

One-Stop Operator Procurement FAQs

Are One-Stop Operators required by WIOA and what are their role(s)?

Yes. Pursuant to 20 CFR Section 678.620(a), at a minimum, a One-Stop Operator must coordinate service delivery of the required Kentucky Career Center partners and service providers. The role of the One-Stop Operator in Kentucky Career Center offices is further defined through guidance provided in state, regional and local WIOA policies.

- Oversee management of Kentucky Career Center offices, service delivery and fulfill One-Stop Operator functions as directed by the LWDB.
- Evaluate performance and implement required actions to meet performance standards. (Includes required applicable core program performance) *This does not include performance negotiations as this is specifically a local board requirement.*
- Evaluate various customer experiences (including, but not limited to, employers, jobseekers and partner staff).
- Ensure coordination of partner programs.
- Define and provide means to meet common operational needs (e.g., training, technical assistance, additional resources, etc.)
- Design the integration of systems and coordination of services for the site and partners.
- Manage fiscal responsibility for the system or site.
- Plan and report responsibilities.
- Write and maintain business plan.
- Market Kentucky Career Center services.
- Facilitate the sharing and maintenance of data, primarily the site, with emphasis on the state system.
- Integration of available services and coordination of programs for the site with all partners.

The Commonwealth's WIOA Workforce State Plan, One-Stop Certification Policy and other related policies further includes functions performed by the One-Stop Operator to provide direction of the partner/function based group of Team Leads, as well as ensure that comprehensive cross-training and development plans are established for each Kentucky Career Center and staff.

The LWDB may also add further responsibilities to the One-Stop Operator per guidance in 20 CFR Section 678.620(a). Keep in mind that the competition for a One-Stop Operator must clearly articulate the role of the One-Stop Operator for the respective LWDA.

Does the Local Board have to competitively procure One-Stop Operators?

Yes. WIOA requires the selection of the One-Stop Operator through a competitive process. Sub-recipients of federal funding must use a competitive bid process in accordance with federal procurement policies described in Uniform Guidance in 2 CFR 200.318-326.

This includes:

- Procurement by sealed bids.
- Procurement by competitive proposals.
- Procurement by sole source (under limited conditions as described in 20 CFR 678.610).

Office of Management and Budget 2 CFR Chapter I, Chapter II, Part 200, et al., Section 200.319 states that, “All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors who develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.”

Note: Local Boards must prepare written documentation prior to the release of the RFP describing their process to select a One-Stop Operator and submit to the Office of Employment and Training (OET) by email at teamofexperts@ky.gov. Documentation must include the LWDB’s statement of intent to manage the procurement process, or to utilize a third party vendor with the intent to apply as a One-Stop Operator (include policies eliminating the conflicts of interest through establishing appropriate firewalls— see OET Policies 15-001 [as amended], 17-001 and 17-002).

Can a Local Board be a One-Stop Operator?

Yes. Local Boards may compete for and be selected as One-Stop Operators. However, policies are required to eliminate conflicts of interest through establishing “appropriate firewalls” in regards to the competition, subsequent oversight, monitoring, and evaluation of performance of the provider. (20 CFR 679.430) (OET Policies 15-001 [as amended], 17-001 and 17-002)

How can a Local Board compete in a procurement to become a One-Stop Operator or Career Services Provider?

For Local Boards to compete in the procurement process to become a One-Stop Operator or Career Services Provider, the Local Board and its staff must arrange for the process to be completed by a “third party.” The “third party” must not bid on, compete for, or have any financial interest in the contract for procurement or its outcome.

Under these circumstances, the “firewall” established through Local Board policies and procedures would allow the Local Board to provide the required information to the third party needed to properly arrange, notice and process the procurement. However, the Local Board cannot draft specifications, contract requirements, statements of work, or procurement documents. These activities must be exclusively the actions of the third party after appropriate guidance is provided by the Local Board. The third party must meet the Uniform Administrative Guidance in 2 CFR 200.318-326 and OET Policy 15-001 (as amended).

Must the OSO procurement process have funding attached to it in order to truly consider it a “competitive” process and as a best practice? Or, is no-cost bidding as a reasonable alternative?

An essential element of a legally binding agreement/contract is ‘consideration.’ In the case of a one-stop operator, an offeror/bidder must be able to submit a bid/proposal outlining the services it is to provide (offer) in exchange for payment or something of value (consideration). The use of a no-funding RFP does not promote competition but rather hinders it and limits the number of offers/bidders that would submit proposals to provide services for free.

Who can be a third party in the procurement process?

The third party may be a consultant, a professional or any other independent entity retained specifically to arrange, notice and process the procurement. Such entities may be retained locally or statewide and retained by one or more Local Boards. A Local Board must use discretion in retaining entities with whom it previously has done business to avoid conflicts of interest or any appearance of favoritism toward the Local Board in its final selection.

Can a Local Board be selected as a One-Stop Operator through a sole-source procurement?

A Local Board may be selected as a One-Stop Operator through sole-source procurement under limited conditions as described in 20 CFR 678.610 and only with agreement of the Chief Local Elected Official(s) in the local area and the Governor. The Governor will not authorize sole-source procurement until the Local Board has obtained a minimum of two bids, either in its initial procurement or in a subsequent process should the first not yield competitive bids. The Governor must approve the conflict of interest policies the Local Board has in place when also serving as One-Stop Operator. This is consistent with DOL's interpretation of Section 107(g)(2) of WIOA which further specifies the requirements where a Local Board is selected to be the One-Stop Operator. Written documentation must be prepared and maintained concerning the entire process of making such a selection, which must include appropriate "firewalls" establishing conflict of interest policies and procedures. (20 CFR 678.605(c) and Uniform Guidance 2 CFR 200.320(f)).

Does a Local Board need to competitively procure career services by July 1, 2017 under WIOA?

No. However, this must be consistent with WIOA Section 107(g)(2) of WIOA which requires the agreement from the Chief Local Elected Official(s) and the Governor.

Who may operate the Kentucky Career Centers?

Consistent with 20 CFR 678.600, a One-Stop Operator may be a single entity or it may be multiple entities working together to form a consortium operator. The operator may be for profit, non-profit, private or public. If the consortium of entities is comprised of One-Stop career center partners, it must include a minimum of three One-Stop career center partners as described in 20 CFR 678.400. Should a for-profit entity (or a consortium that includes a for-profit entity) be selected as a One-Stop Operator, there are two points that must be kept in mind. First, except for WIOA Title I funds (Adult, Youth and Dislocated Worker), no profit may be paid from USDOL awards. Second, the Uniform Guidance at 2 CFR 200.323 requires profit to be negotiated as a separate element of price for each contract in which there is no price competition or in which a cost analysis is performed.

What entities may be selected through competitive procurement to be a One-Stop Operator?

The types of entities that may be a One-Stop Operator include, but are not limited to:

- An Institution of Higher Education
- An Employment Service State Agency established under Wagner-Peyser
- A community based, non-profit organization, or workforce intermediary
- A private-for-profit entity
- A government agency; (i.e. municipality)
- A Local Board, with approval from the Chief Local Elected Official(s) and the Governor

- Other interested organizations or entities capable of carrying out the duties of the One-Stop Operator, including Local Chambers of Commerce, business organizations, or labor organizations
- Nontraditional public secondary schools, night schools, adult education schools, career and technical education schools.

Note: Elementary and secondary schools are not eligible to be selected as the One-Stop Operator.

How often are One-Stop Operators competitively procured?

WIOA requires One-Stop Operators to be competitively procured at least every four (4) years. A state may require, or a Local Workforce Development Board may choose to implement a competitive selection process more than once every four (4) years. Procurement frequency standards must also be in line with the procurement policies of the entity conducting the procurement process.

Can a One-Stop Operator also be a service provider?

Yes. However the Local Board must create appropriate “firewalls” through policies and procedures that ensure competition, oversight, and evaluation of the provider’s performance. Internal controls must be in place to avoid all conflicts of interest. (20 CFR 679.430 and OET Policy 17-002) All organizations, including the Local Board, administrative entities, fiscal agents, One-Stop Operators, and service providers who perform multiple functions, must develop written agreements with the Local Board and Chief Local Elected Official(s) clarifying how the organization fulfills its responsibilities and demonstrates compliance with WIOA and relevant Uniform Administrative Guidance.

DOL-ETA recognizes that the procurement process is lengthy when competitively procuring services and that it may be advantageous and cost efficient to leverage the one-stop operator RFP along with another RFP rather than soliciting two separate RFPs. If a single RFP/IFB is used for OSO and service providers, it should clearly delineate the role and functions of an OSO from a service provider as to avoid duplication and strengthen transparency. The proposals or applicants should also clearly delineate a statement of work and budget separately for OSO functions versus service provider functions. It is up to the local board/area to ensure that any services provided by an OSO or service provider do not detract or hinder the success of the other as well as ensuring that both perform in a manner that will be consistent with the performance measures/goals outlined in the local plan. Local boards need to keep in mind that if a single entity is to perform multiple roles within a Local Area, there has to be approval by the Board and CEO as well as proper firewalls put in place between the two roles (WIOA 20 CFR 679.430) to ensure responsibilities are not conflicting.

How should appropriate firewalls be applied to procurement?

The Local Board must apply appropriate policies to ensure participants in a competitive bid are not directly involved with the procurement process itself, including (but not limited to) drafting procurement requirements, establishing review criteria, and conducting the review of responses and the final selection. The entity conducting the procurement must have no financial interest in the outcome of the procurement.

What is the effective date for competitively-procured One-Stop Operators to be in place and providing services?

Per guidance provided in Training and Employment Guidance Letter (TEGL) WIOA 15-16, Competitive Selection of One-Stop Operators, as of July 1, 2017, all existing and new One-Stop Operators must have been selected using a competitive process. This means that procurement procedures must be

developed and the procurement process completed so all One-Stop Operators are under contract to provide its services beginning July 1, 2017.

What other mechanisms may be used to assure full and open competition at the local level?

Pursuant to TEGL 15-16, the State Workforce Development Board may opt to retain an outside entity to conduct an objective review of all aspects of the competitive process, including a review of the entities selected as a One-Stop Operator such as: past performance; compliance with Federal requirements and policies; financial systems; internal control framework; and policies to perform and manage the One-Stop Operator services in accordance with WIOA.

How can LWDBs generate the “market readiness” to enable multiple bids to occur?

TEGL 16-15 outlines some best practices to generate interest in a RFP/IFB such as advertising for a reasonable amount of time or allowing for a reasonable amount of response time (at least 30 days), utilizing market research, RFI (Request for information), and bidder’s conference. The unwritten rule is to have at least three (3) bids/offerors obtained in order to reach a level playing field. Market research may be utilized in order to structure the RFP so that it can cast a wide enough net to attract a reasonable number of potential bidders. In addition, market research will give the Board a better understanding of competitive market prices for one-stop operator services. RFIs are helpful tools to use to reach out to potential operators and to advertise a solicitation. And finally, bidder’s conferences are not only techniques to further explain an RFP but are also other means to promote a solicitation and increase interest in a RFP. So we will encourage you to strongly consider these strategies to increase bidders’ participation.

Lastly, the mode of publication of the solicitation also affects how long and widely disseminated the Board’s RFPs will be. The Board should take into consideration not only its local market but also a wider area to determine what mode of publication will attract a reasonable amount of bids/ proposals. If no bids are received, it is suggested that the local area collect feedback from possible bidders/offerors to determine what defect was contained in the RFP/IVB that did generate interest or bids.

ACTION ITEM	*SUGGESTED TIMELINE
One-Stop Operator Guidance released by the State	March 20
LWDB’s submit written inquiries regarding State guidance; State provides follow-up to LWDBs in order received	March 21-March 28
LWDBs notify state in writing describing their process to procure the One-Stop Operator (<i>include intent to apply or not</i>)	March 21 – April 3
LWDBs begin procurement process of One-Stop Operator (If LWDB is not applying, drafts Request for Proposals)	April 1-April 15
Request for Proposal for One-Stop Operator Issued at local level	April 15
RFP Bidders’ Response Deadline	May 15
**New One-Stop Operator Contracts/Agreements in place	July 1, 2017

***NOTE:** The above suggested timeline is not required, but provides a general schedule to help facilitate full implementation of the One-Stop Operator procurement by June 30, 2017.

**Mandated date, not optional.