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Oklahoma Employment and Training Issuance # 09-2006

TO: WIA Fiscal Agents
WIA Board Chairs
WIA Board Staff
Chief Local Elected Officials

FROM: Richard Gilbertson, Director
Workforce Integrated Programs

DATE: October 31, 2006

SUBJECT: WIA Roles and Responsibilities

PURPOSE: To clarify the roles and responsibilities of various entities created as a result of the Workforce Investment Act.

BACKGROUND: A roles and responsibilities OETI was originally created to clarify the complexities of what was then new legislation, particularly as it was implemented here in Oklahoma. Since then, these roles and responsibilities have been updated to further clarify questions or confusion expressed by our customers.

MESSAGE: Below is a narrative description of the various governance, management, and programmatic entities and their roles within Oklahoma's Workforce Development System. Attached is a specific listing of the roles and responsibilities for these entities.

Local WIA Boards

The Workforce Investment Act requires the creation of local Workforce Investment Boards (LWIB) within each local workforce area. These local boards are appointed by Chief Local Elected Officials (CLEO) and along with the CLEO are responsible for both system building and program implementation within these areas. Section 661.305 of the WIA Final Rule specifically lists the responsibilities of local boards. Primary among these responsibilities is coordinating workforce development activities with economic development strategies and developing employer linkages, developing a budget to carry out the board's responsibilities, selecting local service providers, and conducting oversight (including monitoring) of local system and program activities.

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Oklahoma is relying on WIBs to fill the role of an entity serving as an objective, unbiased broker within the community, not tied to one service model or one service entity. All area stakeholders in the community must see the WIBs as strategic bodies that can do broad-based planning; credibly convene diverse players with multiple and at times competing agendas; and create a workforce investment system that extends well beyond Title I of WIA.

To accomplish this, WIBs must be in a position to do business that is beyond just conducting meetings and fulfilling the minimal WIA responsibilities of a local board. They must be able to study local issues, develop strategies and coalitions to address those issues, evaluate progress, garner resources to support initiatives, align service delivery to meet the strategic objectives of the state and the local area, and to make hard decisions when there is not progress against the plans.

Experience from across the country indicates the most effective way to achieve these objectives is to ensure that the WIB function is not perceived as tied to one service delivery partner and the honest broker role is viewed as viable in the community. The optimum way of achieving this is a full separation of duties between the WIB staff providing the ***system planning/oversight*** activities, the Title I provider staff responsible for the ***program services planning/oversight*** and/or ***operations*** roles, and the System and/or One-Stop Operator staff conducting ***system operations*** activities. Full separation is defined as the WIB and its staff being a totally separate entity from the Title I provider or One Stop Operator staff – run by separate organizations.

Youth Councils

The local workforce board, in cooperation with the CLEO, appoints a youth council as a subgroup of the LWIB and coordinates workforce and youth plans with the Youth Council. Membership requirements are listed in section 661.335 of the WIA Final Rule. The Youth Council's role is to be clarified by the local board or local board chair. These responsibilities should be agreed to between the Youth Council and local board and documented.

Chief Local Elected Officials

Local elected officials are critical to the creation and implementation of WIA adult, dislocated worker, and youth programs, as well as local workforce system development and implementation. Local Elected Officials come together to create an LEO Consortium Agreement which, among other things, establishes a Chief Local Elected Official for each local workforce investment area.

The Act and USDOL regulations make it clear that Local Elected Officials are responsible and liable for WIA program funds. Further, the Act and regulations indicate that all significant program and system building decisions involve these Local Elected Officials.

Fiscal Agents

Section 117(d) of the Act indicates that the Chief Local Elected Official "may designate an entity to serve as a local grant sub-recipient for such funds or as a local fiscal agent." This section also indicates that this entity "shall disburse such funds for workforce investment activities at the direction of the local board..." As a result, the responsibility of this entity is to assist in the administration of WIA grant funds under the direction of the WIA Board and Chief Local Elected Official. However, because the CLEO is liable for any misuse of these grant funds, the WIA fiscal agent is to disburse funds at the

direction of the WIA Board, "if the direction does not violate a provision of this Act." Therefore, WIA fiscal agents may perceive as their primary responsibility the need to ensure the Act is not being violated.

The WIA fiscal agent must utilize WIA program funds for a variety of activities. These include fiscal agent functions; core, intensive and training services; WIA Board staff and expenses; youth services; and funding a proportionate share of the cost of the One Stop system and services. In addition, there is a cost limitation of 10% for administrative costs. According to the Act, the local board is to develop a budget to carry out these activities, subject to approval of the Chief Local Elected Official. Therefore, the fiscal agent needs to be provided a budget developed by the WIA Board and approved by the CLEO determining appropriate amounts for each of these activities at least yearly.

It is important to understand that the fiscal agent does not have unlimited discretion. The Act indicates that the fiscal agent is to "disburse funds immediately on receiving such direction from the local board…" The only discretion available to a fiscal agent in funding decisions is to ensure that its actions are consistent with the approved budget and do not violate the Act. Perhaps an appropriate analogy would be to think of the WIA fiscal agent as the program's banker. For example, while ensuring compliance with a variety of banking laws, a banker is not allowed to expend depositor's funds based on his perception of what's best or whether enough is being saved, etc.

WIA final regulations also require fiscal agents to oversee and monitor subrecipients and contractors in order to determine that expenditures have been made against cost categories and within the cost limitations specified in the Act and the regulations, to determine whether or not there is compliance with other provisions of the Act and regulations, and to provide technical assistance as necessary and appropriate. Specific guidance on fiscal agent monitoring is provided in OETI #8-2006.

Despite this limited fiscal role, the Final Rule does allow WIA fiscal agents to provide intake, conduct objective assessments and to develop the individual service strategy for eligible youth. Likewise, the Final Rule also allows the WIA fiscal agent to administer the summer employment opportunities element of the local youth program.

One-Stop Operator

Section 121 of the Workforce Investment Act deals with the establishment of local one stop delivery systems (often referred to as local workforce development systems). It requires local workforce boards, with the agreement of the CLEO for the area, to enter into a memorandum of understanding with One Stop partners, designate or certify One Stop Operators, and conduct oversight of the local one stop delivery system. The Act also clarifies how One Stop Operators are designated or certified and who is eligible to serve as a One Stop Operator.

Section 662.400 of the WIA Final Rule spells out that the role of the One Stop Operator shall be specified in an agreement between the LWIB and the One Stop Operator. The rule indicates that the role may range from simply coordinating services within a local Workforce Center, to providing services in these Centers, to coordinating activities throughout an areas' local workforce development system.

Different local boards have made different decisions about the role of the One Stop Operator as they also have a number of other entities which potentially serve the same functions suggested in the Final

Rule. For example, many local boards have designated a Center Manager, at least in integrated Centers, to be responsible for coordinating and/or providing integrated services. Local boards also have agreements with OESC for System Coordinators to coordinate activities throughout the areas' local one stop delivery system.

Local boards may obviously create new roles for their One Stop Operator(s) or attempt to qualify existing entities, such as their WIA Title I local service provider, as a One Stop Operator.

Clarifying Agreements

While the CLEO appointed the various members of the WIA Board, the majority of members represent business. It should not be a surprise that occasionally business leaders view program-funding decisions differently than local elected officials, particularly when only one of the parties is liable. We believe Congress anticipated a continuing dialogue between the WIA Boards and the CLEOs concerning these issues. Section 661.120(b) of the Final Rule indicates that "State Boards should establish policies, interpretations, guidelines and definitions to implement provisions of title I of WIA to the extent that such policies, interpretations, guidelines and definitions are not inconsistent with the Act and regulations."

As should be obvious, there are a number of entities with potentially complex relationships. For example, local WIA Boards develop a budget for carrying out their duties, *subject to the approval of the chief local elected official,* select One Stop operators with the *agreement of the chief local elected official,* and select youth service providers *based on recommendations of the youth council.* Additionally, many local entities function simultaneously in a variety of roles, including WIA fiscal agent, WIA Board staff, and service provider. And if that weren't enough, these entities can occasionally delegate their responsibilities to others (see, e.g., section II, Summary and Explanation, Final Rule, Federal Register Vol. 65, No. 156, page 49304, for discussion of CLEOs ability to delegate responsibilities).

For these reasons, it is strongly recommended that local entities utilize agreements clarifying their relationships. We would also suggest that these agreements clarify how the CLEO will approve, agree, partner with, etc., as they relate to WIA Board responsibilities.

ACTION REQUIRED: Workforce Investment Board Staff are requested to widely distribute copies of this issuance to staff and partners within the Workforce Investment Area for WIA compliance. This is official state policy and should be kept in your permanent policy issuance file.

RESCISSIONS: This document replaces OETI 18-2004, dated December 20, 2004.

INQUIRIES: If you have any questions pertaining to this issuance, please contact Ann Pendergraft at ann.pendergraft@oesc.state.ok.us.

ATTACHMENT: Roles and Responsibilities Chart

ROLES AND RESPONSIBILITIES

Local Elected Official (LEO)	CLEO/WIA Board	WIA Board
Select a Chief Local Elected Official (CLEO) to represent them. Reference Section 117(c)(1)(B)(i) **CLEO** 1. Assume liability for funds. Section 117(d)(3)(B) 2. Request designation of workforce investment area. §661.250(c), Local Elected Officials Consortium Agreement Guidance and Instructions 3. Designate the WIA Fiscal Agent. Section 117(d)(3)(B)(i)(II) 4. Appoints the Local Workforce Investment Board members in accordance with State criteria established under WIA section 117(b). §661.300(a)	1. Develop the Local Plan in partnership with the CLEO. §661.305(a)(1) 2. Conduct oversight and monitoring of the One-Stop System, Youth Activities and Employment and Training Activities in partnership with the CLEO. §661.305(a)(1) 3. Select One-Stop operators with the agreement of the CLEO. §661.305(a)(2) 4. Develop budget for the purpose of carrying out the duties of the local board, subject to the approval of the CLEO. §661.305(a)(4) 5. Negotiate and reach agreement on local performance measures with the CLEO and the Governor. 661.305(a)(4) 6. Appoint a youth council as a subgroup of the Local Board in cooperation with the CLEO, and coordinates workforce and youth plans and activities with the youth council. §661.305(b) 7. Approve transferring a maximum 30% between the adult and dislocated worker WIA Title I program funds. TEGL 23-02, OETI 20-2000, Change 2 8. The Local Board in partnership with the CLEO sets policy for the portion of the Statewide workforce investment system within the local area. §661.300(b) 9. Develop and execute with the agreement of the CLEO a MOU with the One-Stop partners, relating to the operation of the local service delivery system. §662.300(a) 10. Conduct oversight of Youth Programs in the local area in consultation with the CLEO. §664.110(b)	1. Identify eligible providers of adult and dislocated worker intensive and training services. §661.305(a)(3) 2. Maintain a list eligible training providers with their performance and cost information. §661.305(a)(3) 3. Select and certify eligible youth providers on the youth council's recommendation. §661.305(a)(3) 4. Assist Governor to develop the statewide employment statistics system. §661.305(a)(6) 5. Coordinate workforce investment activities with economic development strategies plus develop employer linkages. §661.305(a)(7) 6. Promote private sector involvement in the statewide workforce investment system. §661.305(a)(8) 7. Conduct business in an open and public manner. §661.307

ROLES AND RESPONSIBILITIES (CONTINUED)

CLEO's Fiscal Agent	Youth Council	One-Stop Operator
1. Disburse funds for workforce investment activities at the direction of the local board, pursuant to the requirements of Title I, if the direction does not violate a provision of the Act, and disburse such funds immediately on receiving such direction from the local board. §117(d)(3)(B)(i)(III) 2. Conduct regular oversight and monitoring to determine that expenditures have been made against the cost categories and within the cost limitations specified in the Act; whether there is compliance with other provisions of the Act, regulations, and State policies; and provide technical assistance to sub-recipients regarding fiscal issues. §667.410(a)(1-4) 3. Ensure accountability for expenditures of funds in accordance with OMB Circulars, Federal regulations and State policies. OETI 08-2006 4. Prepare and administer contracts. OETI 08-2006 5. Respond to monitoring findings. OETI 08-2006 6. Maintain proper accounting records and adequate documentation in accordance with uniform administrative requirements. OETI 08-2006 7. Prepare financial reports. OETI 08-2006 8. Provide technical assistance to subrecipients and/or contractors regarding fiscal issues. §667.300(c) 9. Procure contracts and/or obtaining written agreements. OETI 08-2006 10. Disburse funds for: salaries, contracts, wages, and vouchers. OETI 08-2006 11. Conduct financial monitoring of service providers for compliance with uniform administrative requirements and cost allowability principles provided in applicable OMB Circulars. OETI 08-2006 12. Ensure independent audits of all contracted entities receiving over five-hundred thousand dollars ($500,000.00) in DOL grant funds. 13. Ensure funds are being expended according to LWIB-developed and the CLEO-approved budget. OETI 08-2006 14. The fiscal agent **MAY** conduct intake, objective assessment and the development of individual service strategies for Youth if so described in the local plan. §664.405(a)(4)	1. Coordinate youth activities in a local area. §661.340(a) 2. Develop portions of the Local Plan related to eligible youth, as determined by the Chairperson of the Local Board. §661.340(b) 3. Recommend eligible youth service providers in accordance with WIA section 123, subject to the approval of the Local Board. §§661.340(c) 4. Conduct oversight with respect to eligible providers of youth activities in the local area, subject to the approval of the Local Board. §661.340(d) 5. Carry out other duties, as authorized by the chairperson of the Local Board. §661.340(e)	1. The role of the One-Stop Operator is specified in the agreement between the Local Board and One-Stop Operator. §662.440(c)