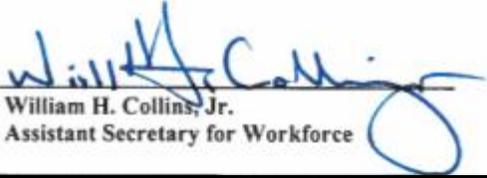


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|  | North Carolina Department of Commerce Division of Workforce Solutions |
| | DWS Policy Statement Number: PS 08-2016 |
| | Date: May 23, 2016 |
| | Subject: Requirement for Local Workforce Development Boards to Use Competitive Selection Processes to Procure Training Providers and One-Stop Operators. |
| | From:  William H. Collins, Jr. Assistant Secretary for Workforce |

Purpose: To inform local Workforce Development Boards of the requirement that Boards must use a competitive procurement process to select providers of Workforce Innovation and Opportunity Act (WIOA) Adult, Youth, and Dislocated Worker services, as well as, for the operator of a local certified NCWorks Career Center. Local Workforce Development Boards should be strategic in nature and should have an arms’ length relationship to the day-to-day delivery of services to Career Center customers.

Background: Adult, Youth, and Dislocated Worker Training Services: Section 107(g)(1)(A) of the Workforce Innovation and Opportunity Act (WIOA) mandates that local Workforce Development Boards (Boards) shall not provide training services to customers. This requirement is also reiterated in the Notice of Proposed Rulemaking (NPRM) at 679.410(b), which states, “A Local Board acting as a direct provider of services is not optimal, as the Local Board is designed to oversee the one-stop system and its services, not provide them.” Boards must competitively procure these training services in compliance with all state and federal regulations. WIOA Section 107(g)(1)(B) allows that a waiver of these procurement requirements may be granted under certain conditions (see attachment).

One-Stop Operators: Requirements for the competitive procurement of one-stop operators are addressed in the Notice of Proposed Rulemaking (NPRM) Section 678.605 (a)–(e). That section requires the one-stop operator be selected through a competitive process. While the NPRM allows for the possibility of a local Board to be the one-stop operator, the Division’s position is to reject that, as the Board’s role is to provide strategic direction and oversight to service delivery.

The NPRM also allows a one-stop operator to be a service provider. However, the section clarifies that there must be firewalls in place to ensure that the operator is not conducting oversight of itself as a service provider. There must also be proper internal controls and firewalls in place to ensure that the entity, in its role as operator, does not conflict with its role of service provider.

Action: Adult, Youth, and Dislocated Worker Training Services: It is required that each local Workforce Development Board competitively procure Adult, Youth, and Dislocated Worker services and have a very clear and distinct firewall between Boards and the services delivered to customers. **The effective date of this requirement is July 1, 2016.**

If the competitive procurement process has failed, the Board may seek other non-competitive options for the first year. The Board must then use a competitive procurement process each year thereafter until it is successful in using competition to select a service provider(s).

One-Stop Operators: It is required that the operators of certified NCWorks Career Centers be competitively procured by July 1, 2017.

Local Workforce Development Boards must follow all applicable federal, state and local procurement requirements in selecting service providers and one-stop operators to deliver services funded by WIOA resources. Federal requirements include, but are not limited to,

- 1) United States Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards 200.317-200.326 (Procurement Procedures) which establishes principles and standards for determining costs for all Federal awards carried out by state and local governments;
- 2) NPRM 678.605(a) and 678.610(a)-(d); and
- 3) North Carolina Division of Workforce Solutions' Procurement and Contracting Policy Statement.

The Division of Workforce Solutions will provide oversight of compliance through:

- 1) Local Area Workforce Development Plan Instructions and review of responses outlining procurement procedures;
- 2) Monitoring activities including direct site visits;
- 3) Oversight summary reports.

Effective Immediately
Date: May 23, 2016
Expiration: Indefinite
Attachment: Waiver of Training Prohibition

Waiver of Training Prohibition

The Workforce Innovation and Opportunity Act (WIOA) section 107(g)(1)(A) indicates that local Workforce Development Boards may not provide training services to customers. The Act does, however, allow an opportunity for a waiver of this provision.

Any local Workforce Development Board that wishes to directly provide, through its staff or through the staff of the local WIOA administrative entity/grant recipient, training services to customers may submit a waiver request to the Division of Workforce Solutions that contains the following information:

- (I) based upon a failed competitive procurement, 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 board meets the requirements for an eligible provider of training services under section 122; and
- (III) information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area;

The local Workforce Development Board must make the proposed waiver request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days. The final request for the waiver must also include the evidence and information described in the list I – III above, as well as, the comments received during the public comment period.

Duration: A waiver granted to a local Workforce Development Board 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 Division and if the Board continues to meet the requirements of the provisions stated above.

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