

WIOA Guidance Letter 16-01



DATE: November 17, 2016/Revised 8/21/20
TO: LWDB Executive Directors
FROM: Mike Beene, Director Workforce Services
CC: Workforce Services, Fiscal, CRC
RE: Sole-source One Stop Operator Selection

1000 S.W. Jackson St., Suite 100
Topeka, KS 66612-1354
Phone: (785) 296-0607
TTY: 711
Fax: (785) 296-1404
E-mail: workforcesvcs@ks.gov
KANSASWORKS.com

Background:

- §678.605 states the Local Workforce Development Board (LWDB) must select the One-Stop Operator through a competitive process. . . For the purposes of implementing competitive processes consistent with the Uniform Guidance, all references to “noncompetitive proposals” in the Uniform Guidance will be read as “sole source procurement”.
- A local workforce development board (LWDB) cannot issue a request for proposal (RFP) or invitation for bid (IFB) that includes no funding, or only includes nominal funding. An RFP or IFB with no funding or nominal funding will restrict competition and will result in either no responses or a limited number of responses. Such an RFP or IFB would violate the prohibition on noncompetitive pricing practices under 2 CFR 200.319(a) and 29 CFR 97.36(c)(1)(iii).
- “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.” Ref. Workforce Services Fiscal Manual, Sec. 9, Procurement.

Guidance:

Multiple entities exist in every Local Workforce Development Area (LWDB) who are eligible and potential One-Stop Operators. Examples of such entities include, but are not limited to:

1. Single entity or consortium of entities, including but limited to:
 - a. Public or private entities
 - b. For- profit or non-profit entities
 - c. One-Stop Partners
 - i. If more than one partner (partner consortium), minimum 3 partners
2. Institution(s) of Higher Education, including but not limited to:
 - a. Four year Colleges/Universities
 - b. Community Colleges
 - c. Technical Colleges
3. State Employment Service (Wagner-Peyser)
4. Organizations representative of a community or segment of a community engaged in meeting community needs (also known as Community Based Organizations) , including but limited to:
 - a. Public or private non-profit
 - b. Sectarian or Non-Sectarian

5. Non-Profit Organization, including but not limited to:
 - a. Humanitarian organizations such as:
 - i. United Way
 - ii. Salvation Army
 - iii. Red Cross
 - b. Philanthropic organizations
 - c. Service organizations
 - d. Constituent and special population advocacy including organizations representing:
 - i. Older citizens
 - ii. Veterans
 - iii. Individuals with disabilities
 - iv. Minorities
 - e. Civic organization
6. Workforce Intermediaries, including but not limited to:
 - a. Foundations
 - b. Professional associations
 - c. Trade associations
 - d. Local or regional Economic Development entities
7. Private for-profit entities, including but not limited to:
 - a. Professional Workforce Development entities
 - b. Professional mediation/arbitration services
 - c. Professional management entities
 - d. Consultants
8. Governmental agencies, including but not limited to:
 - a. Units of general local government
 - b. Departments within units of general local government
9. Other interested organizations or entities with the capacity to perform, including but not limited to:
 - a. Labor organizations
 - b. Chambers of Commerce
 - c. Business organizations
10. LWDB, with restrictions including but not limited to:
 - a. Must not manage or significantly participate in the procurement process, including but not limited to solicitation development or response evaluation and selection
 - b. Must have effective internal control*
 - c. Must have adequate firewalls in place*
 - d. Must have a robust conflict of interest policies and procedures in place*

*specifically addressing how the written policies, procedures and organizational structure in place will enable the entity to fulfill their mandated statutory and regulatory roles and responsibilities while at the same time voluntarily assuming elective roles which would create conflicting or contradicting responsibilities. Examples include, but are not limited to; LWDB's are specifically responsible for, with input from stakeholders, preparing and submitting a local plan; prepare and submit a local area budget; negotiate local area performance measures; select or terminate one-stop operator(s); oversight one-stop operator(s); select or terminate providers of career; training and youth services. One-stop operators

are specifically prohibited from these very same activities. How will the same entity simultaneously perform both roles while maintaining compliance with federal, state and local statute, regulations and policies?

e. Only with agreement of the CEO and Governor, with the additional approval of the procurement process and necessary assurances by the Governor**

**this is an additional requirement specific to LWDB selection as One-stop operator

While these examples of eligible entities are by no means exhaustive, they should be minimally representative of the broad scope of various entities available to serve in every Local Workforce Development Area.

The LWDB must be able to demonstrate it conducted sufficient market research and outreach to exhaust any alternative other than a determination in support of a sole-source selection. Lack of response to a solicitation is insufficient demonstration, in and of itself.

Entities conducting the competitive procurement should maintain documentation of research efforts made to identify eligible bidders as well as outreach efforts conducted to inform, educate and engage potential bidders on this new opportunity to participate in the local workforce system. 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.

For questions or additional technical assistance, please email Workforce Services at WorkforceSvcs@ks.gov.