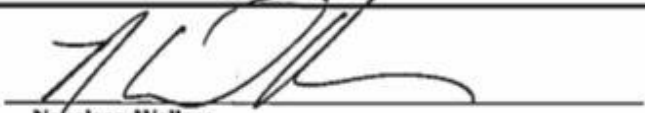
	North Carolina Department of Commerce Division of Workforce Solutions
	DWS Policy Statement Number: PS 19-2017
	Date: November 21, 2017
	Subject: Requirement for Local Workforce Development Boards to Use Competitive Selection Processes to Procure Training Providers and One-Stop Operators
	From:  Napoleon Wallace Deputy Secretary for Workforce

Purpose: To inform local Workforce Development Boards (WDBs) of the requirement that they 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 using the Workforce Innovation and Opportunity Act (WIOA) Final Regulations.

To provide instructions for a waiver in the case of a failed procurement process.

To rescind PS 08-2016.

Background: Adult, Youth, and Dislocated Worker Training Services: Section 107(g)(1)(A) of the (WIOA) mandates that local WDBs shall not provide training services to customers. This requirement is also reiterated in the Final Rule at 679.410(b) that a local WDB acting as a direct provider of services is not optimal, as the local WDB is designed to oversee the one-stop system and its services, not provide them. WDBs 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 Final Rules section 678.605 (a)–(d). That section requires the one-stop operator be selected through a competitive process. While the Final Rule allows for the possibility of a local WDB to be the one-stop operator, the DWSs’ position is to reject that, as the WDB’s role is to provide strategic direction and oversight to service delivery.

The Final Rule (CFR 678.615) 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. Local WDBs should be strategic in nature and should have an arm's length relationship to the day-to-day delivery of services to Career Center customers.

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

If the competitive procurement process has failed, the WDB may seek other non-competitive options for the first year or request a waiver of training using the attachment's guidelines and submit the request to the WDB's Division Planner within 30 days of the failed procurement.

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

Local WDBs 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) Final Regulations 678.605(a) and 678.610(a)-(d); and
- 3) North Carolina Division of Workforce Solutions' Procurement and Contracting Policy Statement.

DWS will provide oversight of compliance through:

- 1) reviewing the Local Area Plan responses outlining procurement procedures;
- 2) monitoring activities including direct site visits; and
- 3) oversight summary reports.

Effective Date: Immediately

Expiration: Indefinite

Contact: DWS Planners
DWS Fiscal Monitors

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 (WDBs) may not provide training services to customers. The Act does, however, allow an opportunity for a waiver of this provision.

Any local WDB that wishes to directly provide training services to customers through its staff or through the staff of the local WIOA administrative entity/grant recipient or experiences a failed competitive selection process must submit a waiver request to the Division of Workforce Solutions (DWS) that contains the following:

- (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 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 Boards and the services delivered to customers.

The local WDB 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 – IV above, as well as the comments received during the public comment period.

Duration: A waiver granted to a local 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 and if the local 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 local WDB involved has engaged in a pattern of inappropriate referrals to training services operated by the local WDB, or there were irregularities in the competitive procurement process.

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