

## Workforce Services Guidance – Local Workforce Development Area Re-alignment (*Steps and Processes for Chief Local Elected Officials and Local Workforce Development Boards)*

**Effective Date:** May 17, 2018

**Duration:** Indefinite

**Subject:**

This guidance outlines the steps that must be taken for the re-alignment of Local Workforce Development Areas (LWDA)

**Purpose:**

The purpose of this guidance is to clarify the action steps and procedures that must be executed by Chief Local Elected Officials (CLEO) and Local Workforce Development Boards (LWDB) in order to comply with the re-alignment of LWDAs as a result of the State Workforce Development Board and Governor’s decision to align the LWDA’s with Tennessee’s economic development job base camp regions.

## Scope:

Adult Education (AE), American Job Center (AJC), American Job Center Access Point (AJC Access Point), Chief Local Elected Official (CLEO), Division of Workforce Services (WFS), Local Workforce Development Areas (LWDAs), Local Workforce Development Boards (LWDBs), Office of the Governor, Office of Registered Apprenticeship (RA), One-Stop Service Delivery System Operator (Operator), Regional Council (RC), Rehabilitation Services (RS), State Workforce Development Board (SWDB), Tennessee Department of Education (TDOE), Tennessee Department of Economic and Community Development (TDECD), Tennessee Department of Human Services (TDHS), Tennessee Department of Labor and Workforce Development (TDLWD), Tennessee Eligible Training Providers (TETPs), Workforce Innovation and Opportunity Act (WIOA), Workforce System Partners (Partners), Workforce System Subrecipients (Subrecipients)

**Action Steps:** The action steps outlined below must be completed by the corresponding date for each action item.

1. **All county Mayors must convene based on new local workforce area realignment and:**
   1. **Select a CLEO**
   2. **Develop an interlocal agreement and the LWDB Partnership agreement**

Designation of a Chief Local Elected Official: The LEOs must select a CLEO who will represent the LEOs in the LWDA. The Interlocal Agreement must include the following information: 1. Selection/appointment process and term of the CLEO, which must include steps to ensure that their duties would not create, or be perceived to create, a conflict of interest between the consortium of LEOs, LWDB, Fiscal Agent, or other administrative entities; 2. The designation of the CLEO to serve as the signatory for the LEOs; 3. Outline decisions that may be made by the CLEO on behalf of the LEOs; and 4. Name, title, and contact information of the appointed CLEO.

Please review the guidance titled *CLEO Roles and Responsibilities* for an in-depth guide on the selection and role of the CLEO.

[**https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WFS\_Memo\_-\_CLEO\_Roles\_and\_Responsibilites\_.pdf**](https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WFS_Memo_-_CLEO_Roles_and_Responsibilites_.pdf)

Please review the guidance titled *Interlocal and Partnership Agreements.* Please be sure to develop two agreements. The Interlocal is an agreement between the county mayors/county executives within the LWDA on how they will carry out their roles as elected officials, grant recipients, and local board governance. The partnership agreement is between the CLEO, County Mayors/Executives, and the LWDB to determine how the parties will communicate, plan, conduct oversight, etc., of the LWDA.

<https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WFS_Memo_-_Interlocal_Agreements.pdf>

**Due Date***- July 1, 2018.*

1. **CLEO must designate a fiscal agent:**

Appointment of the Fiscal Agent (*20 CFR 679.420):* The CLEO may serve as the Fiscal Agent, or may designate a Fiscal Agent. If the CLEO designates a Fiscal Agent, the CLEO must ensure this agent has clearly defined roles and responsibilities. The Fiscal Agent acts only on the direction and authorization of the CLEO and the LWDB. In general, the fiscal agent is responsible for the following functions:

• Receipt of funds

• 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;

• Respond to audit financial findings;

• Maintain proper accounting records and adequate documentation;

• Prepare financial reports; and

• Provide technical assistance to subrecipients regarding fiscal issues.

The county governments within each LWDA are financially responsible for the use of WIOA funds within that LWDA (this is covered in the interlocal agreement). This means the county governments are responsible for any misuse of WIOA grant funds allocated to the LWDA. Designating an entity as a fiscal agent does not relieve the counties of this fiduciary responsibility. The fiscal agent may be any public or private for-profit or non-profit entity that is operational or eligible to operate within the LWDA. Furthermore, the fiscal agent may not also serve as the One-Stop Operator or a provider of career services in the LWDA.

The CLEO and/or all County Mayor/Executives and the designated fiscal agent must enter into an agreement outlining the roles, responsibilities, and authorities of the fiscal agent. The relationship between the CLEO and Fiscal Agent is a principle/agent relationship. The Fiscal Agent shall cooperate with and assist the LWDB and CLEO with their objectives of the LWDA in conformity with WIOA regulations and applicable federal and state regulations.

**Due Date-** CLEO’s must designate a fiscal agent and have the fiscal agent in place by *July 1, 2018.*

1. **CLEO must appoint new boards and board members**

Appointment of the Members of the Local Workforce Development Board (WIOA Section 107[c][1][A]): The CLEO is authorized to appoint the members of the LWDB in accordance with criteria established by the Governor in partnership with the State Workforce Development Board (SWDB or State Board). This agreement should include the agreed-upon means by which the CLEO, in collaboration with LEOs, will collectively appoint members to the LWDB (TEGL 27-14). (Workforce Services Policy – Local Governance available at: [https://www.tn.gov/assets/entities/labor/attachments/Completed\_WFS\_Policy\_- \_Local\_Governance.pdf](https://www.tn.gov/assets/entities/labor/attachments/Completed_WFS_Policy_-%20_Local_Governance.pdf))

Due to the formation of the 9 new LWDAs, CLEOs must adopt and appoint new LWDBs to represent and be reflective of the new LWDAs. Please review the guidance titled, “*Local Board Nomination*” for detailed instructions on the LWDB appointment process.

<https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/Local_Board_Nomination_Guidance.pdf>

**Due Date-** New boards must be in place no later than August 1, 2018.

1. **CLEO and LWDB determine how the board will be staffed, and who will staff the board:**

*20 CFR 679.400* states: *(a) WIOA sec. 107(f) grants Local WDBs authority to hire a director and other staff to assist in carrying out the functions of the Local WDB.*

*(b) Local WDBs must establish and apply 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.*

*(c) The Local WDB director and staff must be subject to the limitations on the payment of salary and bonuses described in WIOA sec. 194(15).*

*(d) In general, Local WDB staff only may assist the Local WDB fulfill the required functions at WIOA sec. 107(d).*

*(e) Should the WDB select an entity to staff the WDB that provides additional workforce functions beyond the functions described at WIOA sec. 107(d), such an entity is required to enter into a written agreement with the Local WDB and chief elected official(s) to clarify their roles and responsibilities as required by § 679.430.*

An entity or individuals serving as staff to the board are prohibited of providing services as the one-stop operator or career service provider level. Please refer to the memo titled, “*Prohibition of Local Workforce Development Boards as Direct Providers of One-Stop System Services*” for detailed explanation on the role of LWDB staff.

<https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WFS_Memo_on_LWDBs_providing_one-stop_services.pdf>

**Due Date**- *Must be in place no later than August 1, 2018*

1. **One-Stop Operator and Career Service Providers must be procured:**

One-Stop Operators and Career Service Providers must be competitively procured for each LWDA in adherence to the guidance below.

[**https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WorkforceServicesGuidance-OSOandCareerServiceProviderProcurement.pdf**](https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/WorkforceServicesGuidance-OSOandCareerServiceProviderProcurement.pdf)

**Due Date-** Contracts must be in place with an effective start date of *October 1, 2018.*

1. **Local policies must be adopted under the new board/area:**

Upon formation of the new LWDBs, the LWDBs and CLEOs must adopt local policies pursuant to State Workforce Development Board, TDLWD, and WIOA requirements. Existing LWDBs have policies in place; the newly formed LWDBs should review and adopt or develop local policies accordingly based on the new alignment and needs of the LWDA. **Due Date**- *December 1, 2018*.

1. **MOUs and IFAs must be updated with partners:**
   1. **Update of MOU**
   2. **Update of IFA**

The existing MOUs and IFAs should govern the existing LWDAs until October 1, 2018 during the transition period from July 1 through October 1. LWDB’s must work with WIOA partners and the one-stop operator to establish new MOUs and IFAs no later than ***November 1, 2018***.

[**https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/MOU-One-StopServiceDeliveryandInfrastructureAgreement.pdf**](https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/MOU-One-StopServiceDeliveryandInfrastructureAgreement.pdf)

1. **Eligible Training Provider Lists (ETPLs) must be adopted:**

Due to the re-alignment of LWDAs, LWDBs must ensure that they properly adopt updated Eligible Training Provider Lists (ETPL) in adherence to the policy below. LWDBs must make the updated ETPL for the newly formed LWDA available to the public.

[**https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/(16-09)%20Workforce%20Services%20Policy%20-%20Eligible%20Training%20Provider%20List.pdf**](https://www.tn.gov/content/dam/tn/workforce/documents/ProgramManagement/(16-09)%20Workforce%20Services%20Policy%20-%20Eligible%20Training%20Provider%20List.pdf)

**Due Date-** *November 1, 2018*

1. **State Workforce Development Board Reviews the Local Workforce Development Boards for initial compliance:**

CLEOs and LWDBs must execute the action steps outlined above in accordance with the corresponding due date for each action item. No later than *December 31, 2018*, the State Workforce Development Board will review each LWDB to ensure that each area has properly established its local workforce system structure to adhere to the re-alignment requirements.

**Contracts and Fiscal Related Activity:** In order to prevent disruption of services,LWDBs and fiscal agents should work with their current one-stop operators and career service providers to extend existing contracts through the transition period until October 1, 2018. LWDBs and Fiscal Agents should contact the TDLWD Grants and Budget Unit for technical assistance related to the temporary extension of existing contracts to extend services until October 1, 2018. In the event an LWDB experiences or projects a shortage in funds, please contact the TDLWD Grants and Budget Unit to prevent a disruption in services.

**Effective Date:** May 17, 2018

**Duration:** Indefinite

**Contact:**

For questions regarding this policy contact Nicholas Bishop, Director of Compliance and Policy-Division of Workforce Services, at (615) 741-0286 or [Nicholas.Bishop@tn.gov](mailto:Nicholas.Bishop@tn.gov).

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Deniece Thomas, Assistant Commissioner - Workforce Services Division