

Waiver of the Provision of Career/Training Services

The Workforce Innovation and Opportunity Act (WIOA) states that Local Area Workforce Development Boards (WDBs) must competitively procure Adult, Youth, and Dislocated Worker career and training services and maintain a very clear and distinct firewall between the WDB and the services delivered to customers. The WIOA does, however, allow an opportunity for a waiver of these provisions.

Any WDB that wishes to directly provide career services and/or training services to customers through its staff or through the staff of the WDB's Administrative Entity, due to a failed competitive selection process, must submit a waiver request to the Division of Workforce Solutions (DWS) that contains responses to the prompts below.

Career Services Waiver

The WDBs seeking a waiver for career services only will need to provide responses that speak to the following:

Please provide responses that speak to the following items on a separate document:

- I. Provide a response detailing the entire process for making a sole source¹ selection, including why the WDB was unable to secure a bidder in response to its solicitation or did not find qualified bidders during the review process.
- II. Attach documentation (signed and dated letter) that the members of the Local Board and other relevant parties (e.g., WDB Chair) reviewed the information provided in the application and approved the request in a public meeting.
- III. Attach documentation detailing internal controls, conflict of interest, and firewall policies.

Training Services Waiver

The WDBs seeking a waiver for training services only, except for on-the-job training and incumbent worker activities, will need to provide responses that speak to the following:

- I. Information demonstrating a failed competitive procurement based upon satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;
- II. Information demonstrating that the WDB meets the requirements for an eligible provider of training services under WIOA section 122;
- III. Information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area; and

IV. A description of the clear and distinct firewall between the WDB and the services delivered to customers.

Duration: A waiver granted to a WDB shall apply for a period that shall not exceed one year. The waiver may be renewed for additional periods based upon evidence submitted to the DWS, but only if the WDB continues to meet the requirements of the provisions stated above.

Revocation: The DWS shall have the authority to revoke the waiver during the appropriate period described in the preceding paragraph if it determines the waiver is no longer needed, the WDB involved has engaged in a pattern of inappropriate referrals to training services operated by the WDB, or there were irregularities in the competitive procurement process.

Denial: A waiver request which fails to meet the requirements as presented shall be denied. The Governor designee, DWS, will communicate a waiver denial in writing to the WDB.

¹ Sole Source can only be utilized if the published notice(s) of intent made available to the public for at least 30 days and directed to prospective local and national non-profit, for-profit, and governmental bidders, lead to a determination that only one entity could serve as a service provider, compelling circumstances outweigh the delay that would result from a competitive solicitation. 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 contract period. Inadequate responses are those judged by a panel of impartial reviewers to score below a pre-determined minimum level on scoring criteria published as part of the solicitation.

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