

SUBJECT: Procurement Under the Workforce Investment Act

EFFECTIVE: June 16, 2004

**Purpose:** To provide Local Workforce Investment Boards (LWIBS) and other interested parties with policy and guidance regarding issues relating to procurement under the Workforce Investment Act (WIA) (the Act), its accompanying regulations, and other applicable laws and regulations.

**Reference:** WIA § 117(f)(1), 121(c)(1) and (2), 121(d)(2)(A), 123, 134(d)(4)(G), and 181(e); 20 CFR 661.310, 661.350, 662.410, and 663.430; 29 CFR Parts 95 and 97; OMB Circulars A-87 and A-122

**Background:** The WIA places certain requirements on recipients of WIA funding in terms of procurement using such funds. This policy provides certain information relating to procurement under the WIA.

**Policy:** This policy is applicable to the procurement of goods and services with funds provided under the WIA. Of course, there are also other applicable sources of principles, rules, and regulations related to procurement with which LWIBs and other subrecipients must be familiar. For instance, entities and organizations that are part of local government must comply with the procurement requirements of 29 CFR Part 97, while institutions of higher education, hospitals, non-profit organizations, and commercial organizations must comply with the procurement requirements of 29 CFR Part 95. Governmental entities and other organizations subject to more restrictive state or local procurement thresholds and requirements must continue to comply with the more restrictive policy. Additionally, OMB Circular A-87 establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts and other agreements with state and local governments and federally recognized Native American tribal governments, while OMB Circular A-122 establishes principles for determining costs of grants, contracts, and other agreements with non-profit organizations.

In addition to the general principles outlined above, LWIBs should adhere to the principles set forth in the applicable sections of the Act and its accompanying regulations regarding such issues as the selection of One-stop operators, awarding contracts under WIA Title I adult and dislocated worker funding provisions, and the awarding of contracts for youth services under Title I.

LWIBs have and shall continue to include a description of the competitive process to be used to award grants and contracts for activities under Title I of WIA, including the process to be used to procure training services that are made as exceptions to the Individual Training Account (ITA) process.

LWIBs will select One-Stop operators through designation or certification through a competitive bid process, or under an agreement between the LWIB and a consortium of entities that includes at least three or more of the required One-stop partners.

WIA training services for adults and dislocated workers are primarily financed and provided through the use of ITAs except under the three conditions described in WIA Section 134 (d)(4)(G)(ii) and 20 CFR 663.430(a). LWIBs may only provide training services if they receive a waiver from the Governor and meet any other requirements set forth in the Act and its regulations.

Funds allocated on a formula basis to LWIBs for youth activities are to be awarded on a competitive basis. The LWIB (through its Youth Council) shall identify eligible providers of youth activities and

award grants or contracts on a competitive basis based on the recommendations of the Youth Council and on any criteria contained in the State Plan The LWIB shall also conduct oversight with respect to the providers awarded such contracts.

Finally, LWIBs must be aware of limitations based on WIA during the procurement process. For example, WIA places restrictions on the use of funds for items including but not limited to economic development activities, investment in revolving loan funds, and foreign travel.

This policy should not be construed to specifically address all procurement-related issues. The policy merely provides basic information and addresses certain procurement matters relating to the operation of the LWIB.

**Action:** LWIBs should take whatever action is necessary to comply with this policy. This policy should be placed with other policies promulgated by the GWID and /or its predecessors in the binder or other filing mechanism used to maintain an updated collection of state policy issuances.

**Questions:** Contact the Governor's Workforce Investment Division, 1900 Kanawha Blvd. East, Building 6, Room B-617, Charleston, WV 25305. Toll free telephone number is 877-967-5498.

**Expiration:** Effective until rescinded by the West Virginia Workforce Investment Council.