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This workforce system policy, or WSP, provides guidance on the requirements for the selection of one-stop system (i.e., PA CareerLink®) Operator(s). This guidance reinforces the required elements (e.g., internal controls) of competitive procurement, includes examples of eligible entities that may serve as a PA CareerLink® system Operator (hereafter referred to as “Operator”), and identifies implications and conditions of selecting such entities.

1. Background. The Workforce Innovation and Opportunity Act, or WIOA, established the American Job Centers, or AJCs, system network to provide job seekers and employers streamlined access to an array of education, training and employment services, as well as the supportive services necessary to engage in those activities. PA CareerLink®—a proud partner of the AJC Network—is the cornerstone of Pennsylvania’s public workforce system. This one-stop service delivery system brings together key workforce, education, and other partners to offer seamless services to individuals seeking employment and other career and training services leading to new employment opportunities, and to employers looking for skilled workers to fill their job openings, as well as other business services. WIOA requires certain programs and agencies to support and participate in the PA CareerLink® delivery system.

PA CareerLink® Operators, selected by local workforce development boards, or local boards, assume the unique administrative responsibility within the PA CareerLink® system for coordinating the service delivery of one-stop partners and service providers. Local boards can also specify other roles for these Operators.

Through WIOA, the U.S. Congress envisioned an actual, not intangible, entity to represent the Operator given the important role it plays within the workforce development service delivery system. Under this Act, local boards are required to select Operators through a competitive procurement process. WIOA, its final rules, and federal guidance provide clarity to the Operator procurement process. Such clarification established that, consistent with their statutory roles and responsibilities, and to receive funds made available under WIOA title I, local boards must conduct an open and fair competitive procurement process to select an appropriate Operator. Local boards serve as a strategic entity to leverage resources and capacity; drive local workforce investment activity to achieve established performance goals; exercise fiscal integrity; and provide oversight of the local workforce development system.

The PA Department of Labor & Industry, or L&I, in collaboration with the Pennsylvania Workforce Development Board, or PA WDB, commonwealth agency partners and local workforce system stakeholders developed this policy. This policy was made available for review and comment by authorized administrators of WIOA partner programs and service providers.

2. References and Resources. Appendix A is a list of the references and resources used in the development of this policy. The resources listed herein provide additional information that may support implementation of this policy by the commonwealth's workforce system stakeholders.

3. Definitions. Appendix B is a list of definitions for terms used throughout this policy.

4. Who May be an Operator in the Local PA CareerLink® Service Delivery System.

- A. The Operator may be a single entity (public, private, or non-profit) or a consortium of entities.

If the consortium of entities is composed of PA CareerLink® partners, it must include a minimum of three (3) of the required partners in the local PA CareerLink® system. All entities that are party to the composition of the entity that will be designated as the Operator must be signatories to the contract with the local board.

- B. The Operator may operate one or more PA CareerLink® locations. There may be multiple local area Operators.

In a planning region (i.e., a region that is composed of two or more local areas), where there are multiple PA CareerLink® centers, the local chief elected officials, or CEO, and local boards that make up the region may consider a single Operator for the centers within the region. Provision must be made that a planning region MOU is accounted for that includes the planning region's combined one-stop partners. CEOs representing each of the local areas must be signatories of the Planning Region MOU and the Operator contract.

Note: Local area staff considering the option of a regional Operator must contact L&I at the earliest opportunity to discuss a timeline for system of record (or CWDS) changes.

- C. The types of entities that may be an Operator include:

- An institution of higher education
- A community-based organization
- A non-profit organization
- A workforce intermediary (e.g. quasi-governmental bodies such as a county commission)
- A government agency (e.g. state agency, local government entity)
- A for-profit entity (e.g. corporation, incorporated consultancy, agencies)
- A nontraditional public secondary school (e.g. a night school, adult school, or an area career and technical education school)
- Any interested organization that can carry out the duties of the Operator, to include nontraditional entities such as a chamber of commerce, an economic development corporation, or a labor organization

Note: Local workforce development boards, elementary schools and secondary schools are not eligible to be an Operator.

- D. Structural restrictions apply to any eligible entity (i.e., county entity, commission, or corporation) that has been, or will be, selected to perform more than one (1) of the following administrative or programmatic functions: local fiscal agent, staff to the local board, Operator, or direct provider of workforce-related services/activities. Where a structural issue may occur, local board staff may refer to L&I's Local Governance policy.

5. Roles, Responsibilities and Limitations of the Operator. Local boards have flexibility in defining the role(s) and responsibilities of their respective Operator(s). The Operator must fulfill the roles and responsibilities as outlined during the procurement and contracting processes. The role(s) and responsibilities of the Operator must be clearly articulated in the local area's Memorandum of Understanding, or MOU, so that each of the partners in the PA CareerLink® service delivery system is fully aware of the established role(s) and responsibilities. The local board must seek out and consider the PA CareerLink® system program partners and service providers feedback during the procurement planning phase to help the local board decide on the Operator proper role(s) and responsibilities. The role(s) and responsibilities of the Operator must fully comply with established internal controls and conflict of interest policies and procedures.

- A. **Required Role.** Operators are required to coordinate the delivery of partner program services in the local service delivery system, ensuring a seamless distribution of career services, training services, and other employment-related services provided by required and additional partner programs offered in the local area.

To help ensure the coordination of program services, the Operator is charged with the functional supervision of one-stop center operations. This may take the form of an on-site center manager (a.k.a., Site Administrator) or other means as determined effective; see “*Additional Role – Managing the day-to-day operations of PA CareerLink® centers*” for more information.

- B. **Additional Role(s).** Local boards may also specify additional roles, which may include coordinating services across multiple PA CareerLink® centers or entire workforce areas, functioning as a direct service provider, and managing the day-to-day operations of their PA CareerLink® centers.

- 1) **Service Provision.** The Operator may also be a service provider within the PA CareerLink® service delivery system. Pursuant to 20 CFR § 678.625, the appropriate internal controls within the Operator-service provider entity must be employed, as well as specific policies and procedures at the local board level regarding oversight, monitoring, and evaluations of performance must be followed. Additionally, an entity (or entities) serving as an Operator that also serves a different role within the local service delivery system, may perform some or all these functions when it is acting in its other role, if it has established sufficient internal controls and conflict of interest policies and procedures.

Any organization that has been, or will be, selected as the Operator and a direct provider of workforce-related services/activities must develop an agreement signed by all parties and attached to the final contract with the local board and CEO(s) to clarify how the organization will carry out its roles and responsibilities regarding these functions. The agreement must demonstrate compliance with WIOA and its corresponding regulations and guidance, relevant Office of Management & Budget, or OMB, circulars and other federal regulations, as well as L&I’s workforce system directives.

The local board must ensure appropriate internal controls and conflict of interest policies and procedures are in place. These policies and procedures must conform to the specifications in 20 CFR § 679.430 for demonstrating internal controls and preventing conflict of interest. The local board must also describe any such arrangement in its local plan (and regional plan if appropriate), as well as any modification to such plans. L&I will not approve plans that do not clearly demonstrate that appropriate internal controls and conflict of interest policies have been implemented. At a minimum, it is expected that the agreement’s operational elements will be incorporated in the MOU.

- 2) **Managing the day-to-day operations of PA CareerLink® centers.** The Operator is responsible for on-going and daily one-stop center operations. Duties must include but are not limited to: organize and coordinate all co-located partner staff by function in accordance with state personnel rules, collective bargaining agreements and state policy and guidance; establish a customer flow model that is customizable to the needs of individual customers; develop operational procedures and protocols that promote effective seamless service delivery ensuring that individual partner program performance and outcomes are not negatively impacted; communicate workforce system policy, directions and information according to communication protocol; and establish policies and procedures for situations such as inclement weather, holidays, breaks or time off, accounting for relevant policies that may not be consistent across the partners.

The Operator may designate a center manager for each comprehensive center, affiliated site or network of sites, and specialized center as appropriate. A center manager may be hired, selected from current partner staff, or by other alternative method to ensure functional supervision of day-to-day operations. A center manager may oversee multiple sites.

Unique to this policy, and applied to Operator staff that may include on-site center managers, the *Employer of Record* is an entity that serves as a solely administrative party between such an entity and the individual(s) it employs, wherein no functional or supervisory relationship in part or in whole exists within the relationship unless the entity is the procured Operator. The Operator, local board or other entities may be the on-site center manager’s employer of record.

If the one-stop center is assigned an on-site center manager then the Operator’s functional supervision role is assumed by the one-stop center manager; or if deemed required by the Operator and local board, a temporary on-site center manager assumes the functional supervision role. The individual serving as an on-site center manager must have the respect of the program partners. If a majority of the partners that are

party to the MOU deem the individual selected to be the on-site center manager unacceptable the local board and the Operator must mutually select another individual.

Note 1: Functional supervision does not supersede human resource provisions established by any staff(s) employer of record. (i.e. state employees must be governed by state personnel rules, collective bargaining agreements, and applicable state policy.)

Note 2: If a center manager is hired, the roles and responsibilities of the on-site center manager must not conflict with those of the Operator and must be fully delineated from those roles and responsibilities of the Operator proper. Such clarification must be provided in the procurement request, resulting contract and MOU.

- C. Responsibilities of the Operator.** The local board may assign any number of responsibilities to the Operator. Local boards should consider the following responsibilities (list is not exhaustive) when determining the scope and depth of the Operator's impact upon the workforce system.

Administration

- Utilizes WIOA and its regulations, state and local board-imposed policies or directives, and other applicable laws, regulations, rules or contracts to guide administrative efforts
- Is fully cognizant of and implements the negotiated local area MOU
- Develops and implements annual one-stop center operational plan
- Develops and maintains processes and procedures for one-stop center operations
- Negotiates with partners and service providers regarding their one-stop center roles, responsibilities, services and activities, staff complement and other operational particulars
- Ensures a high-quality customer service to program participants, stakeholders, and the general public
- Negotiates with one-stop partners and service providers regarding expenses related to space, occupancy, shared costs and other costs associated with the Operator and one-stop delivery system
- Familiar with the WIOA Combined State Plan, policies and directives
- Reviews and enacts the local board's WIOA local plan, policies and directives
- Helps ensure compliance with L&I's and local board's one-stop center certification criteria
- Helps ensure L&I's 'Discrimination Plan' is enacted and maintained, as well as ensuring that relevant equal opportunity and civil rights measures are enforced
- Recommends, maintains, and retires the one-stop center's technologic tools and services
- Provides the local board with programmatic and fiscal reports and information

Coordination

- Coordinates the provision of one-stop partner program core services as reflected in the MOU
- Establishes and maintains relationships with program partners and service providers to effect high degrees of partner collaboration; staff training and cross training, and program integration
- Serves as an intermediary or liaison for all the one-stop partners and service providers
- Encourages one-stop partner and service provider engagement
- Organizes and leads periodic one-stop partner and service provider meetings
- Attends individual one-stop partner and service provider meetings
- Knows and understands the programmatic parameters of each of the partners and service providers
- Knows and understands each partner's and provider's performance measurement goals
- Insures that an effective customer referral mechanism is in place and monitors usage
- Provides avenues of communication so that one-stop partners and services providers are informed of local board and other workforce development stakeholders' communiques or activities
- Communicates partner and service provider services and activities to the community
- Communicates local area stakeholder workforce development related community events

Managerial

- Supervises the local workforce service delivery system one-stop centers

- Plans, directs, reviews and provides oversight of one-stop center staff
- Maintains policies as outlined in a procedure manual and via state issued guidance
- Implements customer satisfaction measurement and feedback mechanisms
- Implements quality control and continuous improvement principles
- Seeks and remediates duplicated employment and training services and activities
- Plans and directs service delivery system and staff “capacity building”
- Monitors identified performance indicators and provides required performance reports

Public Relations

- Represents the local workforce development one-stop service delivery system to the community
- Communicates with education, economic development, and community-based stakeholders
- Gauges current employment and training service provision and interacts with the local area’s business community, employer base and job seeking populations to help define future demand

D. Limitations. The Operator may not perform the following functions: convene system stakeholders to assist in the development of the local plan; prepare and submit local plans; be responsible for oversight of itself or other Operators; manage or participate in the competitive selection process for the Operator; select or terminate an Operator, WIOA career services, and/or youth providers; negotiate local and/or regional performance accountability measures; or develop and submit an Operator budget, but may provide requested financial records to the local board.

7. Competitive Procurement. Procurement requirements and associated considerations have been collected together by L&I to provide local boards with guidance for the Operator procurement process, including federal mandated procurement practices, internal controls and conflict of interest considerations, key contract elements and administrative factors. (See Appendix C)

8. Evaluation. The Operator must be evaluated at least annually. Such evaluation must include, but is not limited to: contract provisions, participating partner surveys, other performance measures developed by the local board, and must be consistent with PA CareerLink® certification requirements.

9. Monitoring. Local boards are required to monitor its Operator(s). Monitoring includes an attestation by the monitoring entity that it has examined compliance with WIOA requirements and its corresponding regulations, relevant OMB circulars and the terms and conditions of the Operator contract. L&I may review such compliance.

10. Contact Entity. Requests and/or inquiries related to this guidance should be forwarded to the Pennsylvania Department of Labor & Industry, Bureau of Workforce Development Administration, or BWDA, via the following resource account: RA-LI-BWDA-Policy@pa.gov

Appendices.

Appendix A: References/Resources

Appendix B: Definitions

Appendix C: One-Stop Operator Procurement

Appendix A: References/Resources

- Public Law (Pub. L.) 113-128, Workforce Innovation and Opportunity Act (WIOA)
- 20 Code of Federal Regulations (CFR), WIOA Final Rules and Regulations
- 29 CFR Part 97, Procurement, Monitoring and Reporting Program Performance
- Office of Management and Budget, or OMB, circulars including 2 CFR Part 200 et al, known as the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*
- USDOL Employment and Training Administration's (ETA) Training and Employment Guidance Letter (TEGL) No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act*
- TEGL No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*
- TEGL No. 37-14, *Update on Complying with Nondiscrimination Requirements: Discrimination Based on Gender Identity, Gender Expression and Sex Stereotyping Are Prohibited Forms of Sex Discrimination in the Workforce Development System*
- TEGL No. 41-14, *Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) Title I Training Provider Eligibility Transition*
- TEGL No. 3-15, *Guidance on Services Provided Through the Adult and Dislocated Worker Program under Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for Transition to WIOA Services*
- TEGL No. 4-15, *Vision for the One-Stop Delivery System under the Workforce Innovation and Opportunity Act (WIOA)*
- TEGL No. 8-15, *Second Title I WIOA Youth Program Transition Guidance*
- TEGL No. 15-16, *Competitive Selection of One-Stop Operators*
- USDOL Employment and Training Administration's Training and Employment Notice (TEN) No. 1-15, *Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide*
- Pennsylvania Workforce System Policies

Appendix B: Definitions

Core programs are the partner programs found in WIOA title I (Adult, Dislocated Worker, and Youth); title II (Adult Basic Education and Literacy); title III (Wagner-Peyser); and title IV (Vocational Rehabilitation).

L&I is the Pennsylvania Department of Labor & Industry, which has been designated by the governor to serve as the state administrative entity/state workforce agency.

Firewall is type of internal control set within an organization to prevent conflict of interest situations while allowing for clear separation of duties between involved parties. Such firewall(s) serve as an ethical barrier between involved parties to prevent an exchange of information or communication that can lead to a conflict of interest or the perception of a conflict.

Government agency is taken to mean both “government” and “local government” as defined at 29 CFR 97.3.

Internal Controls are criteria established as a business practice, policy or procedure within an organization to create value while minimizing risk. These controls are set in a manner to ensure the organization operates in compliance with all applicable laws, regulations, policies, procedures and agreements.

Memorandum of Understanding (MOU) is a signed agreement, between the local board and the required and additional One-Stop partners, relative to the operation of the One-Stop system including a description of services, how the cost of the identified services and operating costs of the One-Stop system will be funded, methods for referrals, duration of memorandum and procedures for amendments.

Operator Evaluation is a mechanism that is developed and used to assess an Operator’s performance and keep the local board apprised of such performance. The annual Operator Evaluation must include, but is not limited to collecting and reviewing: contract provisions adherence; participating partner surveys, other performance measures developed by the local board, and be consistent with PA CareerLink® certification requirements.

Such evaluation could include examples of:

- Local one-stop center/system efficiency and effectiveness measures
- Measures associated with the performance of the local one-stop system partner programs
- Measures associated with the costs of the one-stop system; and
- Continuous improvement.

Pennsylvania CareerLink®/PA CareerLink® is the registered, trademarked name denoting Pennsylvania’s one-stop *workforce development service-delivery system*. The PA CareerLink® moniker is associated with locations where WIOA related programs can be accessed by customers; this includes comprehensive one-stop centers; affiliate sites or network of affiliated sites; specialized service locations, as well as all aspects of the online system used by partners, contractors, individuals and employers. Additionally, all one-stop centers or WIOA program service sites in America are denoted with the federal government’s common identifier “American Job Center”.

Participating Partner Survey is a document that allows each partner within an Operator’s purview to evaluate the efficiency and effectiveness of the Operator. The local board shall consider the survey results, at a minimum, whenever the Operator is being evaluated as described herein.

Pay for Performance (PFP) is a contract strategy that provides government funding streams for a fix amount to an eligible service provider based on achievement of a specified level of performance for target populations as identified by a local board in accordance with the performance accountability system established by WIOA Sec. 116(b)(2)(A).

Appendix C: One-Stop Operator Procurement

General. Local boards must competitively procure their workforce system Operator(s). Local boards must consider what is necessary to assure program partners and service providers are effectively served by the Operator(s), with special regard given to WIOA-identified core program partners input and ensuring consistency with a regional or local MOU(s), as applicable, the regional and local plan(s), and the PA CareerLink® system certification process and requirements. This appendix articulates procurement standards, process information, practices to be aware of and other considerations deemed essential for a successful Operator procurement.

Compliance. The process for competitively procuring Operators must comply with the principles of competitive procurement. The competitive procurement process must be engaged in such a way as to be conducted in a full and open competition; promote efficiency and effectiveness; assure regular consideration of Operator performance and costs; and to assure continuous improvement by evaluation of Operator performance. Local board procurement policy, procedure, process and practices must comply, and be consistent with, all applicable federal law, regulation (20 CFR §§ 678.600-635 and associated preamble), guidance, OMB circulars and the Uniform Guidance (2 CFR § 200.318-§ 200.326), as well as state law, policy and technical assistance regarding all stages of procurement activity including awarding of contracts and post-award activity for any federally-funded activity or program. It is highly recommended that readers review U. S. DOL Employment and Training Administration's (ETA) Training and Employment Guidance Letter (TEGL) No. 15-16 *Competitive Selection of the One-Stop Operator*.

Pennsylvania provides WIOA workforce system stakeholders with general procurement guidance within L&I's Workforce System Policy (WSP) No. 03-2015, *Financial Management Policy* and its attachment *Financial Management Guide*, or FMG. Local boards are requested to review the FMG chapter focused on procurement and use the information in concert with the following Operator-specific procurement standards, process, practices and other considerations.

Operator Procurement Process. The stages, or phases, of the procurement process are organized in the general order that each phase is addressed. The procurement process is described in detail at multiple federal-level resources such as WIOA and its regulations, the Uniform Guidance and 29 CFR Part 97. Another key reference is L&I's Workforce System Policy (WSP) No. 03-2015, Financial Management Policy and it's the attached FMG contains a chapter devoted to procurement.

- Planning Phase: may include identifying need, conducting research, determining key factors to base a procurement solicitation (e.g. RFP), developing evaluation and scoring factors, identifying scoring team and determining signatory authority.
- Release and Evaluation Phase: may include publicize solicitation, bidders conference, collect proposals, and evaluate and score proposals.
- Negotiation and Selection Phase: may include negotiation of Operator roles and responsibilities/performance levels/fair and reasonable profit/payment details/contract term including inclusion of option years, gain approval of authority(s) if applicable, make offer and obtain acceptance, protest process, certify/designate one-stop Operator and execute contract.
- Implementation Phase: may include post-award administration activities such as conducting oversight and monitoring, issue invoices, make payments, monitor performance and deliverables and evaluate/approve any contract modifications.
- Closeout Phase: may include reconciling costs/payments/performance goals with actual performance, secure/retain participant and financial records and prepare closeout documents.

Selected Operator Procurement Phase Elements.

- A. Procurement Planning Phase.** Local boards will conduct appropriate preparation prior to drafting an Operator(s) request for proposal or request for quotes. Staff should consider using one or more preparation methods to improve the likelihood of a successful procurement (see FMG for more information). Key documents/recording of preparation efforts, research results and conclusions drawn for federal or state inspection.

Key Factors to consider:

- *Local (and/or regional) workforce system operations vision.*
- *Roles and responsibilities.* The local board must determine the role(s) and responsibilities of the Operator (see section 5 of this policy). The local board should deconstruct, to the greatest extent possible, what the roles and responsibilities will entail; and break-down, by cost type, which responsibilities are administrative, and which are programmatic.
- *Internal Controls.* A description of the local board's plan to establish adequate internal controls, addressing, at a minimum, where firewalls will exist, with attention to firewalls relating to employer of record and governance-operations conflicts; and ensure every part of the procurement process is consistent with federal, state and local laws, regulations, policies and procedures. This process must in no way hinder free and open competition, create a disincentive to the provision of services to individuals with barriers to employment, or unfairly advantage one local workforce system partner or partner program over any other.
- *Local Board's code of conduct and conflicts of interest policy.*
- *Timeline.*
- *Budget.* Operator costs compose most of the procurement budget; and two elements that impact operator costs greatly are the Operator's roles and responsibilities.
- *Evaluation.* A description of the local board's plan to evaluate the Operator's performance.
- *Identify availability.* A description of efforts made to identify the availability of potential eligible entities with appropriate experience and capacity to satisfy the local board's requirements.
- *Entity Financial Fitness.* Eligible entities must meet appropriate incorporation requirements, demonstrate financial and fiscal accountability and provide proof of liability insurance.
- *Method of Procurement.* Determine best method based on key factors
- *Procurement processes and bid criteria.* A description of how the procurement will be conducted, to include the RFP announcement and notification process, selection criteria by which bids will be scored.

B. Methods of Procurement. Each local board must determine the appropriate method for procurement and follow proper procurement practices consistent with all applicable federal and state law, regulation, guidance, policy, and procedure regarding procurement, one-stop Operators, and awarding of contracts for any WIOA-related or federally-funded activity or program, and this policy.

TEGL No. 15-16 specifies that local boards may choose one of the following two (2) methods of procurement: *Sealed bids* or *competitive proposals*. It is a L&I general practice to favor the use of the competitive proposal method of procurement (2 CFR 200.320(D)) over the sealed bid method.

If a local board's *total projected budget* is less than the *Simplified Acquisition Threshold* (currently set at \$150,000), the local board may be eligible to employ the *small purchases* method of procurement to procure the local area system Operator(s). In the case of Operator procurement, *total projected budget* means the total value of the Operator contract as well as *potential contracts*. It is important to note that if the Operator procurement includes other WIOA program services being performed by the same entity that is performing as the operator then the value of those services is added to the Operator value to derive the *total projected budget*. "Potential contracts" means all contracts associated with the originating Operator procurement, whether the original contract is modified, extended or optioned. To be considered and pre-approved by L&I for the small-purchases method of procurement, the local board must provide documentation demonstrating procurement preparation efforts, including expected Operator roles and responsibilities and any other specifications developed regarding the procurement. Additionally, local boards utilizing this method of procurement must obtain at least three (3) written quotes from qualified bidders for the Operator selection to be considered valid. Board staff must contact BWDA's Director to discuss further details.

Where certain dire criteria are met, including multiple attempts to use a method of procurement that promotes full and open competition, the local board may apply to L&I for the right to employ the *sole source* method of procurement (no-competition) to select an Operator. The local board must contact BWDA's Director to discuss further details.

Operator Costs.

- WIOA mandates the competitive procurement of the one-stop operator and offers flexibility for funding the one-stop operator. Due to the nature of the roles and responsibilities associated with an operator, WIOA presumes there are costs associated with such an entity. Local boards have the flexibility to determine the funding source(s) to support the Operator (e.g., shared cost spread among all partners, local government general revenue, and/or philanthropic sources).
 - Costs associated with the system Operator(s) will be both administrative and programmatic in nature. The contractual agreement between the local board and the Operator must clearly identify the functions that are either administrative or programmatic regardless of the mechanism used in the procurement process. Additionally, such contracts must also include the funding source(s) that will be applied.
 - The regulations define administrative costs at 20 CFR 683.215(b) as the allocable portion of the costs associated with specific functions and not related to the “direct provision of workforce investment services, including services to participants and employers.” Such costs are subject to the administrative cost limits (i.e., 10 percent of the WIOA program’s annual program year allocation).
 - A local board cannot issue a request for proposal (RFP) or invitation for bid (IFB) that includes no funding, or only includes nominal funding. An RFP or IFB with no funding or nominal funding will restrict competition and will result in either no responses or a limited number of responses from entities already receiving Title I funds. Such an RFP or IFB would violate the prohibition on noncompetitive pricing practices under 2 CFR 200.319(a) and 29 CFR 97.36(c)(1)(iii).
 - The possibility of a purely ‘non-financial’ Operator does not exist; however, the local board may consider options to achieve the lowest operator cost possible given the goals and strategies the board desires to implement. Local boards control the cost of an entity serving in the capacity of an operator by determining the scope of the one-stop operator’s roles and responsibilities. A cost reduction strategy that may be used, in part, is the proposed employment of one-stop partner ‘in-kind’ contributions to help fund the operator.
- Local boards are required to develop a local MOU with each of the one-stop partners. The MOU addresses the services to be provided by each partner program, as well as the shared costs (including infrastructure costs) associated with providing such services through the PA CareerLink® service delivery system. The Operator(s) roles and responsibilities must be included within the local MOU. The MOU must include a general description of the cost associated with the Operator(s) and how such costs will be funded.
- Operator shared service costs must be allocated according to the proportion of benefit received by each of the partners, consistent with the Federal law authorizing the partner’s program, and consistent with all other applicable legal requirements, including Federal cost principles found in the Uniform Guidance or any corresponding similar regulation or ruling requiring that costs are reasonable, necessary, and allocable.
- The Operating Budget, a component of the local MOU, also known as the Resource Sharing Agreement Budget, or RSAB, articulates how the costs of the Operator(s) will be apportioned amongst partner parties to the MOU.
- Operator shared service costs must be periodically reconciled against actual costs incurred and adjusted accordingly. L&I will, from time-to-time, request source documentation, such as Operator personnel timesheets and travel receipts, to justify Operator shared service costs, which are to be identified on the quarterly RSAB-Financial Status Reports, or FSR.
- The responsibility of Operator procurement and evaluation is borne by the local board(s); as such, the local board is responsible for the costs incurred. Costs/expenses may derive from: procurement and evaluation processes, board staff salary and expenses, and third-party involvement in the procurement. Local board staff must provide L&I a detailed cost and price analysis to recoup any One-Stop Operator procurement costs.
- The entity that claims ‘employer of record’ status for employees assigned to and/or associated with the roles and responsibilities of the Operator(s) must assume the costs, expenses, and salary of the employee. Note: Costs, expenses, and salary of such employees are a shared cost within the local workforce delivery system.

Contracts.

- Local boards must select the one-stop Operator through a competitive process at least once every four (4) years. Local boards are encouraged to award an initial one (1) year contract, with an option to renew the duration, as well as other variables of the contract, up to a total of four (4) years.
- Local boards will be required to address each of the following Operator specific elements in the final contract as well as the local MOU:
 - Identify the entity/individual that will provide the Operator roles and responsibilities;
 - Identify the funding source(s) used for Operator personnel expenses;
 - List the roles and responsibilities of the Operator; and
 - Appropriate placement of internal controls/firewalls and how they will be enforced.
- All contracts or agreements between the Operator and the local board must include the essential elements of a legally executed and binding written agreement (i.e., Statement of Work, Authorized Officials and Purpose, and additional contractual terms and conditions). Local boards are to review both Federal and state guidance for further information regarding required contracts elements.
- Contracts must address the Operator evaluation and its key assessment elements such as the participating partner survey, statutory or regulatory requirements, L&I requirements, or any other requirements developed by the local board, or the Pennsylvania Workforce Development Board.
- Local boards considering performance-based (i.e., *pay for performance*) contracts must provide written communication of such interest to the L&I prior to issuance of the request for proposal. This communication must satisfy the requirements set forth at 20 CFR Part 683, Subpart E, *Performance-Based Contracting*, as well as Commonwealth financial policy.

Documentation and Record Keeping.

The local board, or its assignee, must retain and make available appropriate procurement process records and documentation. Federal and/or state reviewers must have access to documentation and associated records related to the actions taken to prepare for and execute each phase of the Operator procurement process.

Documentation is required for several steps in the procurement process and is key for ensuring transparency. WIOA regulation 20 CFR 678.605(d) requires the entities conducting the procurement to prepare written documentation explaining the determination concerning the nature of the competitive process to be followed in selecting the one-stop Operator(s). Further, Section 200.318(i) of the Uniform Guidance requires the maintenance of records enough to detail the history of a procurement. Such resources, as well as L&I's FMG, provide enough information to maintain the appropriate documentation of all procurement transactions.

Consistent with this policy, such record keeping must include documentation of the local board's establishment of model-specific internal controls, with specific regard to firewalls and mechanisms, that were established to prevent real or perceived conflicts of interest. L&I may review the local board's record keeping ensuring such controls are in place to prevent real or perceived conflicts of interest.

Operator Procurement Considerations.

- Local boards are required to have written policies and procedures. General and specific one-stop Operator procurement policy and procedures must be consistent with WIOA, the Uniform Guidance and other similar federal regulations, L&I's Financial policy and this policy. The procurement practices must be deemed to satisfy the parameters of an open and fair competition and free of conflicts of interest.
- Local boards must describe the expected roles, responsibilities and deliverables of the Operator in the procurement request, proposals, and resulting contract(s).

- The procurement requests, proposals, and resulting contract(s) between the local board and the entity or entities selected to serve as the system Operator(s) must describe the deliverables required of the system Operator(s) to demonstrate the efforts taken on behalf of all partners in the local system.
- Procurement practices such as ‘joint requests’ for procuring Operator(s) and WIOA title I-B service providers; use of the different methods of procurement; and detailing reasonable expectations, responsibilities, and deliverables in the procurement request are detailed within the FMG.
- Although local boards may issue joint requests for procuring the Operator, as well as WIOA title I-B services provider(s), L&I highly recommends separate procurement transactions.
- If a joint procurement transaction is elected and that transaction results in the selection of one entity serving as both the Operator and a provider of WIOA title I-B services, then the local board must award separate contracts for each of the services to be provided (i.e., one contract for each Operator(s) and different contracts for any provider(s) of services).