

## **SELECTION OF AJCC OPERATORS AND CAREER SERVICES PROVIDERS**

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### **GENERAL INSTRUCTIONS**

The attached directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email or mail no later than Friday, October 21, 2016.

All comments received within the comment period will be considered before issuing the final directive. Commenters will not be responded to individually. Rather, a summary of comments will be included with the final directive.

**Comments received after the specified due date will not be considered.**

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**Email**      [MelissaM.Williams@edd.ca.gov](mailto:MelissaM.Williams@edd.ca.gov)

Include "Draft Directive Comments" in the e-mail subject line.

**Mail**      Employment Development Department  
Attn.: Melissa Williams/Policy Unit  
P.O. Box 826880 / MIC 50  
Sacramento, CA 94280-0001

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If you have any questions, contact Melissa Williams at 916-654-0205.

## SELECTION OF AJCC OPERATORS AND CAREER SERVICES PROVIDERS

### EXECUTIVE SUMMARY

This policy provides guidance and establishes the procedures regarding the selection of America's Job Center of California<sup>SM</sup> (AJCC) Operators and Workforce Innovation and Opportunity Act (WIOA) Title I Adult and Dislocated Worker Career Services Providers. This policy applies to all Local Workforce Development Boards (Local Boards), and is effective on date of issuance.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic*** type.

Retain this directive until further notice.

### REFERENCES

- WIOA (Public Law 113-128)
- Title 2 Code of Federal Regulations (CFR) Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- Title 2 CFR Part 2900: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Department of Labor Exceptions)
- Title 20 *Code of Federal Regulations* (CFR) Workforce Innovation and Opportunity Act; Final Rule (WIOA DOL Final Rule)
- Title 34 *Code of Federal Regulations* (CFR) WIOA, Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions (WIOA Joint Final Rule)
- United States Government Accountability Office (GAO) Publication GAO-14-704G: Standards for Internal Control in the Federal Government (September 10, 2014)

### BACKGROUND

America's Job Center of California<sup>SM</sup> (AJCC) locations are the core of California's workforce system. The AJCC Operators and Title I Adult and Dislocated Worker Career Services Providers play a critical role in ensuring that AJCCs are serving as an all-inclusive access point to education and training programs for a wide range of customers.

Local Boards must conduct an open and competitive process in order to select their AJCC Operators as stated in WIOA Section 121(d)(2)(A). Although not required, Local Boards are also strongly encouraged to use a competitive process to select their Adult and Dislocated Worker Career Services Providers as stated in WIOA Section 107(d)(10)(D). Undergoing a competitive process promotes efficiency and effectiveness of the AJCC Operator and Adult and Dislocated Worker Career Services Providers by regularly examining performance and costs.

## POLICY AND PROCEDURES

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The AJCC Operators and the Adult and Dislocated Worker Career Services Providers fulfill two distinct and separate roles within the local AJCC system. These roles may be filled by the same entity or different entities based on what the Local Board determines best for meeting the needs of its customers and demographic area, but, these must be clearly articulated as part of the competitive procurement and selection process.

In California, AJCC Operators are only responsible for coordinating service delivery among all AJCC partners and service providers within the Local Workforce Development Area (Local Area). By having the AJCC Operator act as the local service delivery coordinator, it allows Local Boards to focus on strategic planning and developing partnerships at the local and regional level.

### Roles and Responsibilities

The role of the AJCC Operator is limited to:

- Coordinating the service delivery of required AJCC partners and service providers.
- Ensuring the implementation of partner responsibilities and contributions agreed upon in Memorandums of Understanding - Phase I and Phase II.

The role of the Adult and Dislocated Worker Career Services Provider includes:

- Providing basic career services including but not limited to participant intake, orientations, initial assessments, employment services, referrals to other partners and services.
- Providing individualized career services including but not limited to comprehensive and specialized assessments, case management, individual employment plans, career planning, and vocational counseling.
- Managing the daily operations in coordination with local fiscal agents for the lease, utilities, and other property activities in support of AJCC premises.
- Managing the hours of operation for AJCCs.

The responsibilities of both the AJCC Operator and Adult and Dislocated Worker Career Services Provider include:

- Reporting to Local Boards on operations, performance, and continuous improvement recommendations.
- Implementing policies established by Local Boards.
- Adhering to all applicable federal and state guidance.

To further support regional planning efforts, Local Boards may also choose to regionally select an AJCC Operator or Adult and Dislocated Worker Career Services Provider if operational conditions make it feasible. Selecting one AJCC Operator or Adult and Dislocated Worker Career Services Provider for all of the Local Boards in a Regional Planning Unit may help align, coordinate, and integrate programs and services on a regional basis. However, please note that there are certain restrictions Local Boards must adhere to when defining the AJCC Operator role. Within the defined roles and responsibilities, the AJCC Operator may not perform any of the following:

- Convene system stakeholders to assist in the development of the local plan.
- Prepare and submit local plans.
- Be responsible for oversight of itself.
- Manage or significantly participate in the competitive selection process for AJCC operators.
- Select or terminate AJCC Operators, Adult and Dislocated Worker Career Services Providers, and Youth Service Providers.
- Negotiate local performance accountability measures.
- Develop and submit budget for activities of the Local Board in the Local Area.

If the entity serving as the AJCC Operator also serves in a different capacity within the AJCC service delivery system (e.g. Local Board support), it may perform some or all of the functions listed above only when acting in its other role as long as there are clearly established firewalls and conflict of interest policies and procedures in place that conform with Title 20 CFR Section 679.430 (Title 20 CFR Section 678.620).

## Definitions

For the purposes of this directive, the following definitions apply:

*Conflict of Interest* – An employee, officer, agent, or any member of the organization that has interest in a financial gain or tangible benefit and who participates in the selection, award, or administration of a contract supported by a federal award (Uniform Guidance Section 200.318[c][1]).

*Firewall* – An established policy or procedure that acts as a barrier or protection against an undesirable influence, outcome, or authority. Examples of firewalls include but are not limited to organizational arrangements that provide clear separation of duties and responsibilities, reporting hierarchy of managers and staff that provide clear separation between job duties and responsibilities, and conflict of interest/confidentiality/disclosure agreements.

*Administrative entity* – a unit of local government, corporation, or agency designated by a Chief Elected Official (CEO) to oversee and administer WIOA in the Local Area.

*Internal Control* – A process designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations.
- Reliability of reporting for internal and external use.

- Compliance with applicable laws and regulations.

(Uniform Guidance Section 200.61)

### **Competitive Process for Selection of AJCC Operator**

Local Boards must select their AJCC Operator through a competitive process at least once every four years (WIOA Section 121[d][2][A]). As part of that competitive process, Local Boards are required to clearly articulate the expected role(s) and responsibilities of the AJCC Operator (Title 20 CFR Section 678.620[a]).

AJCC Operators may be a single public, private, or non-profit entity or consortium of entities. However, if a consortium of entities consists of AJCC partners, it must include a minimum of three of the required AJCC partners listed in WIOA Section 121(b)(1).

The types of entities eligible to be an AJCC Operator include (WIOA Section 121[d][2][B]):

- An institution of higher education
- An employment service state agency established under the Wagner-Peyser Act
- A community-based organization, nonprofit organization, or workforce intermediary
- A private for-profit entity
- A government agency
- Another interested organization or entity, which may include a local chamber of commerce or other business organization, or a labor organization

Local Boards must ensure that, in carrying out WIOA programs and activities, AJCC Operators adhere to the following (Title 20 CFR Section 678.600):

- Disclose any potential conflicts of interest arising from the relations of the AJCC operator with particular training service providers or other service providers in accordance with Uniform Guidance Section 200.318.
- Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training, and education services.
- Comply with federal regulations and procurement policies relating to the calculation and use of profits as outlined in Uniform Guidance.
- Adhere to any applicable firewalls or internal controls.

When selecting an AJCC Operator, Local Boards are required to fully adhere to the federal procurement standards outlined in Uniform Guidance Section 200.318-200.326, as well as their local procurement policies.

Although the intent of WIOA is for all Local Boards to procure their AJCC Operators through a full and open competitive process, the Uniform Guidance allows for very limited instances in which alternate procurement methods may be allowed, if substantial justification is provided.

The following are allowable procurement processes under Uniform Guidance:

1. Sealed Bid - Uniform Guidance Section 200.320(c)
2. Competitive Proposals - Uniform Guidance Section 200.320(d)
3. Sole Source - Uniform Guidance Section 200.320(f):
  - a) The AJCC operator services are only available from a single source.
  - b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
  - c) After solicitation from a number of sources, competition is determined to be inadequate.

Whichever procurement method is used, Local Boards must retain extensive written documentation of the procurement process from beginning to end. Local Boards must also make available to the public, through electronic means and open meetings, information regarding their selection of AJCC Operators (WIOA Section 107[e]).

If a Local Board or administrative entity wishes to participate in the competitive process then the appropriate internal control, conflict of interest, and firewall policies must be put in place and adhered to throughout the duration of the procurement process. This includes, but is not limited to, the requirement that solicitation and scoring be managed by a fair and impartial third party who is free of any conflict of interest (real or perceived). In other words, Local Board staff or the agency that employs such staff cannot in any way be involved with or connected to the development of the solicitation, the facilitation of the scoring process, or the scoring of proposals.

All AJCC Operators must be in place and operating in the AJCCs no later than July 1, 2017 (Title 20 CFR Section 678.635).

### Request for Approval to be AJCC Operator

If a Local Board or administrative entity competes to serve as the AJCC Operator and is chosen through an appropriate procurement process, they may be designated as an AJCC Operator only with the agreement of the CEO and the Governor [WIOA 107(g)(2)]. In order to be considered by the Governor for designation as an AJCC Operator, the CEO must submit a Request for Approval to be AJCC Operator application (Attachment 1) along with the required supporting documentation to the State Board **by March 1, 2017**, through one of the following methods:

Mail:	California Workforce Development Board P.O. Box 826880 Sacramento, CA 94280-0001
Overnight Mail/ Hand Deliver:	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento, CA 95814



The local CEO will be notified in writing by May 1, 2017, regarding the approval or denial of the proposed Request for Approval. If approved, the designation will be effective immediately upon approval.

### **Title I Adult and Dislocated Worker Career Service Providers**

Local Boards are responsible for identifying eligible Adult and Dislocated Worker Career Services Providers. The WIOA Section 107(d)(10)(D) states that if the AJCC Operator does not provide the Adult and Dislocated Worker Career Services described in Section 134(c)(2), the Local Board must identify eligible providers of those Adult and Dislocated Worker Career Services in the Local Area by awarding contracts. Procurement of Adult and Dislocated Worker Career Services Providers must follow the appropriate competitive selection process based on local procurement policies and the policies and principles of competitive procurement specified in Uniform Guidance Section 200.318-200.326.

All Adult and Dislocated Worker Career Services Providers must be in place and operating in the AJCCs no later than July 1, 2017.

### **Request for Approval to be Adult and Dislocated Worker Career Services Provider**

A Local Board or administrative entity may be designated as an Adult and Dislocated Worker Career Services Provider only with the approval of the CEO and the Governor (WIOA Section 107[g][2] and Title 20 CFR 679.410[b]). Approval under this provision would serve as the agreement by the Governor and would exempt the Local Board from selecting Adult and Dislocated Worker Career Service Providers through a competitive process by allowing them to fulfill the role themselves. In line with the time period of selecting of AJCC Operators, if a Local Board receives approval to provide Adult and Dislocated Worker Career Services that approval will be valid for a maximum of four years, after which time another request must be submitted.

If a Local Board or administrative entity wants to provide Adult and Dislocated Worker Career Services, the local CEO must submit the Request for Approval to be Adult and Dislocated Worker Career Services Provider application (Attachment 2) and the required supporting documentation to the State Board by March 1, 2017, through one of the following methods:

Mail: California Workforce Development Board  
P.O. Box 826880  
Sacramento, CA 94280-0001

Overnight Mail/  
Hand Deliver: California Workforce Development Board  
800 Capitol Mall, Suite 1022  
Sacramento, CA 95814

The local CEO will be notified in writing by May 1, 2017, regarding the status his/her request. If approved, the designation will be effective immediately upon approval.

**ACTION**

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Please bring this directive to the attention of the Local Board and other relevant parties.

**INQUIRIES**

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If you have any questions, contact you assigned [Regional Advisor](#) at 916-654-7799.

/S/ JOSÉ LUIS MÁRQUEZ, Chief  
Central Office Workforce Services Division

Attachments are available on the internet:

1. [Request for Approval to be America's Job Center of California<sup>SM</sup> Operator](#)
2. [Request for Approval to be Adult and Dislocated Worker Career Services Provider](#)

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