

Approved by Broome-Tioga WDB: 3/25/2022

Previous Approved by Broome-Tioga WDB: 1/18/2019

**Broome Tioga Workforce NY
Purchasing Policy
Competitive Negotiation Method**

Potential Bidders

All potential bidders for any Workforce bids, Requests for Proposals (RFPS) or Requests for Qualifications (RFQs) should register with the Empire State Purchasing Group to be on the BidNet web-site.

Notification of Potential Bidders

The RFP is posted on Bidnet. Potential bidders register and may download the RFP from BidNet according to the appropriate criteria. In addition, a notice is placed on the Broome Tioga website, www.broometiogaworks.com and in local newspapers.

RFP Guidelines and Instructions

Organizations notifying Broome Tioga Workforce NY of their interest to bid are advised to register on Bidnet and may download the RFP from Bidnet.

Bidders are provided information that indicates that the BTWNY operates the proposal solicitation when required. Although proposals will be entertained throughout the year, participation in the scheduled RFP procurement will ensure timely consideration of proposals. Proposals which may have merit but that are not received as a result of the RFP run the risk of not receiving funding due to a potential lack of funds since the scheduled RFP would be part of a process which obligates direct subcontracted training funds for the following year.

Instruction would also include a date and time for a Bidder's Conference should the event be planned.

The BTWNY limits who has authority to provide guidance on the RFP, its requirements and intent. Bidders are instructed to contact the BTWNY Director or assigned BTWNY contact who are the only persons authorized to provide official interpretations and guidance on the RFP during the time of developing the proposal. The intent is to make interpretations and guidance consistent so that information given to one bidder is provided to another.

Bidder's Conference

A Bidder's Conference may be scheduled to address questions regarding the RFP process. If one is conducted, notification will be made either in the solicitation notification and/or the RFP Guidelines and instruction.

Part of the RFP Instructions will require the bidder to submit pre-award certification for Debarment/Suspension, Lobbying, and Non-Discrimination etc.

Procurement for the second year of two-year procurement needs only to include the negotiated items. Any funds not being obligated may be procured for. In this event, the procurement process may begin again with the letters of intent.

Receipt of Proposals

All proposals received are date stamped according to the date received. Proposals received after the due date and time may not be considered for review during the particular process initiated. Late Proposals may be considered in cases of inadequate competition or after the particular initiated process is closed.

Evaluation of Proposals

A procurement file is started which includes a Proposal review routing slip along with the Staff Evaluation. The following staff is responsible for reviewing proposals:

WDB Director
Contract Specialist
One-Stop Manager(s)
Adult, Dislocated Worker, Youth staff (as applicable)

The Contract Specialist initially reviews the proposals to determine if all required materials have been submitted (i.e. narrative, budgets, project plan, etc.) A checklist is completed and routed to all staff responsible for reviewing the proposals.

Each staff Evaluator reviews the proposals for areas to their respective expertise and provides additional insight as appropriate to the review. Comments are written and compiled and become part of the official procurement file.

Once the proposal evaluation is completed a meeting is held to review the findings and consolidate the staff recommendations to be made to the Youth Committee, if applicable, and the Workforce Development Board.

Decisions on Proposals by the WDB

Staff brings recommendations to the Executive Committee and the Youth committee, where applicable, which brings it to the Workforce Investment Board. Recommendations include one of the following scenarios:

- Proposals are recommended for full funding including the number of slots and maximum contract amount
- Proposals are recommended for a level of funding less than requested including the number of slots and maximum contract amount
- Proposals are wholly rejected and reasons for such

The WDB may also attach contingencies to the approvals that it deems in its best interest.

Notification of Award/Non-Award

Notification of Award/Non-Award is sent to bidding organizations by the BTWNY staff notifying them of whether their proposal was given approval, the approved amount and if appropriate, the number of participant slots for which training is being purchased. If the proposal was approved with contingencies those are noted in the notification letter.

Bidding organizations not receiving approvals of proposals submitted are also sent notification as to the outcome of their proposal.

If a bidding organization wishes to appeal the decision to award or other issues surrounding the proposal process (to allow withdrawal of proposals, appeals from disqualifications and determinations of non-responsibility and appeals from decisions or disputes arising during the performance of a contract) a formal request is submitted to the BTWNY Director. If resolution is not achieved the matter will be taken to the BTWNY Executive Committee of the Workforce Investment Board. If resolution is not achieved at that level the bidding organization will be directed to submit its grievance following the Broome Tioga Workforce Board Grievance Procedure in the Appendix.

Negotiation of Contracts

Proposals which have been approved begin to be drafted for negotiation and execution of contracts.

The types of contracts to be awarded include contracts for the actual cost of operating the training program either by line-item or fixed unit price (non-performance based).

Types of agreements may include fixed price, cost reimbursement, or other a combination of the two depending on the contract applicability, elements of the proposed agreement and the limitations of the agreement. Evaluation comments and WDB contingencies are incorporated into the negotiation process and finally into the contract for services.

BTWNY Staff will provide WIOA administrative/fiscal support and technical assistance to contractors awarded funding. Staff support will be available to ensure that program objectives are aligned with the area's local economic development goals and are supported by the area's business community.

Once all the terms are negotiated and the contract is drawn the BTWNY Director proceeds with the execution of the contract. Copies of the contract are prepared for the Broome County Law Department for review and execution and the County Executive's signature. Copies of the contract are sent to the Organization (sub-recipient) for signature. Executed copies are retained by the Broome County Law Department where electronic copies are scanned and uploaded to the Broome County secure network, Onbase.

Section I: Procedures for Reviewing and Awarding Contracts

Non-Competitive Negotiation Method

There are five forms of Non-Competitive Negotiation methods utilized by the Broome Tioga Workforce NY. These are:

- Non-solicited
- Sole Source
- On the Job Training
- Customized Training
- Individual Training Accounts

Non-solicited for non-federal funds

There may be occasions when proposals are received during the program year that are submitted outside of the annual solicitation process for training which may be consistent with the Broome Tioga Workforce Development Board's (WDB) priorities.

Proposals received in this situation undergo an evaluation review similar to that of the Competitive Negotiation process including applicability to the WDB priorities and established programs and the reasonableness of cost are examined. If the training program falls within acceptable guidelines the review of the potential contract review is undertaken by staff, WDB and the Broome County Law Department for approval.

Proposing organizations are required to submit the appropriate documentation consistent with RFP requirements, as applicable, prior to the execution of a contract.

Sole Source

When the use of Competitive Negotiation is not feasible BTWNY may use non-competitive negotiation methods in the following circumstances.

- For training programs
- If a public demand or emergency exists that will not permit a delay to obtaining competition;
or
- If the Training is the only available from a single source (e.g. the results of the funding source requirements limits the type of agency which training can be purchased from, etc.);
or
- If after soliciting a number of sources competition is deemed inadequate

Programs that are purchased utilizing this method are required to submit appropriate documentation consistent with the RFP prior to the execution to the contract.

In all instances Sole Source must adhere to Broome County Division of Purchasing requirements.

- Other, Non-Training Programs

If a public demand or emergency exists that will not permit a delay to obtaining competition; or
If the Training is the only available from a single source; or
If the item is available through a previously established procurement process (Broome County pricing or NYS Contractor pricing); or
If after soliciting a number of sources competition is deemed inadequate.

On-the-Job-Training

All OJTs will follow the current Broome-Tioga OJT policy

The On the Job Training contracts are not brokered through an intermediary organization but written directly by Broome Tioga Workforce NY with the employer providing the training.

In general, once the employer has determined that OJT will meet their needs and the BTWNY Contract Specialist has determined that the employer can meet the needs and the requirements of the WIOA, the contracting procedure is initiated.

All contracts adhere to the Broome Tioga OJT Policy and Procedures Manual – revised 2018. For more detail on the procurement and execution of the OJT contracts please refer to the OJT manual.

Customized Training

All Customized Training will follow the current Broome-Tioga Customized Training Policy

Customized Training is an option for an employer or group of employers that have identified a training need and has agreed to hire an individual(s) upon the successful completion of training.

The BTWNY Director or Contract Specialist, acting as a liaison with local employers, would initiate the discussion and identify the need. Upon approval of a customized training program a financial agreement is executed identifying: number of employees to be trained, length of training, anticipated wage at placement, and other information.

Individual Training Accounts (ITAs)

All ITAs will follow the current Broome-Tioga Individual Training Account (ITA) policy

These accounts are accessed through an established One-Stop Career Center.

Priority will be given to those training programs that are 104 weeks or less in length and that lead to Demand Occupation opportunities in the Broome Tioga LWIOA.

ITA's would be issued in a standardized form. Prior to issuance the local office would establish an IEP with the customer, review and identify the amount necessary and allowable to meet the customer's need. Upon review, the office would complete the ITA, retain one copy and attach to participant file and retain one copy for fiscal record and issue the Original to the Training Provider/School. This would notify and confirm to the school the amount to be paid by the ITA.

The school/training provider attaches the ITA original or copy when submitting the student's invoice for payment.

Appeal or Protest

The Broome Tioga Workforce NY will utilize the following Appeals Process regarding Procurement

Step 1 – Request for Debriefing

Within ten (10) calendar days of the date of notification, unsuccessful offerers may request a debriefing with the BTWNY Director. The debriefing will be scheduled within ten (10) calendar days from the date of the request. The meeting will be to discuss the reasons the offerer was not selected. Information presented to the offerer will be limited to the proposal contents. The offerer will not be given copies of the rating sheets, staff or committee notes or notes associated with the negotiation.

Step 2 – Formal Filing of Complaint Alleging a Violation and Request for Conference with the Broome Tioga Workforce WDB.

The offeror may submit a Written Appeal to the BTWNY WDB within five (5) calendar days of the debriefing meeting. Unless the appeal is communicated in writing an appeal is considered not to exist. In addition the appeal must allege a violation of the federal, state, applicable law, rule or regulation, or a violation of the WDB approved Procurement Policies. Appeals filed which do not allege such a violation will not be considered.

The Appeal must be submitted to the Broome Tioga Workforce Board Director at 171 Front St, Binghamton, NY 13905.

A conference may be arranged for the appellant to formally present the violations in person. The conference will be conducted within ten (10) working days of the receipt of the Appeal to the NTWNY Director. The BTWNY WDB will hear claims presented by the appellant and determine whether a violation has occurred and if so, what course of action is necessary. The BTWNY WDB will communicate the result of the findings to the appellant within ten working days following the conference.

If the Appellant remains unsatisfied the appellant will be notified and informed to follow the of the directives outlined in the Broome Tioga Workforce NY Grievance Policy.

Conflict of Interest

No individual in a decision-making capacity, including WDB members, shall engage in any activity, including the participation in the selection, award or administration of a subgrant or contract supported by WIOA funds, if a conflict of interest would be involved. Such a conflict would arise when the individual, any member of the individual's immediate family, the individual's partner, or organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm or organization selected for award.

BROOME-TIOGA-GRIEVANCE PROCEDURE

WIOA Title I Complaint/Grievance Procedure

Local Workforce Development Area Name: _____

Designated Grievance Officer: _____

Phone: _____

Email: _____

Designated Hearing Officer: _____

Phone: _____

Email: _____

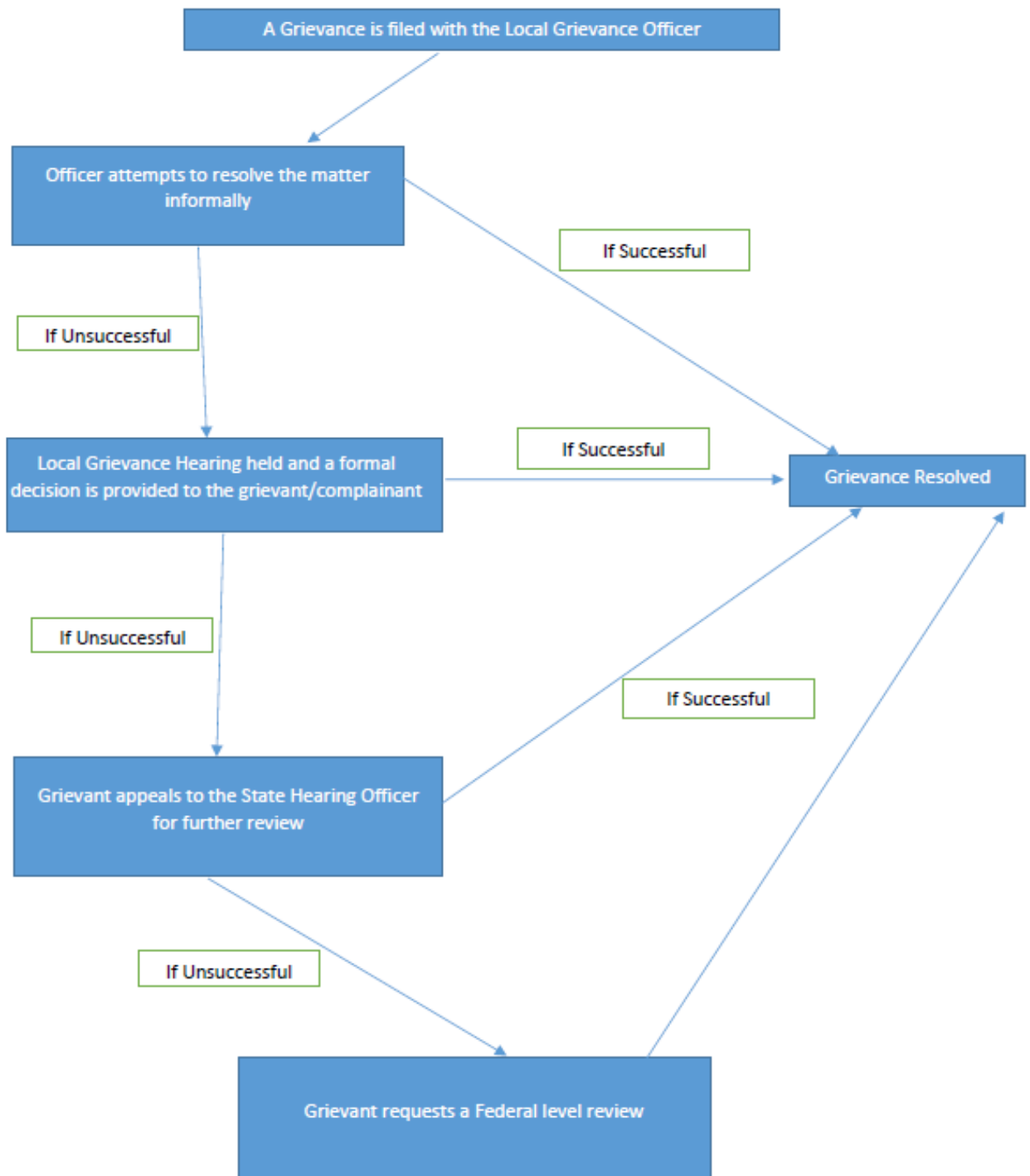
1. The process starts when a complaint/grievance is filed with the Grievance Officer. The officer must log the complaint, and review it to seek a resolution.
 - a. Note, while not required, customers are encouraged to file complaints using the Customer Complaint Information Form (Attachment C). This same form can be utilized to file complaints under the Title III Wagner-Peyser program and/or for discrimination complaints filed under Section 188 of the Workforce Innovation and Opportunity. Appropriate procedure should be followed when filing a complaint in those cases.
2. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance to provide the person or entity (Complainant) with an opportunity to present witnesses and other evidence.
 - a. Notice of the grievance hearing shall be in writing and include: the date, the time, and place of hearing; a statement of the law and regulations under which the hearing is to be held, and a short and clear statement of the complaint/grievance.
 - b. Note that if the Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.
3. At the Local Area level, a written Decision must be issued to the Complainant by the Hearing Officer within sixty (60) calendar days of the filing of the complaint/grievance.
4. Complainants not in receipt of a written decision within sixty (60) calendar days of filing the complaint/grievance have the right to request a State Level review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision. The request for State Level Review must be filed with the State Level Grievance Officer. State level appeals must be submitted by certified mail, return receipt requested to:

State Level Grievance Officer
New York State Department of Labor
W. Averell Harriman State Office Building Campus
Building 12, Room 440
Albany, New York 12240-0001

5. The Complainant also has the right to request a State Level review of an adverse decision issued by the Local Level Hearing Officer. Such request must be filed with the State Level Grievance Officer within ten (10) calendar days of receipt of the adverse decision.
6. State Level Review shall only proceed to the extent that a Local level hearing has been held, findings of fact made, and a decision rendered. If not, the State Level Grievance Officer shall return the complaint/grievance to the Local Level Grievance Officer with instructions on how to complete the review and hearing process.
7. To the extent that Local Level Hearing is complete, requests to review the Local Level Hearing decision shall be limited to any allegations of procedural errors or errors in interpreting or applying the law. Findings of Fact must occur at the Local Level. Any finding at the State Level indicating that errors were made at the Local Level in making Findings of Fact will be returned to the Local Level for further review.
8. If a State Level Review is requested, the State Level Grievance Officer shall investigate the complaint/grievance, seek resolution, and issue a written decision within sixty (60) calendar days of receipt of a request for a review by a Complainant.
9. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance.
 - a. Note that if the State Level Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.
10. Complainants either not given a hearing or who did not receive a hearing decision within sixty (60) calendar days of requesting State Level Review, and which were not remanded back to the Local Level, have the right to request a Federal Level Review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision.
11. Complainants in receipt of a written State Level hearing decision, have the right to request a Federal Level Review. Such a request must be filed within ten (10) calendar days from the date on which Complainant received the written hearing decision. Such requests must allege either procedural violations or errors in interpreting or applying the law at the lower level hearing. Federal Level Appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator (address below) and the opposing party.

U.S. Department of Labor
Employment and Training Administration
25 New Sudbury St
John F. Kennedy Federal Building, Room E-350
Boston, MA 02203

WIOA Grievance Procedure





Department
of Labor

AmericanJobCenter

Customer Complaint Information Form

Complaint number: _____

Instructions: If you have a complaint, please complete this form and submit it to Career Center staff. If this is a discrimination complaint, you must either submit this form to the Career Center Equal Opportunity officer, or send it to: **New York State Department of Labor, Division of Equal Opportunity Development, State Office Campus, Building 12, Room 540, Albany, NY 12240.** If needed, attach extra pages and any documents about your claim.

1. Complainant (fill in **your** information)

First name _____ MI _____ Last name _____

Address _____ City _____ State _____ Zip _____

Alternative address (if applicable) _____

SSN (Optional) _____ Home telephone (____) _____ Alternate telephone (____) _____

E-mail address _____

What are the most convenient time and method for us to contact you about this complaint? _____

I give my consent to share information regarding this complaint to (list name(s) of family members, friends etc. that can receive information regarding your complaint): _____

2. Respondent (fill in the information for the subject of your complaint)

Agency, business or employee you are making complaint against: _____

Address _____ City _____ State _____ Zip _____

Telephone (____) _____

2a. Is the respondent a Career Center? Yes No

If yes, is this complaint regarding Training Customer Service Other _____

2b. Is the respondent a business? Yes No

If yes, were you referred to this business by Career Center staff? Yes No If yes, when? _____

2c. Is the respondent a Farm? Yes No

2d. What is your complaint about (check all that apply)?

Wages/unpaid wages Child Labor Health and Safety Working Conditions Housing Transportation

Meals Pesticides Other _____

2e. Is your complaint about discrimination? Yes No

3. Briefly describe your complaint. Be as clear as possible. If you believe you were discriminated against, please describe in detail how this happened.

a. What happened? _____

b. Who was involved? (Witnesses, fellow employees, supervisors, etc.) Provide name, address and telephone number, if known.

c. When and where did it happen (include date)? _____

d. If you believe you were treated differently, describe how. _____

4. Were you offered employment services? Yes No

5. How would you like this complaint to be resolved? _____

If this is a discrimination complaint, fill out numbers 6-10. If this is not a discrimination complaint, go to number 11.

6. Check all that apply.

- | | |
|---|--|
| <input type="checkbox"/> Race (specify) _____ | <input type="checkbox"/> Color (specify) _____ |
| <input type="checkbox"/> Religion (specify) _____ | <input type="checkbox"/> National Origin (specify) _____ |
| Sex <input type="checkbox"/> Male <input type="checkbox"/> Female | <input type="checkbox"/> Arrest & conviction record (specify) _____ |
| <input type="checkbox"/> Disability (specify) _____ | <input type="checkbox"/> Marital status (specify) _____ |
| <input type="checkbox"/> Citizenship (specify) _____ | <input type="checkbox"/> Genetic predisposition & carrier status (specify) _____ |
| <input type="checkbox"/> Sexual harassment _____ | <input type="checkbox"/> Veteran status (specify) _____ |
| <input type="checkbox"/> Age (specify date of birth) ____/____/____ | <input type="checkbox"/> Sexual orientation _____ |
| <input type="checkbox"/> Political affiliation (specify) _____ | <input type="checkbox"/> Victim of Domestic Violence _____ |
| <input type="checkbox"/> Reprisal/retaliation (specify) _____ | <input type="checkbox"/> Other (specify) _____ |

7. Why do you believe these events happened? _____

8. Do you have an attorney or other representative for this complaint? Yes No If "Yes," please fill out the following:

Name _____ Telephone (____) _____
Address _____ City _____ State _____ Zip _____

9. Have you filed a case or complaint about this incident with any of the following?

- | | |
|---|--|
| <input type="checkbox"/> US Dept. of Justice, Civil Rights Division | <input type="checkbox"/> NYS Dept. of Labor, Division of Equal Opportunity Development |
| <input type="checkbox"/> US Equal Employment Opportunity Commission | <input type="checkbox"/> NYS Division of Human Rights |
| <input type="checkbox"/> US Dept. of Labor, Civil Rights Center | <input type="checkbox"/> Federal or State Court |
| <input type="checkbox"/> Other _____ | |

10. For each agency checked in number 9, please fill out the following information:

Agency _____ Date Filed ____/____/____	Agency _____ Date Filed ____/____/____
Case or docket no. _____	Case or docket no. _____
Date of trial or hearing _____	Date of trial or hearing _____
Location of agency or court _____	Location of agency or court _____
Name of investigator _____	Name of investigator _____
Status of case _____	Status of case _____
Comments _____	Comments _____

11. I certify that the information furnished above is true and accurately stated to the best of my knowledge. I authorize the disclosure of this information to enforcement agencies for the proper investigation of my complaint. I understand that my identity will be kept confidential to the maximum extent possible consistent with applicable law and a fair determination of my complaint.

Complainant Signature _____
Date

Staff receiving complaint _____
(Print Name) _____
Signature Date

Career Center _____
Telephone (____) _____