

Oklahoma Employment Security Commission



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Oklahoma Employment and Training Issuance # 18-2004

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

FROM: Mike Ferguson, Director
Employment and Training Division

DATE: December 20, 2004

SUBJECT: WIA Roles and Responsibilities

PURPOSE: To clarify the roles and responsibilities of various entities of Oklahoma's Workforce Investment System.

BACKGROUND: SECTION 106 of the Workforce Investment Act of 1998 establishes that the purpose of Title I is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.

Upon implementation of the Workforce Investment Act (WIA) in Oklahoma during CY 2000, the Governor appointed a State Workforce Investment Board and designated 12 Workforce Investment Areas across the state. Twenty-seven Local Labor Markets (LLM) were also designated resulting in most Workforce Investment Areas having more than one LLM. Local Workforce Development Councils (LWDC) were authorized, and until June 30, 2003 these councils functioned as intermediate levels of governance for the State's Workforce Investment System.

On September 2, 2003 the Governor aligned the Oklahoma Employment Security Commission under the Secretary of Commerce and Tourism and appointed a Deputy Secretary for Workforce Development within that cabinet. With workforce and economic development aligned under one cabinet secretary, major revisions resulted the WIA mandated State Workforce Investment Board

being re-designated the Governor's Council for Workforce and Economic Development. This major initiative enables Oklahoma to join the national effort to secure globally competitive workforces through collaboration of the workforce, education, and economic development communities.

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

Local WIA Boards

The Workforce Investment Act coupled the implementation of new programs with the creation of local workforce development systems and allowed this to occur in large geographic areas. The Act states that within these areas local WIA Boards must be created which are responsible for both system building and program implementation. The USDOL final regulations, Section 661.305(a), identify the roles of the local workforce investment board. Key among those roles is coordinating workforce investment activities with economic development strategies, developing employer linkages, assisting the Governor in developing the Statewide employment statistics system under the Wagner Peyser Act, developing the five-year local workforce investment plan and specifying the role of the One-Stop operator.

The Act indicates that WIA Boards "may employ staff". Based on the roles and responsibilities of WIA Boards as indicated in the attached listing, local boards need dedicated staff to assist them not just with the clerical tasks of sending out meeting notices or recording minutes but professional activities such as monitoring WIA service providers. In addition, youth councils, as a subgroup of the WIA Board, also have significant responsibilities that require staff assistance. For these reasons WIA Boards should continue to employ dedicated staff to assist with their activities.

Youth Councils

The youth council, as a subgroup of the local workforce investment board, is the local entity responsible for recommending and coordinating youth policies and programs. Youth councils have great flexibility to develop systems that offer youth a broad range of coordinated services. This includes opportunities for assistance in academic and occupational learning; development of leadership skills; and preparation for further education, additional training, and eventual employment. Youth councils develop and offer a variety of services that may be provided in combination or alone at different times during a youth's development.

The final regulations support strong connections between youth program activities and the One-Stop service delivery system, so that youth learn early in their development how to access the services of the One-Stop system and continue to use those services throughout their working lives. And, by establishing linkages with other youth services organizations, they ensure consideration of a broad spectrum of issues that can have an impact on the success of youth within local labor markets.

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.

The Act and USDOL regulations make it clear that Chief 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 Chief 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.

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

The Final Rule, Part 662, Subpart D establishes the One-Stop operator position. Section 662.400(b) instructs that One-Stop operators may be a single entity or consortium of entities and may operate one or more One-Stop centers. In addition, there may be more than one One-Stop operator in a local area. Section 662.400(c) clearly establishes that the agreement between the Local Board and the One-Stop Operator shall specify the Operator's role. That role may range between simply coordinating service providers within the center to being the primary provider of services within the center, to coordinating activities throughout the One-Stop system. Section 662.420 clarifies that the local board *may* be designated or certified as the One-Stop operator *only* with the agreement of the chief elected official *and* the Governor.

Monitoring

The Act and final regulations indicate that the local WIA Board is responsible for identifying and selecting the staff-assisted core, intensive, youth service providers, as well as training providers. In addition, the WIA Board is also responsible for conducting oversight of the One Stop system, youth activities and WIA employment and training activities. As a result, the WIA Board has a variety of monitoring responsibilities.

OESC, in carrying out its oversight responsibilities, will ensure that WIA Boards and/or their staffs are properly monitoring service providers for compliance with the Act, federal regulations, and state policies. OESC will also monitor fiscal agents to ensure compliance with OMB circulars, state fiscal and reporting policies, WIA Board budget as approved by CLEO, etc.

WIA fiscal agents may also perceive a need to monitor WIA program service providers to ensure compliance with all aspects of the Act. This is totally acceptable but will not preclude OESC from conducting scheduled annual monitoring.

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 a result, it appears that the State Council could address what happens in workforce investment areas where WIA Boards and CLEOs cannot function in partnership and reach joint decisions.

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.

Local organizations that have been selected to perform different roles should also develop internal agreements to clarify how they will carry out their various responsibilities. For example, an organization functioning as WIA fiscal agent, WIA Board staff, and service provider needs to be clear about their budget, which staff is responsible to whom for what activities, and how they will be able to comply with the Act, regulations and state policies. Further, it is in the WIA Board's interest to clarify who within such an organization is responsible for assisting them to carry out their responsibilities, as opposed to who is functioning on behalf of CLEOs or as the service provider. Much like a One Stop Memorandum of Understanding, each of the parties should discuss their roles and relationships and memorialize their agreements in writing.

ACTION: This is official state policy, and should be kept in your permanent policy issuance file. Share this information with your staff and anyone else who would benefit from these clarifications.

RESCISSIONS: This document replaces OETI 25-2001, dated October 31, 2001.

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ROLES AND RESPONSIBILITIES

Local Elected Official (LEO)	CLEO/WIA Board	WIA Board
<ol style="list-style-type: none"> 1. Assume liability for funds 2. Request designation of workforce investment area 3. Designate the WIA Fiscal Agent 4. Appoint Board members in accordance with LEO agreement 5. Select a Chief Local Elected Official to represent them 6. Approve the LWIB budget 	<ol style="list-style-type: none"> 1. Develop budget for funds allocated through the WIA grant administrative entity 2. Submit a 5-year Local Plan to qualify for receipt of Workforce Investment Act Title I program funds 3. Approve transferring a maximum 20% between the adult and dislocated worker WIA Title I program funds 4. Clarify roles and responsibilities of board staff, fiscal agent, service provider, One-Stop Center or System Operators, and youth council and how interaction will occur among these parties 5. Designate or certify (a) One-Stop System or Center Operator(s) 6. Establish policies for services funded through the Employment & Training Division of OESC (operations, processes and services) 7. Approve Memorandums of Understanding 8. Negotiate and reach local performance measures for WIA Programs 9. Ensure oversight and monitoring of programs funded through the Employment and Training Division of OESC 10. Appoint youth council as a subgroup of the Local Board and coordinate workforce and youth plans and activities with the youth council. 11. Conduct oversight with respect to the Workforce Development system in the local area. 	<ol style="list-style-type: none"> 1. Select service providers for core and intensive program services for adult and dislocated workers 2. Identify, select and certify eligible training providers for adult & dislocated workers within the Workforce Investment Area 3. Select and certify eligible youth providers on the youth council's recommendation 4. Assist Governor to develop the statewide employment statistic system 5. Coordinate workforce investment activities with economic development strategies plus develop employer linkages 6. Promote private sector involvement in the statewide workforce investment system 7. Monitor all Employment and Training programs for implementation of federal, state and local policies/procedures to ensure compliance 8. Designate/determine staff support services for the LWIB including Youth Council 9. Conduct business in an open and public manner by making available to the public, on a regular basis, the plans, operations and performance record of the Workforce Investment Area. 10. Negotiate with local service providers to create and implement a MOU that includes a description of the local workforce development system, agreed upon service standards, partner responsibilities, and performance expectations

ROLES AND RESPONSIBILITIES

LEO's Fiscal Agent	Youth Council
<ol style="list-style-type: none"> 1. Receive funds (dollars) 2. Ensure accountability for expenditures of funds in accordance with OMB Circulars, Federal Regulations and State policies 3. Sign contracts 4. Respond to audit financial findings 5. Maintain proper accounting records and adequate documentation 6. Prepare financial reports 7. Provide technical assistance to sub-recipients regarding fiscal issues 8. The fiscal agent MAY conduct intake, objective assessment and the development of individual service strategies if so described in the design framework for the local youth program <p>A. AT THE DIRECTION OF THE BOARD</p> <ol style="list-style-type: none"> 9. Procure contracts or obtain written agreements 10. Disburse funds for Salaries, Contracts, Wages, Vouchers 11. Conduct financial monitoring of service provider 12. Ensure independent audit of all Employment and Training programs <p>B. AT THE DIRECTION OF THE LEO</p> <ol style="list-style-type: none"> 13. Operate the Summer Youth Program 	<ol style="list-style-type: none"> 1. Develop portions of the Local Plan that describes the framework for youth program design in the local area, and how the ten program elements required will be provided relating to eligible youth as determined by the LWIB 2. Recommend eligible providers and conduct oversight of youth activities subject to approval of the LWIB 3. Coordinate youth activities in a local area 4. Carry out other duties, as authorized by the chairperson of the Local Board