the Local WDB level regarding oversight, monitoring, and evaluation of performance of the service provider, consistent with 20 CFR 679.430.

K. Monitoring

In accordance with WIOA, the SFWIB must conduct monitoring of its one-stop operator. However, when the SFWIB is the one-stop operator, there is an inherent conflict of interest in that the SFWIB is unable to effectively monitor itself. In these circumstances, an outside organization or entity must conduct the monitoring and report the results to the CEO.

V. ATTACHMENTS

CSSF Procurement Policy