

# Application Guide for Module 3A: Competitive Procurement I – Workforce Procurement Introduction, Standards & the LWDB’s Role in Procurement

## Using this Guide

As you go through this training, you will see these icons which indicate a prompt for reflection. You can:



1. Pause the training and do the prompt, OR
2. Complete the training and then go through the guide.

You can then address specific questions through the Technical Assistance provided by Workforce Innovation and Opportunity Act (WIOA) subject matter experts.

- Or scan the QR code:



## Importance of Competitive Procurement Reflections:

- Why is competitive procurement important?
- What benefits does a competitive procurement process afford an LWDB?

## General Procurement Policies & Procedures Checklist

- Use the question checklist below to review your current procurement policy and procedures to ensure compliance with WIOA procurement standards.
  - What policies and procedures does your LWDB have in written form?
  - How do you promote full and open competition in your policies and procedures?
  - What written standards are in place regarding ethical practices and conflicts of interest? How do you ensure that these firewalls are followed in your procurement process?
  - How do you ensure that your competitive procurement process is transparent and publicly available to external stakeholders (in accordance with the Sunshine provision)?
  - What policies are in place regarding when and how noncompetitive procurement may take place?
  - How do you record the process and results of each competitive procurement?




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## Reflecting on Governance Roles Involved in Procurement:

- What are the roles and responsibilities of various local governance stakeholders in your competitive procurement process?
- Are there opportunities to leverage any of these stakeholders in additional ways?
  - Chief Elected Official (CEO)
  
  - Local Workforce Development Board (LWDB)
  
  - Fiscal Agent
  
  - LWDB Hired Staff
  
  - LWDB Committees (*NJ Required Ones: Youth, Disability, One Stop, Literacy, and Fiscal, which may be a part of the Executive Committee. NJ Optional Committees: Executive, Business Services, Outreach, Operations, and Planning [Local Plan Development]*)

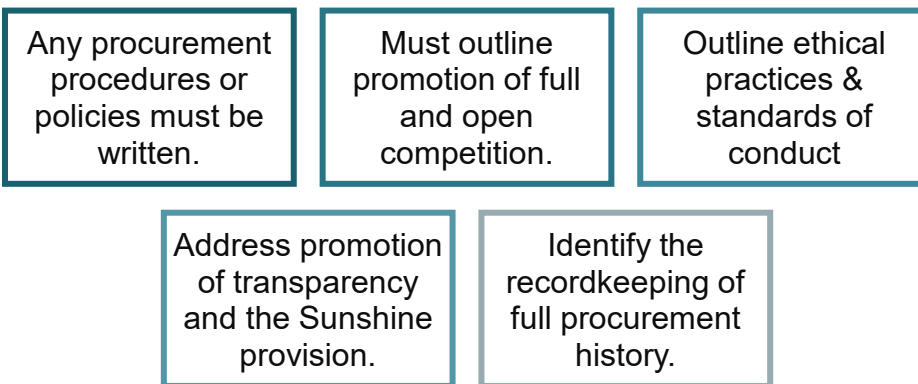
## References/Resources for this module:

- Each resource is hyperlinked. Please be sure to use the search bar or find feature when reviewing the Uniform Guidance or WIOA Final Joint Rule & Law in order access the referenced material easily. There are also appendices available for further information.

<a href="#"><u>US DOL TEGL 4-15: Vision for the One Stop Delivery System under WIOA</u></a>	<a href="#"><u>US DOL TEGL 16-16: One-Stop Operations Guidance for the American Job Center Network</u></a>	<a href="#"><u>New Jersey Combined WIOA State Plan PYS 22-23</u></a>
<a href="#"><u>NJWIN 21-16 (A): Competitive Selection of One Stop Operators</u></a>	<a href="#"><u>NJWIN WD-PY21-6: Local Governance under WIOA</u></a>	<a href="#"><u>US DOL TEGL 15-16: Competitive Selection of One-Stop Operators</u></a>
<a href="#"><u>Uniform Guidance 2 CFR Part 200, 2 CFR 200.319-320, &amp; 2 CFR 2900</u></a>	<a href="#"><u>Uniform Guidance: 20 CFR 679.370 (I)</u></a>	<a href="#"><u>WIOA Final Joint Rule, Section 678.600, and WIOA law, Section 121</u></a>



## Appendix A: WIOA Procurement Policies & Procedures



### 1. Any procurement procedures or policies must be written:

- a. The WIOA regulations require that there are written documentation and written procurement policies and procedures on the competitive procurement process. These written policies and procedures must be consistent with the Uniform Guidance and ideally include a timetable. And lastly, these written policies and procedures must address the settlement of any contractual or administrative issues that may arise out of a procurement, and may also include the steps one would take in addressing any protest, appeals, or disputes. Additionally, written policies should address how payments or invoices will be processed to ensure that they're timely as well as the closeout of the contracts with the provider of services.

### 2. Must outline promotion of full and open competition:

- a. All procurement transactions of any federal award or using federal funds must be conducted in a manner that promotes full and open competition. As indicated earlier, all these procedures must be in written format, so they should be part of your procurement handbook, your purchasing handbook, or in some other standard operating procedure. These procedures should also outline the phases of a procurement process. The process must be transparent so as to avoid or restrict competition. And like all federal costs, entities performing a competitive procurement must ensure that the proposed costs that are contained in its bid or proposal are always reasonable, necessary, and allocable. There are additional mechanisms that the states and local boards can put in place to also ensure full and open competition. States and local boards may opt to retain an outside organization to conduct an objective review of the proposals. This may include asking for participation from state and local purchasing offices or other public entities that offer capacity and expertise related to procurement that do not have relationship to operational entities under review. The WIOA regulations also require that the competition must be documented, and so that must include the factors that will be used to rate or score the proposals or bids. Documentation is key to ensuring that there is transparency in the competitive process. If the organization conducting the competitive procurement determines that

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there were defects in the process, the organization must recompet. Some examples of some defects may be:

- i. that the formal advertising of the solicitation or the procurement opportunity was not widely disseminated to attract a reasonable number of potential bidders;
- ii. or the timeframe was not sufficient in allowing bidders or proposers to submit a complete and accurate proposal.

### 3. Outline ethical practices & standards of conduct:

- a. Persons that are responsible for using public funds are expected to maintain ethical integrity standards when conducting procurement actions. Under the Uniform Guidance, the local board must have written standards of conduct that must address the following:
  - i. Conflicts of interest that may be real, apparent, or organizational conflicts of interest. Policies and procedures in place to recuse an individual or organization that may have a possible conflict of interest. Typically, these are conflicts of interest of financial disclosure statements made available or on file of any person who's participating in that procurement process.
  - ii. Any written standards of conduct policies must identify the use of firewalls to mitigate any conflict of interest when an entity wants to perform more than one function or role.
  - iii. Procedures on how to keep information regarding the competitive pricing of proposals must be secured and they must be maintained in a confidential manner. This is done in order to prevent one bidder from having an unfair advantage from another.

### 4. Address promotion of transparency and the Sunshine provision:

- a. The entire procurement process must be performed under a process that promotes transparency and responsibility from the very first phase – the planning phase to the closeout phase. US DOL interprets the WIOA sunshine provisions to require that information, selection, and certification of the One-Stop operator be made available to the public on a regular basis and to auditors and federal reviewers. This section also provides an opportunity for the public to comment and participate in the process. The information that local boards are required to make available to the public include but are not limited to:
  - i. A copy of the local board's conflict of interest or standards of conduct policy
  - ii. Their written purchasing or procurement policies
  - iii. A copy of the actual solicitation, whether it's a request for proposal or invitation for bid
  - iv. A listing of all the organizations that have submitted bids or proposals
  - v. An abstract of those bids or proposals.
  - vi. The board meeting minutes in which the decision on the selection and certification was made must be available.
  - vii. The identification of who actually was selected as the provider must be made available
  - viii. The total award amount and duration of that contract between that organization and the One-Stop operator must also be made available.




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**5. Identify the recordkeeping of full procurement history:**

- a. For all procurement actions from beginning to end, documentation is key in order to ensure that the procurement process is transparent and objective. All organizations must maintain files in accordance with the WIOA regulations, including what factors were used in the selection of provider(s). State and local boards must maintain records to detail the history of the procurement. These records must include but are not limited to the following:
  - i. Copies of the proposal or bids
  - ii. Ratings of each of the proposals
  - iii. The rationale for the method of procurement must be described or maintained – and that would determine whether or not you're using a RFP or invitation for bid
  - iv. Documentation to justify the selection or rejection of proposals and bids
  - v. Documentation outlining the steps to submit an appeal and resolve an appeal or dispute
  - vi. Justification for the contract price.
- b. The record retention requirements as specified in the Uniform Guidance are typically three years from the date of the submission of the last final expenditure report. And also, if there are any existing disputes or complaints, that three-year timeclock would be extended until the resolution of that has been completed. The Uniform Guidance requires that the history of the procurements be maintained.

*To review the policies referenced above in their entirety, please click on the link below to access TEGL 15-16 and Uniform Guidance, by querying it by 2 CFR 200 or 2 CFR 2900.*

[US DOL TEGL 15-16:  
Competitive Selection  
of One-Stop Operators](#)

[Uniform Guidance 2  
CFR Part 200, 2 CFR  
200.319-320, & 2 CFR  
2900](#)




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## Appendix B: Youth Procurement Criteria

*The State Employment and Training Commission (SETC) established these 10 criteria which must be incorporated into the evaluation of youth service programs during procurement:*

1. The program will have a record of demonstrated effectiveness.
2. The program will not discriminate in any way and will be in full compliance with the Americans with Disabilities Act.
3. The provider must have the capacity to identify issues that are hindering youth from succeeding in the program and recommend the appropriate support services.
4. The provider must be able to detail how linkages between community, academic, occupational learning, and work experience will be used to enhance the youth development and employability. They should also demonstrate the involvement of the business/employer community.
5. The program will maintain a close working relationship with the local One-Stop Career Center.
6. Programs with certifications or licenses as a goal will make arrangements for participants to test for and obtain certification or license.
7. Any program offering summer employment opportunities must be linked to academic and occupational learning as a complement to overall year-round program goals. Summer employment opportunities operated as a stand-alone Summer Youth Program are specifically prohibited.
8. The provider must establish specific timeframes for evaluation of participant performance, attendance and progress, including level of academic performance, vocational abilities/skills, aptitudes, and interests.
9. The provider must identify process and strategies to be used to ensure that participants receive planned services and reach planned goals and what corrective actions will be available for participants who are not meeting the requirement of each activity or goals. The provider must detail the internal systems that will be used to report and monitor programmatic and fiscal activities.
10. The provider must permit federal, state, and local area staff and designated agents to conduct regular monitoring activities, including communication with customers and contractor staff at instructional sites.

*To review the policy in its entirety, please click on the link below to access New Jersey Combined WIOA State Plan PYS 22-23, specifically, pages 158-159.*

[New Jersey Combined  
WIOA State Plan PYS  
22-23](#)



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