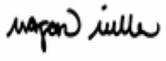


## TEXAS WORKFORCE COMMISSION LETTER

<b>ID/No:</b>	WD 31-14
<b>Date:</b>	October 24, 2014
<b>Keyword:</b>	All Programs
<b>Effective:</b>	<b>October 27, 2014</b>

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Offices  
Integrated Service Area Managers



**From:** Reagan Miller, Director, Workforce Development Division

**Subject: Implementation of Amended Chapter 802, Integrity of the Texas Workforce System Rules, Regarding Board Contract Limits**

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### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with information and guidance on implementing the Texas Workforce Commission's (TWC) amended Chapter 802, Integrity of the Texas Workforce System rules, regarding Board contract limits, to:

- set forth a formal process for Boards to procure workforce service providers;
- define the maximum length of time for a workforce service provider contract without a new procurement; and
- achieve full and fair competition.

### **BACKGROUND:**

On May 13, 2014, TWC's three-member Commission (Commission) approved the policy concept to amend the Chapter 802, Integrity of the Texas Workforce System rules. Boards were provided the opportunity for review and comment. Subsequent proposed rules were developed based on Board input. On October 7, 2014, the Commission adopted the amendments to the Chapter 802 rules. The amended rules are effective October 27, 2014, and can be accessed at [http://www.twc.state.tx.us/twcinfo/rules/20132014/adopch802\\_100714.pdf](http://www.twc.state.tx.us/twcinfo/rules/20132014/adopch802_100714.pdf).

Previously, Chapter 802 rules did not specify or define a contract period for Board-executed contracts regarding procurement of workforce service providers. As a result, some contracts were awarded for extended periods without the benefit of new procurement.

Chapter 802 was amended by adding new §802.22, Board Contract Limits, which sets forth a formal process for Boards to procure workforce service providers and specifies the required contract time limits.

**PROCEDURES:**

Boards must adhere to the requirements and procedures set forth in the amended Chapter 802 rules. Boards must:

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- conduct timely procurements, as appropriate, to ensure full and fair competition;
- review current contracts and, consistent with existing obligations, align practices with Board requirements;
- procure the workforce service provider for an initial period of at least one year, not to exceed two years, allowing for subsequent renewals during an option period following the conclusion of the initial procurement period;
- ensure that the initial procurement and subsequent renewals do not exceed a maximum of five years total; and
- consider the workforce service provider’s performance, oversight of service, reasonableness of cost, and any other locally developed criteria when determining whether to renew a contract during the option period following the completion of the initial procurement period.

When a Board’s existing contract exceeds the two-year initial period and/or five-year limit under this new rule, the Board must re-procure at the next renewal point. Boards must timely prepare for re-procurement in order to minimize any holdover period beyond five years. TWC will consider the Board’s procurement efforts, negotiation issues, and individual circumstances in determining the reasonableness of any holdover period.

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**INQUIRIES:**

Direct inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**RESCISSIONS:**

None

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**REFERENCE:**

- 48 CFR Part 17
- Texas Labor Code §301.0015 and §302.002(d)
- Texas Workforce Commission Integrity of the Texas Workforce System rules: 40 TAC, Chapter 802
- Financial Manual for Grants and Contracts §14.3

**FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF):** This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF):** This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”