

WIOA Statutory and/or Regulatory Requirements to be Waived One-Stop Career Center Operator Procurement

Waiver Authority and Process

WIOA §189(i)(3)(B) and the regulations at 20CFR 679.620 provide waiver authorization to the U.S. Secretary of Labor (Secretary); accordingly, the Secretary may approve a general waiver of statutory or regulatory requirements under WIOA.

States may submit waiver requests as part of the State Plan or as a separate request and must ensure the opportunity for meaningful public comment, including comment by business and organized labor. The Secretary will issue a decision on a waiver request within 90 days following receipt of the request. The waiver decision letter from the Department of Labor's Employment and Training Administration serves as a Memorandum of Understanding.

Massachusetts Waiver Request

The Commonwealth of Massachusetts is seeking a waiver from the requirements outlined in the WIOA at Sections 121(d) and 20 CFR Part 678.605, which requires selection of a one-stop operator through a competitive process every four (4) years.

The Executive Office of Labor and Workforce Development, MassHire Department of Career Services understands the Department of Labor's premise that competition ultimately may lead to better services and outcomes for customers.

Massachusetts' experience from the initial WIOA-required procurement process and resultant new operator selection demonstrates that such procurement also results in high monetary cost to local systems, potential for significant disruption in and/or stoppage to services in a local area and necessitate re-procurement and/or work-around models in order to provide a continuum of services in certain local areas.

In addition, the procurement of new operators adds a cost burden of training new operators and new staff and causes a regression in service quality, augmentation in staffing costs related to new hires, high rates of initial turnover and hours of repeat re-work due to new staff inexperience. As such, a procurement every four years is viewed as excessive for local workforce areas with consistent, documented, quality performance and operation.

With this waiver request, Massachusetts seeks authorization to implement standards that permit the state to waive one stop operator procurement for certain local areas that meet specific criteria. Such procurement would be waived in accordance with one of the two following options:

1. For one cycle (4 years) dependent on demonstrated programmatic and fiscal performance and accountability of the current local operator; or
2. Local areas would be required to conduct a procurement only when warranted based on local operator programmatic and fiscal performance and accountability.

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MassHire implemented a rigorous system of career center certification beginning July 2018. Through certification, examination of performance and fiscal accountability and evidence of demonstrated process improvements, EOLWD/MDCS will ascertain that standards are being upheld and waive the procurement for each area that meets all standards. This process will accomplish greater service consistency, enable current operators to build upon improvements and support augmentation of staff skill-building and experience.

Background

Massachusetts faced several challenges while working to implement the WIOA requirements, which include:

- Disruption to the workforce system
- Diversion of resources away from delivery of services
- Delays in service due to inexperienced staff as well as staff and management time dedicated to necessary training sessions
- CEOs who have liability for funding who are unable to choose the best solution for their local area
- Failed procurements, resulting in the need for “skeleton” merit-based staff to deliver all services to all customers while a new procurement is conducted
- Excessive staff turnover while a new operator establishes its model
- Flaws in new operator service delivery systems
- Inability of local boards to provide adequate oversight, guidance and assistance to the transition

The Executive Office of Labor and Workforce Development (EOLWD)/MassHire Department of Career Services (MDCS) provided extensive written and in-person guidance in advance of and during the procurement process. MDCS central office management personally visited each of the 16 MassHire workforce areas to deliver individualized guidance to the local procurement teams and separately, to the current operators related to procurement firewalls and best practices. Guidance was individualized, based upon local area fiscal/operational models and tailored to local situations.

Despite these efforts, four of the sixteen MassHire workforce areas experienced procurement failures (Greater New Bedford, Metro North, Metro South-West and North Central) resulting in re-procurement, operator turnover and/or service disruption incurring excessive cost, which diverted funds away from customer service.

In the local areas where procurement outcomes resulted in new operators, MDCS deployed training teams to deliver a series of training sessions to management and staff.

Fourteen MDCS staff delivered 69 training sessions, representing approximately 470 staff hours over a period of 3 months on topics related to program operations, performance management, and services to jobseeker and business customers.

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Training topics included:

- BizWorks Business Service Staff Training
- Career Center Seminar Training
- Complaint Policy
- Career Planning
- Labor Market Information 101
- Labor Market Information for Managers
- MassHire Department Career Services /Department Transitional Assistance Cross Training
- MassHire Department of Career Services and Senior Service Community Employment Program Cross Training
- MOSES 101
- MOSES Management Session
- Migrant Seasonal Farm Worker/Complaints/Foreign Labor
- Multilingual Services
- Performance Reports for Board Management
- RESEA Training Sessions
- TRADE program training
- U.I Navigation for Staff
- Veteran Program Training
- WIOA Plan at a Glance
- WIOA Title I/Adult Dislocated
- Work keys
- Worker Participation Program
- Work Opportunity Tax Credits

A positive response to this waiver request would (1) permit the aforementioned 4 areas to stabilize (provided they meet the criteria), as opposed to incurring further excessive costs on another imminent procurement and (2) permit the other local areas, whose one-stop operators meet the established criteria, to progress on their continuum of increased quality in service delivery and to continue to recover from the expense of the 2016 procurement, as opposed to adding a new fiscal burden. Any local area with a one-stop operator that does not meet the criteria will be required to conduct a new procurement.

Actions Undertaken to Remove State or Local Statutory or Regulatory Barriers

There are currently no state or local statutory or regulatory barriers to implementing the requested waiver. The Commonwealth of Massachusetts regulations and policy statements are in compliance with current federal law.

Waiver Goals and Outcomes

With approval of this waiver, the Commonwealth is confident that it will accomplish a system of increased quality and accountability for the operation of the MassHire Career Center system.

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Goals and outcomes related to this waiver request include:

- Reduced costs and burdens placed on the MassHire one-stop delivery system
- State Workforce Agency (SWA) time and cost savings through a reduction in the number of local areas required to conduct One-Stop Operator procurement in a given year
- Reduced disruption to the existing workforce system
- Ensure stability, continuity and increased quality in customer (jobseeker and employer) services by enabling the One-Stop Operators who meet waiver criteria to continue operations rather than divert resources (human and capital) to RFP response

Individuals Impacted by the Waiver

This waiver will allow for management and staff to focus on serving customers efficiently and effectively with the highest level of funds and resources and without disruption.

Monitoring Progress and Implementation

Annual WIOA on-site programmatic reviews will include an evaluation of how this and any other waiver affects local programs and service delivery to ensure programmatic goals and outcomes are being met, and service delivery is of the highest quality.

State Workforce Agency (SWA) staff involved with the procurement process will periodically examine the appropriateness and the effectiveness of this waiver. This strategy ensures that the goals described above, as well as those outlined in the Commonwealth's WIOA Combined Plan, are consistent with established objectives of the WIOA and federal and state regulations.

Notice to Local Boards and Public Comment

In accordance with the WIOA Regulations at 20 CFR 676.135, Massachusetts' waiver request was introduced at a statewide Operations Meeting on June 5th, where workforce system stakeholders provided input into waiver content. The draft waiver request has been posted in the Mass.gov website for comment and review by required parties and the general public.