

**Kansas Department of Commerce
Workforce Development
Policy and Procedures Manual**

Policy Number: #5-01-02 *(Replaces #3-08-00)*

Originating Office: Workforce Development

Subject: One-Stop Operator Selection

Issued: August 3, 2016

Program: Workforce Investment Act (WIOA)

Purpose: To transmit state policy and guidance regarding procurement of the One-Stop Operator.

References: WIOA Sections 117(f)(1)(B) and 117(f)(2).

Background: WIOA One-Stop Operators are selected through a competitive process, at a minimum, once every four years. Ref §678.605(a)

Action: Make this policy available to all interested parties.

Contact: Questions should be directed to WIOA Administrator, (785) 296-0607, TTY: 711,
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Attachment: None.

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Selection of One-Stop Operators

Policy Statements

One Stop Operators shall be selected through a competitive process no less than once every four (4) years following the principles of competitive procurement in the Uniform Administrative Guidance at chapter II of 2 CFR (in particular 2 CFR 200.318 through 200.326) and chapter 9 of State Policy 5-05-00 (Workforce Services Fiscal Manual).

Initial selection of a One-Stop Operator must be concluded, with the Operator selected, in place and operating no later than June 30, 2017.

Overview

At a minimum, the One-Stop operator is responsible for coordinating the service delivery of required on-stop partners and service providers. Their role may range from simply coordinating services provided to being the primary provider of services at single or multiple centers. In local areas where there is more than one comprehensive One-Stop center, there may be separate operators for each center or one operator for multiple centers. The competition for One-Stop Operator must clearly articulate the role.

One-Stop operators shall be selected through a competitive process following the principles of competitive procurement in the Uniform Administrative Guidance at chapter II of 2 CFR (in particular 2 CFR 200.318 through 200.326) and chapter 9 of State Policy 5-05-00 (Workforce Services Fiscal Manual). As with any local procurement, locally adopted procurement policies must also be adhered to.

To allow local areas sufficient time to prepare a competitive procurement including conducting market research, RFIs, cost and price analysis, and conduct competitions, the initial selection of a One-Stop Operator must be concluded, with the Operator selected, in place and operating no later than June 30, 2017.

Role of the One-Stop Operator

The Local Board must clearly articulate the role of the One-Stop Operator in their solicitation for bids. The Local Board has a great deal of discretion in defining the role of a One-Stop Operator to meet the unique needs of the LOCAL AREA.

At a minimum, the One-Stop Operator must coordinate the service delivery of the required one-stop partners and service providers.

At the discretion of the Local Board, the One-Stop Operator may also:

1. Coordinate the service delivery of partners and providers in multiple one-stop centers or across an entire one-stop system
2. Be the primary provider of service within a center, centers or across a system
3. Provide specific services within a center, centers or system
4. Provide other services, not otherwise prohibited

If the Local Board determines the role of One-Stop Operator includes the provision of service(s) or a provider of service(s) within the one-stop system is selected as the One-Stop Operator, the entity selected must have firewalls in place to ensure the operator is not conducting oversight of itself. There must also be proper internal controls and firewalls in place to ensure the entity, in its role as operator, does not conflict with its role as a service provider through a written agreement with the Local Board and Chief Elected Official(s) to clarify how the selected entity will carry out its roles and responsibilities while demonstrating compliance with WIOA, WIOA Regulations, relevant OMB circulars and Local and State Policies, particularly conflict of interest policies.

The One-Stop Operator role shall not include:

1. Convening stakeholders to assist in the development of the local plan
2. Prepare and submit local plans (as required of the Local Board under sec. 107 of WIOA)
3. Be responsible for oversight of itself
4. Manage or significantly participate in the competitive selection process for one-stop operators
5. Select or terminate one-stop operators, career service providers, or youth providers
6. Negotiate local performance accountability measures
7. Develop or submit budget for activities of the Local Board

An entity selected as one-stop operator may perform some or all of these functions in another capacity it also serves when those roles are applicable to that other capacity provided it has established sufficient firewalls and conflict of interest policies in place to fully separate the functions of the multiple capacities. Additional safeguards for entities acting in more than one capacity includes a written agreement with the Local Board and Chief Elected Official(s) to clarify how the selected entity will carry out its roles and responsibilities while demonstrating compliance with WIOA, WIOA Regulations, relevant OMB circulars and Local and State Policies, particularly conflict of interest policies.

Eligible Entities for One-Stop Operator

One Stop Operators may be a single entity or a consortium of entities.

Types of entities that may be a one-stop operator include:

1. An institution of higher education
2. A State Employment Service agency established under the Wagner-Peyser Act
3. A community based organization, nonprofit organization, or workforce intermediary
4. A private for-profit entity
5. A government agency

6. A local Board, with the approval of the chief elected official and the Governor
7. Another interested organization or entity capable of carrying out the duties of one-stop operator
 - a. Local chamber of commerce
 - b. Business organization
 - c. Labor organization

If the consortium of entities is a consortium of one-stop partners, it must include three of the one-stop partners. A consortium of one-stop partners is a minimum of three separate entities, each responsible for at least one of the following programs and activities in the local area:

1. Programs authorized under title I of WIOA, including
 - a. Adults
 - b. Youth
 - c. Dislocated Workers (DW)
 - d. Job Corps
 - e. Youth Build
 - f. Native American Programs (INA)
 - g. Migrant and seasonal farmworker programs (MSFW)
2. Employment services authorized under the Wagner-Peyser Act (W-P)
3. Adult education and literacy authorized under title II of WIOA (AEL)
4. Vocational Rehabilitation program authorized under title I of the Rehabilitation Act of 1973 (VR)
5. Senior Community Service Employment Program authorized under title V of the Older Americans Act
6. Career and technical education programs at the post-secondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006
7. Trade Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974 (TAA)
8. Jobs for Veterans State Grants programs authorized under chapter 41 of title 38, U.S.C.
9. Employment and training activities carried out under the Community Services Block Grant (CSBG)
10. Employment and training programs carried out by the U.S. Department of Housing and Urban Development (HUD)
11. Programs authorized under State unemployment compensation laws (UI)
12. Programs authorized under the Second Chance Act of 2007
13. Unless specifically exempted by the Governor, Temporary Assistance for Needy Families (TANF) authorized under part A title IV of the Social Security Act.

Any entity, including a current operator or Board, competing to become the One-Stop must have adequate firewalls and conflict of interest policies and procedures in place to prevent them from being involved in the planning or execution of the competitive process. Such involvement would be an inherent conflict of interest.

Selection of One-Stop Operator(s)

One-Stop operators shall be selected through a competitive process following the principles of competitive procurement in the Uniform Administrative Guidance at chapter II of 2 CFR (in particular 2 CFR 200.318 through 200.326), chapter 9 of State Policy 5-05-00 (Workforce Services Fiscal Manual), and any applicable locally adopted procurement policies.

Maintenance of records regarding the procurement process including, but not limited to, documentation of the local determination of the competitive procurement process to be followed as well as the specific details of that process and its results are crucial to demonstrating compliance in the selection of the one-stop operator.

Acceptable processes include:

- Procurement by sealed bid
- Procurement by competitive proposal, and
- Under limited conditions, procurement by sole-source, only with the approval of the CEO and Governor after
 - Rigorous analysis of market conditions and other factors lead to a determination sole-source procurement is necessary due to:
 - There is only one entity that could serve as the one-stop operator, or
 - An unusual and compelling urgency exists that will not permit a delay resulting from a competitive solicitation
 - OR
 - The results of the competitive procurement were determined to be inadequate.

Special Considerations Regarding Sole-Source Procurement

Because of the potential for abuse of the sole source selection process, a high bar has been set for justifying only one possible operator. Local Boards cannot use their past experience with an entity being the one-stop operator or one response to Requests for Information/Proposal (RFI/P) alone as justification. Robust market research, combined with additional methods including but not limited to a detailed cost analysis will aid in demonstrating the necessity of a sole-source selection.

2 CFR 320(f)(3) which allows the Federal awarding agency (DOL) or pass-through entity (Commerce) to expressly authorize noncompetitive proposals in response to a written request from the non-Federal entity (Local Board or State) is specifically excluded from the sole-source selection process for one-stop operators by the ACT.

Local Boards be selected as one-stop operator through sole-source or competitive procurement, however additional safeguards must be in place and documented throughout the process including appropriate firewalls throughout the planning and execution of the procurement. The Governor must approve the conflict of interest policies and procedures, internal controls and safeguards the Local Board has in place to adequately assure open competition in the selection and eventual oversight of the operator.