

Public Policy Number: 52

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Addressed to: Local Workforce Development System– Southeast Workforce

Subject: Public Policy for the Competitive Selection of the One-Stop Center Operator – American Job Center

I. INTRODUCTION

The purpose of Public Act 171-2014, known as the Workforce Innovation and Opportunity Act (WIOA, for its English acronym) is to help the citizens that are searching for a job by providing them with education, training and support services opportunities so that they may succeed in the marketplace, and that employers can have access to qualified and specialized workers in order to compete in a globalized economy.

WIOA Title I establishes a system constituted by Workforce Development Local Areas, which offer training and job services through its One-Stop Centers – American Job Centers (CGU-AJC). The CGU-AJC are designed to facilitate access to training and job services, under the same roof, to individuals that need assistance in those areas that contribute to their employability. In the CGU-AJC participants will find an integrated services system that allows them to access the services or benefits provided by the workforce development system partners.

WIOA, in its sections 107(d)(10), 121(d)(2)(A) and 121(d)(2)(B), establishes that the Local Board will hold a competitive process in which it will select an Operator for the One-Stop Center – American Job Center. Thus, we adopted the present Public Policy to the ends of regulating the competitive process for the selection of the Operator, according to the One-Stop Center’s needs.

II. LEGAL BASE

- Workforce Innovation and Opportunity Act, Public Act 113-128 of July 2, 2014, Sections 107(d)(10), 107(e), 121(d)(2)(A), 121(d)(2)(B), 121(d)(4)(A), 121(e), 121(e)(1)(A), 121(e)(1)(B), 121(e)(1)(C), 121(e)(1)(D), 121(e)(1)(E), 121(e)(2)(A), 121(e)(2)(B), 121(e)(2)(B)(i), 121(e)(2)(B)(ii), 121(e)(2)(B)(ii)(I), 121(e)(2)(B)(ii)(II), 121(e)(2)(C), and 121(e)(2)(D), among others
- Federal Regulation Code (CFR); 2 CFR 200.318(c)(1), 2 CFR 200.319(a), 2 CFR 320, 20 CFR 678.610(c), 20 CFR 679.430
- *What is the one-stop operator's role?* 20 CFR § 678.620
- *How is the one-stop operator selected?* 34 CFR §361.305
- *Training and Employment Guidance Letter WIOA No. 15-16 (TEGL 15-16)*
- *Competitive Selection of One-Stop Operator; January 17, 2017*
- *Circular Letter for the Competitive Selection of the One-Stop Center Operator – American Job Center, WIOA-02-2017, May 5, 2017, Workforce Development Pr*

III. DEFINITIONS

1. Workforce Development Local Area – Geographic designation that consolidates the municipalities that will receive WIOA funds jointly.
2. Workforce Development Local Board – Governing body in charge of the development and implementation of public policy for the benefit of the local labor development system. See WIOA section 107.
3. Mayors Board– Governing body that receives WIOA funds from the state, responds for them, and, in collaboration with the Local Board develops the budget, and local and regional plans, among other responsibilities.
4. WIOA - Workforce Innovation and Opportunity Act
5. Operator – NDC selected through a competitive process to manage the operation of the One-Stop Center, whose main role is to coordinate the services of partners and providers for participants and clients.
6. Mandatory partners – According to section 121(b)(1)(B), these are the partners whose physical or technological presence is required in the CGU-AJC. These, in turn, administer

the following programs or activities with the Local Area:

- a. Programs authorized under the WIOA Title I:
 - i. Adults
 - ii. Dislocated workers
 - iii. Youth
 - iv. Job Corps
 - v. YouthBuild
 - vi. Native American Programs (Do not apply to Puerto Rico), and
 - vii. Migrants and seasonal agricultural workers.
- b. Wagner – Peyser Act
 - i. WIOA Title III
- c. Adult Education and Family Literacy
 - i. WIOA Title II
- d. Vocational Rehabilitation
 - i. WIOA Title IV
- e. Seniors Community Service Employment Program (SCSEP)
 - i. Title V, The Older Americans Act
- f. Post-Secondary Technical and Vocational Education
 - i. Carl D. Perkins Career and Technical Education Act of 2006
- g. Trade Adjustment Assistance Program (Trade Adjustment Assistance)
 - i. Trade Act of 1974
- h. Employment for Veterans State Grants Program (Jobs for Veterans State Grants)
 - i. Chapter 41 of Title 38, U.S.C.
 - ii. Training and Employment Activities under the Community Service Block Grant (CSBG)
 - 42 U.S.C. 9901
- i. Training and Employment Activities offered by the Housing and Urban Development Department (HUD)
- j. Programs authorized under the state laws of unemployment compensation according to the applicable federal laws
- k. Programs authorized under section 212 of the Second Chance Act de 2007

- I. Temporary Assistance for Needy Families (TANF)
 - i. In Puerto Rico, TANF is administered by the Administration for the Socioeconomic Development of the Family (ADSEF, for its Spanish acronym).
7. Optional partners - Pursuant to section 121(b)(2)(B), the optional partners could be other entities that offer workforce development services. This collaboration must be approved by the Local Board and by the President of the Mayors Board or Chief Elected Official.
8. Program Year – It is the implementation period of programmatic activities. It begins on the 1st of July and ends on June 30 of each year.
9. Execution Period– Statutory period during which it is permitted to use the delegated funds for any program year. In the case of the funds delegated to the local areas, these can be used during the program year for which they were allocated and the subsequent program year (second year).
10. Operational Committee of the One-Stop Center – Local Board permanent committee that is in charge of supervising the operation of the One-Stop Center, as well as being responsible for leading the Operator competitive selection process.
11. Conflict of Interests – Conflict between the official responsibilities and the private interests of one person or entity that is occupying a position of trust. The members of the Local Board are obligated to disclose publicly any conflict of interest, real or apparent, regarding the competitive selection process of the CGU-AJC Operator.
12. Operational Budget- Budgetary item designated for the operation of the One-Stop Center- American Job Center that will be included/disclosed in the Request for Proposals, to comply with the Stevens Ammendment of the Public Policy DDEC- WIOA-01-2021.
13. CGU-AJC – One-Stop Center – American Job Center
14. Client – Person that visits or requests the services of the One-Stop Center. The individual retains client status as long as eligibility is not determined and the individual does not register for a service under the applicable program.
15. Participant –This is a person whose eligibility has already been favorably determined and is registered or enrolled in a service of the program for which eligibility was determined.

16. Employer –Any public or private entity, for-profit or nonprofit, that employs individuals to satisfy its human resources demand. In the case of WIOA, an employer is the person that requests the benefit of the salary subsidies for the participants that employs for activities such as on-the-job training, among others.
17. Workforce Connection – It is the unified brand and image, adopted by the State Workforce Development Board, DDEC-WIOA-08-2022 – to the ends of promoting and maximizing the participation and services offered under the WIOA. *Southeast Workforce Connection* will be used instead of *Southeast Local Workforce Development Area*.
18. Sole Source – This is a providers selection modality through noncompetitive proposals, which is ruled by the 2 CFR 320 and the TEGL 15-16, issued by the Training and Employment Administration of the Federal Labor Department (DOLETA, by its English acronym).
19. Restrictive practices of competition – Those practices whose purpose is to limit competition by means of making the process one that is onerous and only accessible to one or more particular providers.
20. Proponent – Individual or entity that responds to the request for proposals and participates in the competition.
21. Request for Proposals (RFP) – Open, public, and transparent process by which proposals of eligible proponents are required to compete in the selection process of the One-Stop Center Operator – American Job Center.
22. Request for Information (RFI) – Open, public, and transparent process by which information is requested to possible proponents to the end of collecting information about the resources and services available, as well as of its costs. This information is used as a marketing study to draw up the Guide of Specifications for the Presentation of Request for Proposals.

IV. PUBLIC POLICY

1. By virtue of the Workforce Opportunity and Innovation Act provisions (WIOA, for its English acronym) and its interpretative regulation, this Local Board will hold an open, public, and transparent competitive process for the selection of a One-Stop Center Operator – American Job Center that serves the clients, participants, and employers’

best interests of the Southeast Workforce Connection.

V. WHO CAN BE THE OPERATOR

WIOA, in its section 121 (d)(2)(B), establishes that the CGU-AJC's Operator can be a public, private for-profit or nonprofit entity or an entity consortia. If it is a consortium of system of partners, it must include, as a minimum, three (3) or more mandatory partners of proven effectiveness within the Local Area. The entity selected as the Operator will be a subrecipient of a federal award; therefore, it will be obligated to follow and comply with the Uniform Administrative Guide, Cost Principles and Audit Requirements for Federal Awards, 2 CFR Part 200.

Some of these organizations eligible to act as an Operator could be:

1. Government agencies or governmental units such as: local or municipal entities, school districts, state agencies, or WIOA federal partners
2. State employment service agency under the Wagner-Peyser Act
3. Education institutions such as: higher education institutions, nontraditional public education institutions (night schools), technical and vocational education institutions
4. Community-based organizations, nonprofit organizations or intermediaries of the workforce
5. Any other organization that is interested and able to assume the responsibilities of the One-Stop Center Operator; for example, local chambers of commerce, business organizations or workforce organizations
6. For-profit private organizations
7. A Workforce Development Board provided it competes and complies with the mandatory competitive requirements provided under 20 CFR 678.605(c) and 678.615 (a). In the case that the Local Board is selected, the Governor and the Mayors Board's President must agree with said selection, as required under WIOA section 107(g)(2).
8. *Exception:* Elementary or secondary schools are **NOT** eligible to operate the CGU-AJC.

VI. OPERATOR ROLES

The primary role of the One-Stop Center Operator – American Job Center is to coordinate the delivery of services, on behalf of our clients, between the system partners and the service providers. However, the Local Board has the discretion to delegate to the Operator additional roles¹.

The Local Board, at the moment of allowing the design and development of the competition, must determine which additional roles -if any- will delegate to the One-Stop Center Operator - American Job Center, according to the needs and circumstances ruling at the moment. These rules must be adopted by the Local Board to the effect of the competition, and will be included in the Guide of Specifications for the Presentation of Request for Proposals in a clear and detailed form.

The Operator may not, in any way, subrogate the functions delegated by WIOA to the Southeast Local Board.

VII. COMPETITION

1. The One-Stop Center Operator will be selected by means of an open, public, and transparent competitive process that will be held using the purchasing/contracting mechanisms that are used for the purchasing/contracting of goods or services with nonfederal funds.
2. The One-Stop Center – American Job Center Operational Committee will lead the effort to design the Guide of Specifications of the competition, and will receive and evaluate the proposals received. At the end of that process, it will issue its recommendations to the Local Board in full. In case that the Local Board determines that will participate in the competition, the Operational Committee is waived from the functions herein described, and the Local Board will contract an external entity to hold the competition in its place.
 - a. The external entity must be an independent organization capable of exercising professional and ethical judgment. It must submit a Certification of Absence of Conflict of Interest.

¹20 CFR 678.620(a) - At a minimum, the One-Stop Operator must coordinate the service delivery of required one-stop partners and service providers. Local WDBs may establish additional roles of one-stop Operator, including, but not limited to: coordinating service providers across the one-stop delivery system; being the primary provider of services within the center; providing some of the services within the center; or coordinating service delivery in a multi-center area, which may include affiliated sites. The competition for a one-stop Operator must clearly articulate the role of the one-stop Operator.

3. In case that the Local Board expresses its interest in becoming the One-Stop Center Operator, it must compete in equal conditions against the rest of the proponents. This is a statutory requirement for which there is no waiver.
4. The competition will be free of conflict of interests, real or apparent.
5. No individual, official or entity that collaborates in the design and development of the competition may participate in the competition as a proposer.
6. The competition for the selection of the One-Stop Center Operator – American Job Center will be held every two (2) years. The Operator’s contract may be amended to extend its validity only for a period of two (2) additional years, subject to the Operator’s execution, in compliance with the parameters included in the contract.
7. The Local Board may not conduct the competition in such a way as to lead to restrictive practices. Restrictive practices may include:
 - a. Requiring unnecessary or excessive experience
 - b. Using noncompetitive pricing practices between entities or affiliated companies
 - c. Organizational conflicts of interests
 - d. Specifying a specific brand, product or entity
 - e. Acting arbitrarily in the competition process
 - f. Imposing irrational requirements for the qualification of the proponents with the purpose of discouraging participation in the competition.

VIII. FORMS OF ACQUISITION

1. Request for Proposals (RFP, for its English acronym)
 - a. By means of a Public Notice, the Local Board will request proposals from eligible proponents, which must comply with the Guide of Specifications approved by the Operational Committee of the One-Stop Center – American Job Center for that competition.
2. Sole Source Procurement – Noncompetitive proposals
 - a. Contracting an Operator by means of noncompetitive proposals is an exception to the election process authorized in certain circumstances.

- b. The Uniform Guide establishes in its 2 CFR 200.320(c)(2) that an Operator can be selected through a Sole Source mechanism provided that it complies with the policies and procedures established, which are consistent with 2 CFR 200.320 and TEGL 15- 16.
- c. In order for an Operator to be selected through the Sole Source mechanism, a proposal must have been requested from a single proponent only when one (1) or more of the following circumstances apply:
 - i. Service can be acquired only from one provider.
 - ii. The public or emergency requirement to acquire the service does not admit the delay that a competitive process would cause.
 - iii. The federal agency or recipient entity of the funds expressly authorizes it as a consequence of a request by the nonfederal agency, in this case the Local Board; or
 - iv. Having carried out a competitive process, in which proposals have been received, it is determined that the process is inadequate due to the amount of proposals received or its quality.
 - v. The Local Board will evaluate all the presented proposals, irrespectively of its amount. In order for a proposal to be considered recommended, it will have obtained a score that evidences a substantial compliance with the requirements of the Guide of Specifications.

IX. DESIGN AND DEVELOPMENT OF THE COMPETITION - COMPETITIVE PROCESS STAGES

1. Planning Stage

- a. The Local Board will:
 - i. Identify the need
 - ii. Conduct a market study
 - iii. Require information - It may do it through a Public Request for Information – (RFI)
 - iv. Make a costs and pricing analysis and determine the procurement mechanism
 - v. Develop the requirements for the Operator
 - vi. Develop the Guide of Specifications for the Request for Proposals
 - vii. Develop the evaluation criteria, as well as the scores to be awarded
 - viii. Designate the Committee Evaluation, as well as the official authorized to sign

- The One-Stop Center – American Job Center Operational Committee will be in charge of the competitive process, and the president of the committee will be the authorized person to sign the documents in regards to the competition.

2. Publication and Evaluation Stage

- a. The Local Board will publish the Request for Proposals.
 - i. The request will be published in the webpage of the Local Board and can be circulated, in writing, to multiple organizations to promote the interest in the process and increase the participation of eligible providers.
 - ii. The proponents will have thirty (30) calendar days to present their proposals counted as of the day of publication of the Request for Proposals.
- b. Hold pre-competition conferences to ensure that all the interested proponents do not have doubts in regards with the Request for Proposals.
- c. Receive the proposals.
- d. Evaluate the proposals according to the previously developed criteria, as well as what is established in light of the Circular Letter WIOA-02-2017 issued by the Workforce Development Program on May 2, 2017. The Guide of Specifications for the Request of Proposals must include all the evaluation criteria that the One-Stop Center – American Job Center Operation Committee will use.

3. Selection and negotiation stage

Upon selection of the best proposal, the Local Board may:

- a. Notify the Mayors Board the results of the Operational Committee evaluation, so that they may issue their comments, if any, in relation with the proposal preliminarily selected.
 - i. If the Mayors Board does not make comments regarding the selected proposal within the ten (10) calendar days following the notification, the Local Board can continue with the competitive selection process of the Operator, according to the present public policy.
 - ii. If any of the municipalities that compose of Workforce Connection, namely: Southeast Local Area, or municipal entity under the supervision and/or control of the members of the Mayors Board participates of the competitive process and is selected, the Mayors Board will not have to express itself about the proponent selection when it is notified.

- b. Notify the selected proponent, with the warning that the award does not bind the Local Area until the contract is awarded.
 - i. The Board may cancel the adjudication before the contract formalization for the following reasons:
 1. The need that gave rise to the bid does not exist anymore.
 2. The obligated funds for the transaction are depleted or were liberated to use them for other purpose.
 3. It is deemed that doing so is in the best interests or public purposes of the Local Area.
 - ii. Every cancellation of adjudication must be approved by the Mayors Board's President, and neither the Board, nor the Local Area, nor the Commonwealth of Puerto Rico will incur any liability in such cases.
 - c. Negotiate execution levels that are in tune with the execution levels negotiated between the Local Board and the state, represented by the Workforce Development Program of the Department of Economic Development and Commerce of Puerto Rico.
 - d. Negotiate just and reasonable earnings, if applicable (2 CFR 200.323(b))
 - i. Applies to for-profit private organizations
 - e. Negotiate mechanisms and invoicing frequency
 - f. Negotiate the contract term
 - g. Obtain the Mayors Board and the Governor's authorization, if applies
 - i. In case that the Local Board is the selected Operator, is necessary to obtain the approval of the Mayors Board and the Governor previous to the contract adjudication.
 - h. Make an offer and obtain acceptance
 - i. Certify or designate the Operator, and
 - j. Execute the contract.
4. Implementation stage
In the implementation stage, the Local Board will:
- a. Supervise the execution of the contract, as well as carry out periodic monitoring:

- i. In case that the Local Board is the entity selected as Operator, the state will be in charge of supervising and monitoring.
 - b. Issue the modifications to the Operator's budget in a timely manner
 - c. Pay the Operator's fee invoices in a timely and efficient manner
 - d. Evaluate the Operator's execution, as agreed upon according to the negotiated execution levels between the Local Board and the state, represented by the Workforce Development Program of the Department of Economic Development and Commerce of Puerto Rico.
 - e. Evaluate and approve contract amendments in coordination with the Mayors Board, if applicable.
 - i. The Local Board will notify the Mayors Board the amendments proposed to the Operator's contract, so that they make their comments, if any, regarding the same.
 - ii. If the Mayors Board does not make comments regarding the proposed amendments within the ten (10) calendar days following the notification, the Local Board may approve amendments to the Operator's contract.
 - iii. If any of the municipalities that compose of Workforce Connection: Southeast Local Area, or municipal entity under the supervision and/or control of the Mayors Board's members is the Operator, the Mayors Board will not have to express itself on the proposed amendments and will designate an official to negotiate the proposals on their behalf.
- 5. Closing Stage
The closing stage involves:
 - a. Costs and payments will be reconciled
 - b. The projected execution goals will be reconciled vis-à-vis the real execution
 - c. Ensure that the participants' records, as well as the fiscal records, are complete and safe under the Local Board custody
 - d. Prepare the closing documentation.

X. CHALLENGING THE COMPETITIVE PROCESS

1. Challenging the adjudication

The proponents that understand that their rights under this Public Policy have been affected by the actions taken by the Local Board or the Mayors Board while making the competitive process may apply for a revision to the Local Board within ten (10) calendar days as of the date that has been certified by the Board's Secretary as the notification date for the Adjudication Notice.

2. **Procedure and effect of the adjudication challenge**

All adjudication challenges must be filed before the Local Board within the ten (10) calendar days following the date certified by the Board Secretary as the day of the notification of the notice of adjudication. The challenge must be duly founded, or it will not be considered.

The challenge resource will paralyze the ulterior processes of the competition, and the subsequent terms will be counted as of the Local Board or the Mayors Board President's final decision. A copy of said challenge must be submitted by the Board to the person or entity that is challenging and to all the challenged proponents within the five (5) calendar days following its receipt.

If the proponent that presents the course of action were the contractor that has a current contract that will be replaced with the new proposed contract, the term of his contract will not be extended.

3. **Resolution of the Local Board and Notification**

The Local Board, in coordination with the Mayors Board, is obligated to resolve the challenge within the ten (10) calendar days following the receipt of such challenge, and may adopt one of the following resolutions:

- a. Dismiss the application and order that the continuation of the proceedings, or
- b. Revoke the adjudication and proceed to analyze and evaluate the other proposals for a new adjudication according to the provisions of this Public Policy and the Procedure for Evaluation of Proposals that may be adopted for the challenged competition.

A copy of the decision will be notified to the interested parties, the Mayors Board President, and the Local Area Executive Director. This notification of the Local Board Resolution must contain the reasons for which the challenge did not proceed and inform the proponent that if they disagree with the Board Resolution, they have a right to present a Judiciary Revision Resource before the Appellate Court of Puerto Rico in light of the Southeast Local Area Bid Regulation of November 24, 2003, Articles 1.050²

²Article 1.050 — The Court of First Instance and the Appellate Court (21 L.P.R.A. §7081) – The Appellate Court will revise the final agreement or adjudication of the Board, which will be notified in writing and through copy by certified and regular mail to the party or parties affected. The revision request will be submitted within a ten (10) jurisdictional day term counted as of the deposit in the mail of the notification copy of the final agreement or adjudication. The notification must include the affected party or parties' right to recur to the Appellate Circuit Court for the judicial revision; the term to appellate the decision; the date of filing of the copy of the notification, and as of what day will begin

and 2.040³ of Act Number 107 of August 14, 2020, known as the Municipal Code of Puerto Rico, as amended. This resource must be filed within the (10) day jurisdictional term counted as of the mailing of the notification copy of the final agreement or adjudication.

XI. TRANSPARENCY OF PROCEDURES – ABSENCE AND MANAGEMENT OF CONFLICT OF INTERESTS

1. The members of the Operational Committee of the One-Stop Center – American Job Center must:
 - a. Sign a Certification of Confidentiality and Absence of Conflict of Interest and must adhere to the same.
 - b. Not reveal voting, outcomes, discussions, and another information of the proposals to be considered.
 - c. Not participate in meetings with the proponents to discuss aspects with regards to the competition process.
 - d. If any clarification is required on the part of a proponent, it must be managed via the Operational Committee President or its designated person. This proceeding must be carried out within the twenty-four (24) hours following the request for information. The designated officer will notify the proponent the period of time allowed to answer the Committee concerns in order to avoid unnecessary delays of the process.
 - e. Maintain the proposals and all material related to the evaluation process in a safe and confidential form.
 - f. Review thoroughly the proposals in all its parts.
 - g. The evaluation criteria established in the Guide of Specifications for the Request for Proposals will be strictly used.

to count the term. The territorial competition will be that of the regional circuit that corresponds to the judicial region which that municipality belongs to.

³**Article 2.040 — Functions and Duties of the Board (21 L.P.R.A. § 7216)** – The Auction Board will notify unsuccessful proponents of the reasons why they were not awarded the auction. All adjudications must be notified to each of the proponents, warning them of the jurisdictional term of ten (10) days to request judicial revision of the adjudication before the Court of Appeals, in accordance with Article 1,050 of this Code.

5. Physical address of the One-Stop Center – American Job Center
6. One-Stop Center– American Job Center partners and a detailed description of the services that each partner offers
7. Requirements and conditions to receive services on the part of each partner
8. Outcomes of any survey conducted by or for the One-Stop Center – American Job Center
9. Notices on the days and operation hours of the One-Stop Center– American Job Center.

XIII. SEPARABILITY

If any provision of this Public Policy is challenged and in due course declared unconstitutional or void by a court of competent jurisdiction, all other provisions shall remain in full force and effect.

XIV. VALIDITY

This Public Policy will be in force immediately after its approval.

XV. APPROVAL AND DEROGATION

This Public Policy is approved today, April 12, 2023, in an ordinary meeting of the Executive Committee of the Southeast Local Board, which met the regulatory quorum. The approval of this Public Policy hereby rescinds any other Public Policy or previous ruling regarding the Competitive Selection Process of the One-Stop Center Operator – American Job Center.

(Signed)
Juan M. Méndez Rosa
Local Board President
Southeast Workforce Connection

(Signed)
José A. Lebrón Peña
Local Board Secretary
Southeast Workforce Connection