

WEST CENTRAL REGION LOCAL POLICY

Subject	Effective Date	Revision	Policy Section
Firewall Policy	9/23/20	1	Financial

Purpose

This local issuance communicates the Workforce Development Board of Western Missouri, Inc. has established policy to provide direction – specifically to sub-recipients, contractors, staff and members of the West Central Workforce Development Board – in order that business can be conducted within guidelines that will prevent actual, potential, or questionable conflicts of interest and provides clear separation of duties and responsibilities.

Background

Identifying and resolving conflict-of-interest is crucial to good governance and maintaining trust in the publicly funded workforce system. A conflict of interest policy is required to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award, administration, or expenditure of such funds.

In addition, the Workforce Development Board (WDB) recognizes that by its very composition, conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for the Board members, Board staff, sub-recipients and contractors to be sensitive and err on the side of caution when potential or real conflict or matters of fairness occur. To accomplish these purposes, the Workforce Development Board establishes the following definitions, actions, and guidelines for interpretation.

Guidelines

- A. No individual shall participate in the selection, award, or administration of a contract supported by any funds where a real or apparent conflict of interest would be involved. Such a conflict would arise when the individual, any member of his or her immediate family, his or her partner, or an organization, which employs or is about to employ any of the parties indicated herein, has a financial or other gainful interest in the firm selected for an award. The individual shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements. However, the WDB may set standards for situations in which the gift is an unsolicited item of nominal value and can be shared by the members of the organization as a whole.

Each sub-recipient shall maintain a written code of conduct governing the performance of persons engaged in the award and administration of WDB contracts.

Each sub-recipient shall ensure that no person in decision-making capacity shall engage in any activity, including participation in the selection, award, or administration of a contract supported by WDB funds if a conflict of interest, real, implied or apparent, would be involved.

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An individual of the WDB shall not cast a vote, nor participate in any decision-making capacity on the provision of services by such individual (or any organization which that individual directly represents), nor any matter which would provide any direct financial benefit to the individual, to the individual's immediate family, or to the individual's organization.

Individuals shall not use, for their own private gain, for gain of others, or for other than officially designated purposes, any information obtained as a result of their relationship with the WDB.

Board members, officers, agents, and employees (as may be applicable) shall be prohibited from entering into discussion or voting on any matters where they have a conflict of interest (real, implied or apparent). This limitation on discussion shall not prohibit board members, officers, agents, and employees (hereinafter "members") from providing factual information in response to direct questions concerning the matter from other members. The disclosure must be reflected in the minutes of the local board meeting.

Board members, officers, agents, and employees shall sign an annual attestation of review and adherence to the Conflict of Interest Policy and Procedures and Code of Conduct; and sign an Annual Disclosure of Conflict(s) of Interest form.

Disciplinary actions will be applied for violations of above standards, which may include dismissal from duties.

Forms signed by members must be maintained by the Subrecipient and will be reviewed by the DHEWD staff during their annual monitoring visits.

Functions of the Fiscal Agent, Board Staff, One-Stop Operator, and Service Providers

Local organizations often function simultaneously in a variety of roles, including local fiscal agent, Local WDB staff, one-stop operator, and direct provider of services. Any organization that has been selected or otherwise designated to perform more than one of these functions must develop a written agreement with the Local WDB and CLEO to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations.

A single entity may not perform the functions of Fiscal Agent, Board staff, One-Stop Operator (OSO), and Service Provider. The Fiscal Agent may function in a dual capacity as staff to the board, or alternately, the board may hire direct staff for this function. In order to ensure compliance with firewall requirements the Fiscal Agent, staff to the local WDB, or other board staff entities may not directly provide career services.

- ↳ Fiscal Agent Role – The Workforce Development Board of Western Missouri, Inc. is designated as the Fiscal Agent for the West Central Region by the CLEO Consortium.

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Per 20 CFR§679.420 - In general the fiscal agent is responsible for the following functions:

- 1) Receive funds.
- 2) Ensure sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget circulars, WIOA and the corresponding Federal Regulations and State policies.
- 3) Respond to audit financial findings.
- 4) Maintain proper accounting records and adequate documentation.
- 5) Prepare financial reports.
- 6) Provide technical assistance to subrecipients regarding fiscal issues.

At the direction of the WDB, the fiscal agent may have the following additional functions:

- 1) Procure contracts or obtain written agreements.
- 2) Conduct financial monitoring of service providers.
- 3) Ensure independent audit of all employment and training programs.

II. Board Staff Role – The local WDB establishes a set of qualifications for the position of director that ensures the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in carrying out the functions of the local WDB.

Local WDB staff may only assist the local board in fulfilling the required functions as stated in the law (see WIOA section 107(d)).

The WDB shall, through the Director, monitor and oversee the activities of West Central’s Missouri Job Centers in all respects to ensure proper usage of WIOA funds; procure contracts or obtain written agreements, conduct financial monitoring of subcontractors, and ensure an independent audit is conducted of all employment and training programs.

Fiscal and program monitoring of subrecipients will be conducted by the WDB and results will be presented to the WDB and CLEO Consortium.

As an administrative entity, board staff shall not provide any services directly to job seekers or employers – those functions are the sole responsibility of the subrecipient staff and merit staff at the Job Centers. The local WDB board staff exist in an organization separate and distinct from the organization that acts as the One Stop Operator and/or staffing service provider.

III. One-Stop Operator – WIOA Law requires the local WDB to use a competitive process based on local procurement policies and procedures and the principles of competitive procurement outlined in the Uniform Guidance (2 CFR 200.318-326). The competitive

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process must be conducted at least once every four years. A pre-qualified bidder’s list must be current and include enough qualified sources as to ensure open and free competition.

Sole-source procurement (noncompetitive proposals) is permissible in certain circumstances as noted in 20 CFR 678.605 (c) (Uniform Guidance 2 CFR 200.320(f)).

- a. The item or service is available only from a single source;
- b. The public exigency or emergency for the item or service will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- d. After solicitation of a number of sources, competition is determined inadequate, whether for reasons of number or quality of proposals/bids.

WDB Accounting Policy states: The WDB, with the agreement of the chief elected official, is authorized to designate one-stop operator(s) and to terminate for cause the eligibility of such operators. To be eligible to receive funds made available under this subtitle to operate a one-stop center, an entity:

- 1. Shall be designated a one-stop operator through a competitive process at least every four years; and
- 2. Shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection 121(b)(1), of demonstrated effectiveness.

IV. Procurement Process

WDB solicitations for bids will include the following provisions:

- a. Identification of the specific functions to be performed as OSO and Service Provider
- b. Description of how the bidder will carry out its responsibilities as both OSO and Service Provider
- c. Identification of the roles that overlap and need to be separated by firewalls
- d. Identification of the specific firewall protections that the bidder will put into place to mitigate conflicting roles
- e. Description of the process used by bidder to conduct independent oversight over the separation of the OSO and Service Provider roles
- f. Identification of the performance results to be achieved in both roles as OSO and Service Provider

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Evaluation of Bids

WDB’s bid review criteria will include an evaluation of the sufficiency of the bidder’s proposed firewall protections in terms of:

- a. Clearly distinguishing the separate roles as OSO and Service Provider
- b. Identifying where those duties overlap and present firewall hazards
- c. Identifying the specific firewall protections that will be put in place
- d. Describing the process or overseeing the effectiveness of the firewall protections

Approving the Award by WDB

- a. WDB will approve the OSO’s firewalls and other terms of operation as Service Provider
- b. WDB will ensure there are measurable OSO and Service Provider goals that can be monitored

Post Award - WDB Oversight and Monitoring

- a. The WDB monitor(s) will include oversight of the OSO and Service Provider into its regular monitoring procedures
- b. An assessment will be conducted to ensure firewalls are operating as described in the Local Governance Agreement with the Commissioner Consortium, the Local Board and the OSO
- c. WDB will conduct an analysis of actual vs. planned performance results
- d. All monitoring results will be reported to the Planning and Operations Committee and the full board

- V. The One-Stop Operator has the responsibility to ensure non-discrimination in that customers have an equal opportunity to access programs and services administered by the West Central Region. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with programs on the basis of race, color, religion, sex, national origin, disability, age, political affiliation, marital status, sexual orientation or status as a citizen or national of the U.S., and each customer shall have such rights as are available under any applicable Federal, State or local law prohibiting discrimination.

The Local WDB requires that the OSO not establish practices that create disincentives to providing services to individuals with barriers to employment. 20 CFR 678.600(e)(2)

- VI. WIOA Staffing/Service Providers - Appropriate firewalls must exist between staff providing services and staff responsible for oversight and monitoring of services. The

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same person or department cannot both provide services and oversee/monitor the provisions of those services.

Staff assigned to provide services in the Missouri Job Centers in the West Central Region shall not be staff of the local WDB board. WDB Board staff assume the responsibility of monitoring the financial and program activities of the subrecipient. This creates a firewall between the services provided through Adult/Dislocated Worker/Youth, One Stop Operator and the local WDB board.

The work and performance of the staffing service provider shall be monitored by WDB board staff (typically the compliance coordinator) in accordance with WDB’s monitoring policy. Any issues related to the provision of services by a Title I services provider shall be handled by the Executive Director in conjunction with the WDB Executive Committee and a corrective action statement shall be issued. Should such issues not be resolved (or a plan for resolution in place) within sixty (60) days of being identified, the board chair will be contacted and outstanding issues will be addressed in consultation with the Executive Committee.

VIII. Role of the Board in Conflicts

The WDB Board will be responsible for all conflicts of interest oversight and monitoring functions, including but not limited to, imposing separation of duties and/or access to physical and electronic information.

Members of the WDB Board will be required to recuse themselves from any vote where a conflict of interest exists. In the event of a conflict of interest with WDB staff, such person will not be involved in any selection process, meetings or discussions. All conflicts will be shared with the WDB Executive Director (or designee) and WDB Chair.

In the event that the conflict involves the WDB Executive Director, the WDB Board Chair will communicate with the board Executive Committee. In the event that the conflict involves the WDB Chair, the WDB Executive Director will communicate with the WDB Executive Committee. When a conflict involves WDB staff, files will be kept in a locked cabinet and saved in a protected file with restricted access only available to those named by the Board Chair and/or Executive Committee.

1. Recusal from Vote

In the event a Board member recuses himself from a vote at a Board meeting, causing a quorum vote to not be met, the item will be tabled until the next board meeting. If this situation occurs at an Executive Committee meeting, the item will be placed on the following month’s full board agenda.