

PA Department of Labor & Industry
Workforce Investment Center
BUREAU OF WORKFORCE DEVELOPMENT PARTNERSHIP
WORKFORCE INVESTMENT INFORMATION NOTICE No. 3-05
June 20, 2006

TO: ALL LOCAL WORKFORCE INVESTMENT AREAS

FROM: JOHN C. VOGEL
Director
Bureau of Workforce Development Partnership

SUBJECT: Guidelines for the Competitive Procurement of Youth Services

INQUIRIES: Please direct any questions concerning this issuance to the Bureau of Workforce Development Partnership:

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1. **Purpose.** To provide guidance to LWIA Youth Program Operators, LWIBs and their Local Youth Councils regarding the competitive procurement of youth services.
2. **Reference.** The Workforce Investment Act of 1998, Section 123; the August 11, 2000 Federal Register, Final Rules, Section 664.405, Section 664.610, and Section 667.200 (a)(1) and (2); TEGL 9-00 – Competitive and Non-competitive Procedures for Providing Youth Activities Under Title I; TEGL 12-01 – Clarification of Selected Activities and Issues under the Workforce Investment Act; WIIN # 2-03, Change 1 – Revised LWIB staffing policy; OMB circular A-102 as codified at 29 CFR part 97 and OMB circular A-110 as codified at 29 CFR part 95; the State Plan, Appendix S, Contracts and Procurement, and the WIA Youth Program RFP guide (USDOL).
3. **Discussion.**

WIA REQUIREMENTS

The Workforce Investment Act at Section 123 states that in a Local Area, the Local Board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State Plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers in the Local Area.

Youth activities must include each of the ten (10) program elements listed in WIA

section 129(c)(2) within an LWIA. However, individual providers are not required to provide all ten of the mandatory youth elements. Although local programs must make these elements available, they do not have to be provided by the same provider. In the case of multi-county LWIAs, the ten elements do not have to be available in every county.

There are three exceptions to the requirements of competitive procurement:

- 1) The requirement does not apply to the design framework component, such as services for intake, objective assessment and the development of individual service strategy, **when the grant recipient or fiscal agent, which does not also provide services to the Local Board (LWIB), provides these services.** (WIA Sec. 664.405)
- 2) Providers of the summer employment opportunities component must be selected by awarding a grant or contract on a competitive basis, unless the grant recipient or the fiscal agent, **which does not also provide services to the Local Board (LWIB), administers this program element.** (WIA Sec. 664.610)
- 3) Given USDOL approval of the PA's waiver of the prohibition of ITAs for youth, ITAs would also be excluded from the competitive procurement requirement.

ORGANIZATIONAL STRUCTURE

Workforce Investment Information Notice (WIIN) No. 2-03 Change 1 (dated October 1, 2003) provides guidance concerning the Commonwealth's revised Local Workforce Investment Board staffing policy.

In this WIIN, the Commonwealth encourages Local Board and fiscal staff to be organized as a single entity that would have responsibility for all administrative functions, and would procure the provision of services to other agencies. If a Local Area is organized in this way, all youth services, including the ten mandatory elements and design framework services, must be competitively procured. If a Local Area is not structured in this manner, i.e. if the Local Board and fiscal staff are separate entities, design framework services and the summer employment activities can still only be done by the grant recipient/fiscal agent, if not competitively procured.

THE RFP PROCESS

The Request for Proposal (RFP) is the most common method of competitive procurement of youth services used by Local Areas. There are several resources available to Local Areas that provide guidance in procurement procedures, which are listed in the reference section of this WIIN.

The following resources provide particularly useful guidance in procurement and in the writing, issuing and evaluation of RFPs:

1. TEGl 9-00 – Competitive and Non-competitive Procedures for Providing Youth Activities Under Title I,

2. TEGL 12-01 – Clarification of Selected Activities and Issues under the Workforce Investment Act (WIA).
3. The WIA Youth Program RFP guide, which is posted on the USDOL/ETA website at: http://www.doleta.gov/youth_services/pdf/rfpguide.pdf (If link doesn't open, copy and paste to browser to open).

Following is the link to the DOL directives and memoranda page where TEGs and other resources can be downloaded: <http://wdr.doleta.gov/directives/>.

Local Areas may want to consider contracting beyond the typical 12-month period to address issues such as follow-up services. If the RFP were designed for the typical 12-month period, the following issues would need to be addressed:

- Will contractors be expected to continue follow-up services for the youth they enrolled after the termination date of their contract?
- Should post-contract follow-up costs be built into the original cost bid of the proposal?
- If the contract is not renewed (or the vendor does not compete in the next round of competitive bidding), can the contractor be held accountable for providing the follow-up services?

All local organizations that receive grants or cooperative agreements under WIA Title I must follow the common rule "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," which is codified at 29 CFR part 97, or "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," as codified at 29 CFR part 95.

As stated in the Workforce Investment Act, grant recipients must utilize a competitive process to procure youth services from subcontractors. The uniform administrative requirement for competitive procurement applies to recipients and all levels of subrecipients. If the organization offers services that have already been competitively procured to customers of a number of different programs, there would be no need to have a separate competition for the same services to youth participants. The only time that non-competitive procurement is appropriate is when the requirements for sole source found in 29 CFR 97.36(d) are met.

LOCAL BOARD RESPONSIBILITIES

Local boards shall have written procedures for procurement transactions. These procedures shall ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured.
- Identify all requirements that the bidder must fulfill and all other factors to be used in evaluating bids or proposals.
- Include a time line for the RFP process, including an appropriate amount of time for bidders to respond to the RFP.

- Are conducted in a manner providing full and open competition consistent with the standards of 29 CFR Sec. 97.36 and Sec. 95.41-47.
- Are publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- Are published in at least one local newspaper of general circulation.
- Hold a bidders conference so that all bidders are provided the same information in regard to the RFP and contracting procedures.

Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. Awards do not have to go to the lowest bidder.

Grantees and subgrantees must maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, list of bidders, contractor selection or rejection, and the basis for the contract price.

Grantees and subgrantees must retain all required records for three years after final payments and all other pending matters are closed.

If the RFP process does not receive any suitable responses from bidders, Local Areas may, as a last resort, utilize the sole source method of procuring youth services. Please keep in mind that sole source may be used only when all reasonable efforts have been made at competitive procurement and Local Areas document justification for using the sole source method.

4. **Action Required.** Local Workforce Investment Boards are requested to widely distribute copies of this issuance to appropriate parties, review LWIA procurement procedures, and immediately implement this guidance.
5. **Attachments.** None
6. **Expiration Date.** Ongoing.