



Northern Middle Tennessee Local Workforce Development Board

Workforce Innovation and Opportunity Act Policy Letter No.: NMTWDB #14

Subject: Eligible Training Providers Policy

From: Susie Bourque, Director of Policy and Planning

BACKGROUND:

This policy provides information and direction for the Eligible Training Provider process, eligibility, application procedures, the appeal process, dissemination of the list, and reporting requirements. This policy also builds upon and enhances the Tennessee Department of Labor and Workforce Development's Combined Strategic Plan and the Regional Plan.

I. PURPOSE:

In order to maximize customer choice and assure that all significant population groups are served, the Eligible Training Provider List (ETPL) offers a wide variety of training programs and choices within the demand occupations identified by the Middle Tennessee Workforce Development Board (Board). Eligible participants who need training use the ETPL to provide consumer choice, while also supporting increased performance accountability. Only those programs that are approved and listed on the State's ETPL are eligible for referral and enrollment of a WIOA customer. These guidelines are consistent with Title I of the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3101 et seq.); Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); WIOA Section 188 Nondiscrimination; WIOA Section 122 Identification of Eligible Providers of Training Services; WIOA Section 123; WIOA Section 122(e)(3)(1); Uniform Guidance Cost Principles codified in 2 CFR Part 220, Part 225 and Part 230; TEGL 41-14; Tennessee Workforce Development Act of 1999, Tenn. Code Ann. Title 4, Chapter 3, Part 14, §4-3-1401 et seq.

II. Eligible Training Provider Process

A. Becoming a WIOA Provider

The following are the steps for ETP placement on the State of Tennessee list:

1. Prospective Eligible Training Providers must submit initial eligibility criteria including: training services to be offered; information addressing alignment of the training services with in-demand industry sectors and occupations to the extent possible; performance and cost information; and, annually met performance levels on specified performance measures as required.
2. The Board may require higher levels on specified performance measures or may require additional measures and corresponding levels. Once approved by the Board, the State will be informed to add to the ETPL.

3. The Board may choose not to fund certain categories of training programs based on, but not limited to, the following reasons:
 - a. Lack of occupational demand
 - b. High tuition cost in comparison to comparable programs
 - c. Lack of a livable wage upon program completion
 - d. Academic Program Performance that does not meet acceptable thresholds determined by the Board

B. Training Provider Eligibility

To be eligible to receive funds, the training provider must meet one of the following requirements:

1. A postsecondary educational institution that is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and provides a program that leads to an associate degree, baccalaureate degree, or certificate.
2. An entity that carries out programs under the National Apprenticeship Act of August 16, 1937; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.
3. Another public or private provider of a program of training services for the general public or specialized training for participant populations that face multiple barriers to employment such as providers directly associated with the Division of Rehabilitation Services, TN Department of Human Services. These populations include the following categories: Low-income individuals with barriers to employment and people with disabilities.
4. Another public or private provider with demonstrated effectiveness providing training to a population that faces multiple barriers to employment. These populations include:
 - a. Displaced homemakers
 - b. Low-income individuals
 - c. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in Section 166.
 - d. Individuals with disabilities, including youth who are individuals with disabilities.
 - e. Older individuals
 - f. Ex-offenders
 - g. Homeless individuals (as defined in Section 41403(6) of the Violence against Women Act of 1994 (42 U.S.C. 14043e-2(6) as amended in 2013); or homeless children and youths (as H. R. 803-10 defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2) and Section 721)).
 - h. Youth who are in or have aged out of the foster care system.
 - i. Individuals who are English language learners, including individuals who have low levels of literacy, and individuals facing substantial cultural barriers.
 - j. Eligible migrant and seasonal farmworkers, as defined in WIOA Section 167(i), and services to other low income individuals. (I) Individuals within 2 years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.).
 - k. Single parents (including single pregnant women).
 - l. Long-term unemployed individual).
 - m. Other groups the Governor determines to have barriers to employment (WIOA section 133(c)(E).
5. They must provide a program of training that:

- a. One or more courses or classes that, upon successful completion, leads to a certificate, an associate degree, or baccalaureate degree, or a competency or skill recognized by employers; or
- b. A training regimen that leads to competitive integrated employment for individuals with disabilities that provides individuals with additional occupational skills or competencies generally recognized by employers.

C. Registered Apprenticeship Programs

1. Registered Apprenticeship programs are not subject to the same application and performance information requirements or to a period of initial eligibility or initial eligibility procedures as other providers because such programs have gone through a detailed application and vetting procedure to become a Registered Apprenticeship program sponsored by the United States Department of Labor.
2. In collaboration with the State Director of Apprenticeship, the State will contact all current program sponsors at the time of this writing to elicit their interest in being part of the ETPL. The goal is to place as many Registered Apprenticeship programs on the ETPL as possible.
3. Registered Apprenticeship programs are exempt from performance and reporting-related requirements in order to enable these evidence-based programs to be placed on the ETPL with minimum burden.
4. Registered Apprenticeship programs with openings for new apprentices will automatically be considered a statewide demand occupation to facilitate WIOA funding support as appropriate.
5. A Registered Apprenticeship program on the ETPL will be on every local ETPL in the State.
6. The only criterion that applies to apprenticeships is that they be registered as apprenticeship programs with the U.S. Department of Labor.

II. Initial Eligibility and Application Procedures

A. Initial Eligibility

1. All training providers are required to complete the online application and follow all guidelines and requirements of the State Policy 16-9 in order to be included on the statewide Eligible Training Providers List (ETPL). Providers must provide quarterly performance as outlined in State Policy 16-9. The online application is reviewed and the Board will make the final determination about placement onto the ETPL.

B. ETPL Application Procedure for All Prospective Eligible Training Providers except Registered Apprenticeship Programs

1. Applications for initial eligibility must be initiated by the training provider by completing an online New Provider Application (WIOA Section 122 (b)(4)(C)-(E).
2. The online application is first submitted for verification of completeness.
3. The Board must verify that the training provider is in compliance with all Tennessee regulations pertaining to training authorization.
4. In addition, all information requires completion and verification for the ETPL training provider before the applications are submitted to the Board for consideration.
 - i. If the training provider is not compliant or the application is incomplete, the Board will notify the training provider within 15 days of receiving the application.

- ii. If the training provider is compliant, and its application is complete, the Board must review the application within 5 days of receiving the necessary information.
 - iii. The Board cannot send WIOA participants to new training providers until they are approved by the Board and the State office has been notified of the approval of the new provider.
5. The Board will ensure that the training provider meets their local eligibility criteria and then will vote to decide if the training provider and the associated programs will be added to the ETPL.
 6. Training providers must supply any additional supplemental information requested by the Board to assist in the initial eligibility decision.
 7. Applications must be presented in the time and manner determined by the Board. New training provider program application(s) may be submitted on any day of the year.
 8. After the Board votes on the training provider's application, a written notification must be submitted to the State within 30 days of the decision to add or deny the training provider placement onto the ETPL.

C. Out-of-State Providers, except Registered Apprenticeship Programs

1. Reciprocal Agreements (WIOA Section 122(g)). Sub-recipients can send a Tennessee WIOA participant to a provider located in a different State given that the training provider appears on the other State's ETPL.
2. The Board will only approve training providers within t area and it must be a permanent training structure.
3. Reciprocal Agreements are subject to the following guidelines:
 - i. If the Board utilizes a training provider that does not appear on the Tennessee ETPL, it is the responsibility of the Board to track and report the necessary performance information needed for subsequent eligibility determinations. To fulfill this obligation, the Board must ensure that verification of enrollment, completion, and subsequent placement for training participants are recorded in the State performance tracking system (currently Virtual One-Stop Data Management Tracking System (VOS)).

3. Appeal of the Board Denial

A. Provider Application Denial

1. If the Board denies a training provider's initial application for listing on the ETPL, the staff must, within 30 days from the date of determination, inform the training provider in writing, including the detailed reason(s) for the denial and complete information on the appeal process.

B. Reasons for Denial of Application for Initial Eligibility

1. The Board may deny eligibility if the application from a training provider is not complete or not submitted within required time frame.
2. The Board may deny eligibility if an applicant fails to meet the minimum criteria for initial listing specified in this policy (WIOA Section 122(c)(1)).
3. The Board may deny eligibility if the training programs offered by the training provider do not lead to gainful employment in in-demand occupations as determined by a labor market analysis.
4. The Board may deny eligibility if the training program demographics (i.e. costs and length) are substantially higher (beyond 50%) than previously approved programs offering the same credential (within the past two program years).

5. The Board may deny eligibility if it is determined that the applicant intentionally supplied inaccurate information (WIOA Section 122(f)(1)(A)).
6. The Board may deny eligibility to a training provider who has been found to have substantially violated any WIOA requirements (WIOA Section 122(f)(1)(B)).

C. Appeals to the Board (WIOA Section 122(c)(1))

1. This procedure applies to appeals by training providers to the Board based on the denial of a training provider's application for initial listing on the ETPL. (a) A training provider wishing to appeal a decision by the Board must submit an appeal to the staff within 30 days of the issuance of the denial notice. The appeal must be in writing and include a statement of the desire to appeal, specification of the program(s) in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official.
2. The Board appeal process must grant the training provider the opportunity to directly address the reasons for denial and do it either in writing or through an appeal hearing.
3. The Board will have 1-3 impartial appeal officers who are responsible for re-evaluating the supplemental materials supplied by the training provider in addressing the initial reasons for denial. An impartial appeal officer may be any staff member uninvolved in the initial decision.
4. The Board will notify the training provider of the final decision made on an appeal within 30 days of receipt of the appeal.
5. The Board appeal notification to the training provider will reference the process for filing a State appeal in the event that the training provider is not satisfied with the outcome of the local appeal.

D. Appeals to the State (WIOA Section 122(c)(1))

When training providers who have exhausted the appeal process with the Board and are dissatisfied with the Board's final decision.

1. A training provider wanting to appeal to the State must submit an appeal request to the State within 30 days from the Board's notification to the training provider of its final decision on an appeal. The request for an appeal to the State must be in writing and include a statement of the desire to appeal, specification of the program(s) in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official and follow TN WIOA Policy 16-9.

4. Dissemination of the ETPL

A. Statewide Dissemination and Customer Access

1. The Board is responsible for ensuring that all (AJC) staff members in the respective LWDA's have access to the ETPL, are knowledgeable about utilizing the ETPL; the Career Development Manager is also to ensure local access to the ETPL for customers within the American Job Centers (WIOA Section 122(d)(1)).
2. The Career Development Manager is responsible for ensuring that all American Job Center staff in the respective LWDA's do not allow WIOA participants to enroll in programs that do not appear on the ETPL.

5. Program Changes

A. Adding New Programs (Previously Approved Providers)

1. The Eligible Training Provider must submit the program using the online Web application for addition to the ETPL.
2. The application materials are received electronically by the Career Development Manager and reviewed for completeness.

- i. All new programs must have prior authorization by the appropriate State authorizing agency (Tennessee Higher Education Commission, Tennessee Board of Regents, etc.) before they can be added to the ETPL.
3. After verification of completeness, the application materials are forwarded to the Board for its vote on whether to add the program to the ETPL.
4. After the Board has rendered a vote about the application material, its decision is communicated in writing to the State.
5. All approvals from the Board are added to the ETPL by the State within 3 business days.

B. Adding New Registered Apprenticeship Programs

Registered Apprenticeship sponsors that want to add new programs to the ETPL must indicate their interest in being included on the list and must use the online Web application to submit their programs.

6. Performance Data (Registered Apprenticeship Programs Are Excluded)

A. Provider Quarterly Report Requirements

1. Eligible Training Providers must provide the information necessary to determine program performance and to meet other requirements of the WIOA. The Eligible Training Provider must agree to make available verifiable data to validate any information submitted (WIOA Section 122(d)(1)).
2. Eligible Training Providers on the ETPL are required to submit quarterly performance reports to the State. The report must contain individual level data for all participants in programs offered by the Eligible Training Provider that have serviced at least one student with the assistance of WIOA funding.
3. The reports are due to the State on the specified due dates.
 - i. Quarterly report due dates: January 15th, April 15th, July 15th, & October 15th of every year.
 - ii. In the event that the due date falls on a State holiday or a weekend, reports are due by the conclusion of the next business day.

7. ETPL Penalties

A. Suspensions from the ETPL

1. Eligible Training Providers may be suspended from the ETPL for any of the following actions:
 - i. Failure to submit quarterly performance reports or the exemption claim sheet by the deadlines
 - ii. Failure to keep current the eligible training provider and program demographic information displayed on the ETPL
 - iii. Failure to respond to a State request for a data validation visit
 - iv. Poor performance during a data validation visit
 - v. Failure to submit corrections needed following quarterly report validation by the specified deadline
 - vi. Failure to comply with State request for information
2. During any State or Federal criminal investigation launched against the institution or key personnel at the institution, the Eligible Training Provider may be removed from the ETPL until a final resolution is reached. Depending on the final resolution, the provider may be permanently removed from the ETPL.

B. Financial Reimbursement

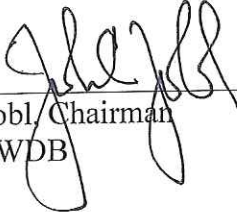
1. An Eligible Training Provider whose eligibility is terminated as a result of the reasons specified in above Section 7(A) of the current policy for a program shall be liable for repayment of all funds received during any period of noncompliance (WIOA Section 122(f)(1)(C)).

II. CONTACT:

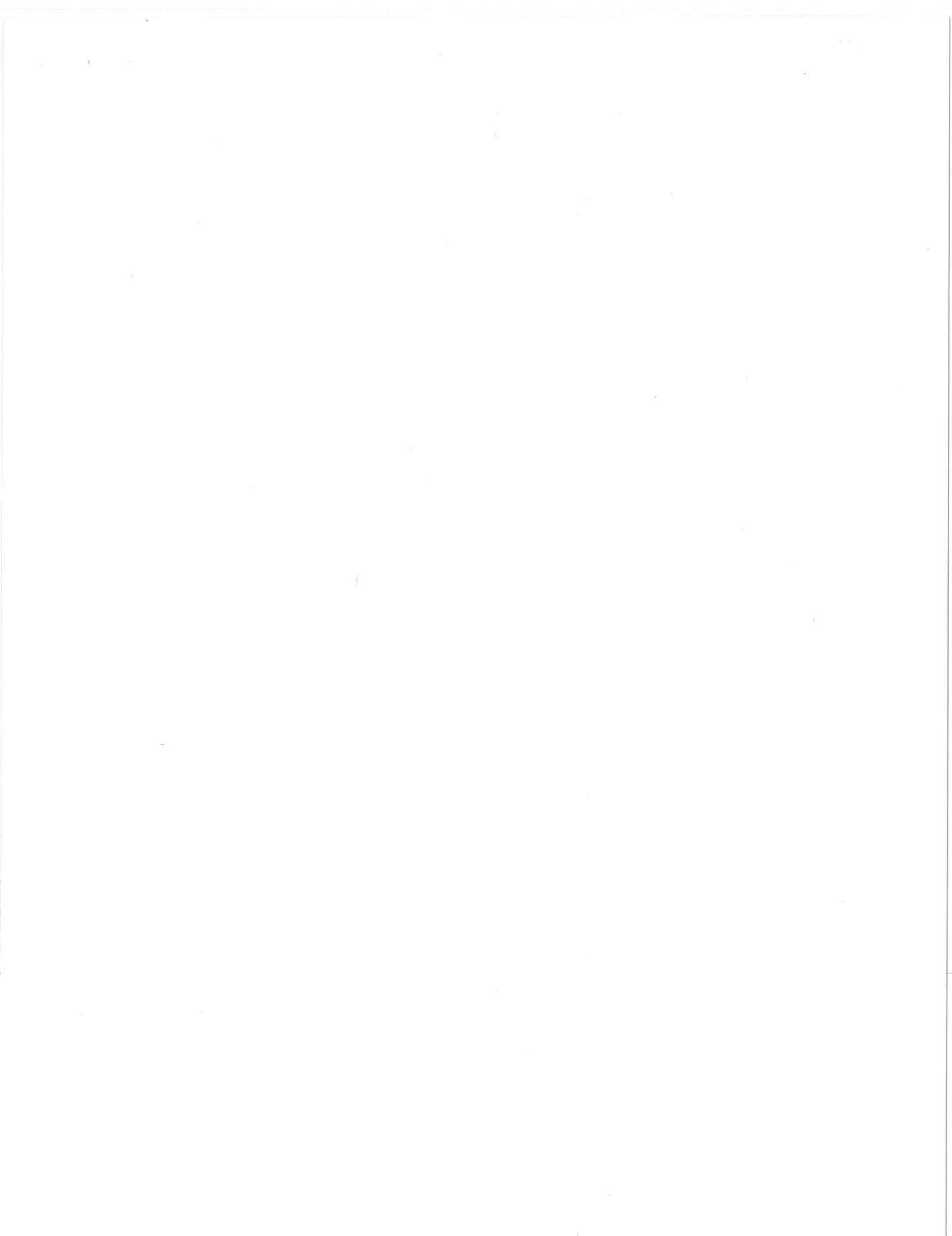
Questions concerning the above may be addressed to the Director of Policy and Planning.

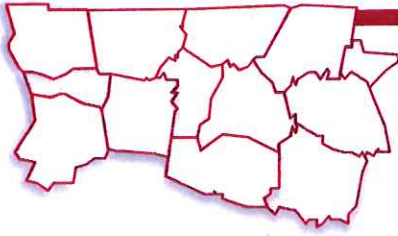
EFFECTIVE DATE:

Effective October 1, 2018 and will remain in effect until amended, modified, or set aside by the Northern Middle Tennessee Local Workforce Development Board.



John Zobl, Chairman
NMTLWDB





Northern Middle Tennessee Local Workforce Development Board

Workforce Innovation and Opportunity Act Policy Letter: NMTLWDB #7

Subject: Individual Training Accounts

From: Susie Bourque, Director of Policy and Planning

BACKGROUND:

Section 134(c)(3)(D) of the Workforce Innovation and Opportunity Act identifies the training services that may be provided. Section 134(c)(3)(F)(iii) of the Workforce Innovation and Opportunity Act allows for the payment of the Individual Training Account. Training for Adults, Dislocated Workers and Out-of-School Youth will be in the demand occupations and sectors as identified in the Regional Plan and approved by the Board.

I. PURPOSE

To ensure that ITAs are awarded and managed according to WIOA regulations and to increase the availability of funds through an efficient de-obligation policy.

II. POLICY:

Individual training accounts allow Adults, Dislocated Workers and Out-of-School Youth to purchase training that will assist them in obtaining self-sufficient employment. Priority of services will be observed when providing ITA. In order to expend WIOA dollars on training the following criteria must be met:

1. The Training Program must appear on the state approved training provider list.
2. Training must be a demand occupation. Demand occupations are those occupations that are in a demand in the local area or in another area in which a customer is willing to commute or relocate. The Northern Middle Tennessee Local Workforce Development Board (Board) may also approve training services for occupations determined by the Board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area. In-demand information can be obtained from "Bright Outlook" in the VOS data base system.
3. Training must result in a recognized credential such as a degree, certificate, license, etc.
4. Training should be short-term and not exceed 18-24 months in duration. Ideally, training of 12 months or less is preferred.
5. Training ITAs cannot be issued for more than \$6,000 per enrollment without the approval of the Board.

6. All other available financial resources such as Pell grants, TN Reconnect, TN Promise, Wilder/Naifeh, Lottery, TSAC, other scholarships, etc., must be used first towards payment of tuition, fees and books prior to WIOA dollars being expended.
7. If customer is attending training at the time of WIOA enrollment, they must submit grades/progress reports before ITA is issued to ensure satisfactory progress is being met.
8. Customer must provide grades/progress reports at the end of each quarter/semester/etc. or additional funds will not be authorized.
9. ITAs are to be awarded per training provider term.
10. The Career Coach will issue the ITA.
11. Participants will be provided information on the Training Providers in order to make an informed choice.
12. Out of state and on-line training provider programs must be on their states eligible training provider list before an ITA can be issued.
13. A copy of the completed ITA must be forwarded to the training provider. If for some reason the ITA is voided, a copy of the "VOID ITA" must be forwarded to training provider with explanation and documentation on how void ITA was disbursed (i.e. fax, scan, mail, etc.) and put in electronic customer file.
14. In order to efficiently manage WIOA funds a Career Coach must de-obligate the remaining balance or unexpended funds to be recaptured and allocated to other customers.

III. Contracts for services may be used instead of an ITA only when on or more of these exceptions apply. Written authorization must be provided by the Director of Career Services. (WIOA Section 134(c)(3)(G)(ii))


1. The services provided are OJT, customized training, incumbent worker training, or transitional jobs;
2. The Board determines that there are an insufficient number of Eligible Training Providers in the local area to accomplish the purpose of a system of ITA;
3. The Board determines that in the area there is a training-services program of demonstrated effectiveness offered by a community-based organization or other private organization to serve individuals with barriers to employment;
4. The Board determines that the most appropriate training could be provided by an institution of higher education to train multiple individuals for jobs in sector-demanded occupations, provided this does not limit customer choice; or
5. The Board is considering entering into a pay-for-performance contract and the Board ensures that the contract is consistent with 20 CFR 683.510

IV. CONTACT:

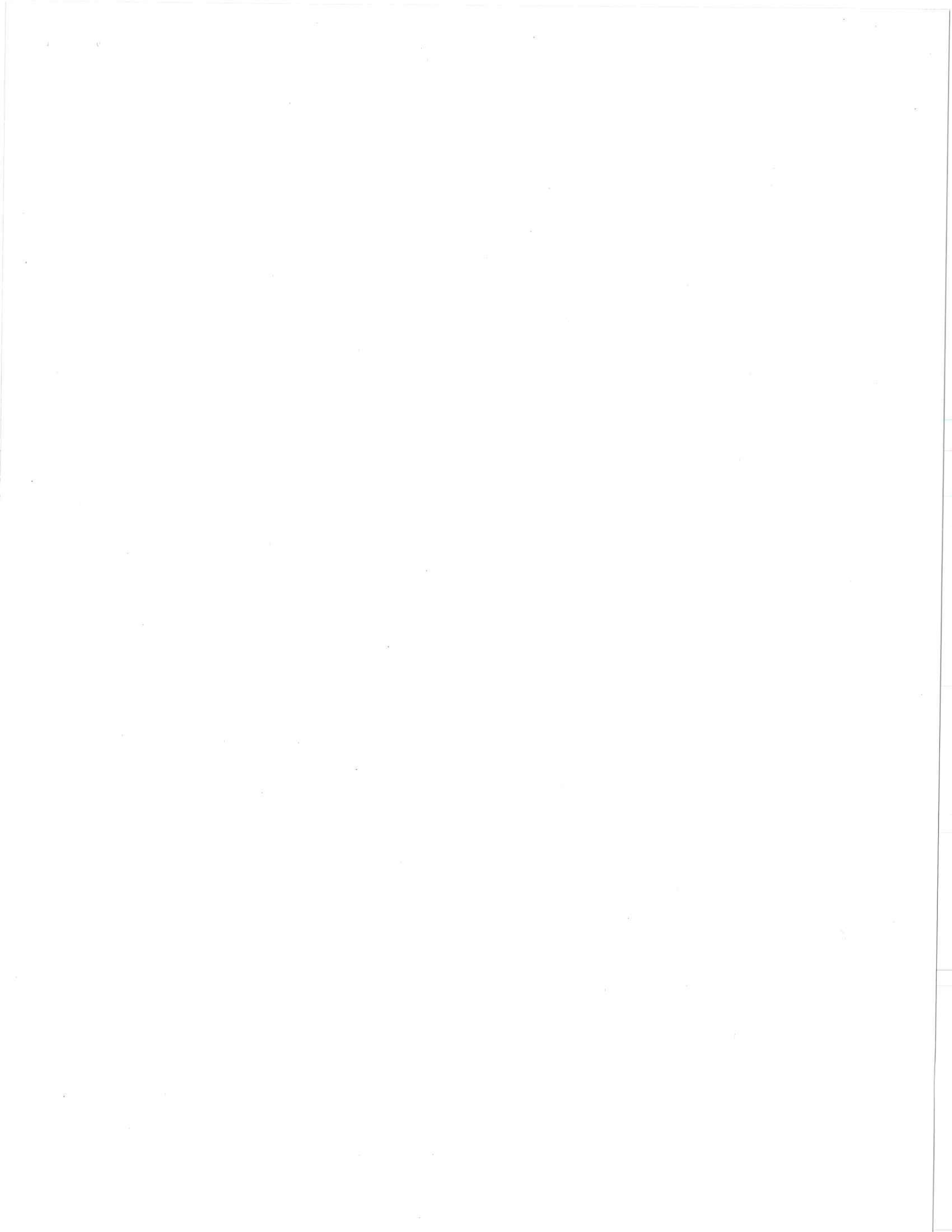
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John Zobl, Chairman
NMTLWDB





Northern Middle Tennessee Local Workforce Development Board

Workforce Innovation and Opportunity Act Policy Letter: NMTWDB #3

Subject: Supportive Services Policy

From: Susie Bourque, Director of Policy and Planning

BACKGROUND:

Section 134(d)(2) of the Workforce Innovation and Opportunity Act allows supportive services to be provided to Adults and Dislocated Workers who are participating in WIOA activities and who are unable to obtain supportive services through other programs. Section 129(c)(2) requires supportive services to be one of the Youth program elements.

I. PURPOSE:

This policy will establish guidelines for uniformity, where feasible, guidelines for supportive services provided to individuals. Such guidelines will be consistent with WIOA Sections 134(d)(2) and 129(c)(2).

II. INSTRUCTIONS:

Individuals enrolled in WIOA career or training services may be eligible to receive supportive services under the provisions of WIOA.

Supportive Service cannot be issued for more than \$4,000 per enrollment without the approval of the Board. Taxes or tips on products or services are not reimbursable for any reason, and may not be waived.

Upon execution of this policy, the following guidelines will apply to individuals receiving supportive services through WIOA Title I funds.

III. PARTICIPANTS WHO MAY RECEIVE SUPPORTIVE SERVICES:

Funds allocated to a local area (*WIOA Section 133*) may be used to provide supportive services to adults and dislocated workers who:

- Are participating in programs with activities authorized in *WIOA Section 134(c)(1)(A)(ii)* or *WIOA Section 134(c)(1)(A)(iii)*;
- Have exited and need post-program support services as follow-up (for up to 12 months after exit); and
- Are unable to obtain such supportive services through other programs providing such services

IV. THESE SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO (20 CFR 680.900):

- Linkages to community services
- Assistance with transportation
- Assistance with child care and dependent care
- Assistance with housing
- Needs-related payments (20 CFR 680.930, 680.940, 680.950, 680.960, and 680.970)
- Assistance with educational testing
- Reasonable accommodations for individuals with disabilities
- Legal aid services
- Referrals to health care
- Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear
- Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes
- Payments and fees for employment and training-related applications, tests, and certifications

V. SUPPORTIVE SERVICES FOR YOUTH

Supportive services for youth, as defined in WIAO Section 3(59), are services that enable an individual to participate in WIOA activities. These services may include, but are not limited to (20 CFR 681.570)

- Linkages to community services
- Assistance with transportation
- Assistance with child care and dependent care
- Assistance with housing
- Needs-related payments
- Assistance with educational testing
- Reasonable accommodations for youth with disabilities
- Legal aid services
- Referrals to health care
- Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear
- Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes
- Payments and fees for employment and training-related applications, tests, and certifications

Supportive services will only be provided when the services are not available elsewhere, since WIOA is considered last dollar funding. Supportive services are not entitlements and must be supported by demonstration of financial need. The participant's need for the provided service must be documented in the electronic case file; participants enrolled in individualized career or training services must demonstrate need in the Individual Employment Plan (IEP) or Individual Service Strategy (ISS). The cost of supportive services must be reasonable and competitive in

price. When multiple options are available for receiving supportive services, documentation must show a reasonable effort was made to determine and choose the lowest, competitively priced service available.

VI. NEEDS-RELATED PAYMENTS

One-Stop centers provide financial assistance as a supportive service for the purpose of enabling participants to engage in training WIOA Section 134(d)(3). Adult and Dislocated Workers funds may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation

To Receive Needs-Related Payments for:

- A) Adults and Out of School Youth Aged 18-24 must:
 - Be unemployed;
 - Not qualify for, or have ceased qualifying for, unemployment compensation; and
 - Be enrolled in a program of training services under WIOA Section 134(d)(4).

- B) Dislocated Workers must:
 - Be unemployed, and
 - i. Have ceased to qualify for unemployment insurance or trade readjustment allowance under TAA; and
 - ii. Be enrolled in a program of training services under WIOA Section 134(d)(4) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or if later, by the end of the 8th week after the worker is informed that a short term layoff will exceed 6 month; or
 - Be unemployed and unable to qualify for unemployment insurance or trade readjustment assistance under TAA and be enrolled in a program of training services under WIOA Section 134 (c)(3).

The level of a needs-related payment made to a dislocated worker shall not exceed the greater of (20 CFR 680.970), established by the LWDB.

- A) The applicable weekly level of unemployment insurance compensation for participants who were eligible for unemployment insurance compensation as a result of a qualifying dislocation; or
- B) The poverty level for an equivalent period, for participants who did not qualify for unemployment compensation as a result of qualifying layoff. The weekly payment level must be adjusted to reflect changes in total family income, as determined by the Self-Sufficiency policy.

VII. UNALLOWABLE SUPPORT SERVICES:

Support services may not be used to pay for expenses incurred prior to the participant's enrollment into the WIOA program. Program Management approval is required and should be documented. Advances against future payments are not allowed. Examples of unallowable services include, but are not limited to:

- A) Fines and penalties such as traffic violations, late finance charges, and interest payments
- B) Entertainment, including tips
- C) Contributions and donations
- D) Vehicle or mortgage payments
- E) Refund deposits
- F) Alcohol or tobacco products
- G) Pet food
- H) Items to be purchased for family or friends
- I) Out-of-state job search and relocation expenses that will be paid by the prospective employer

VIII. PRIORITY OF SERVICE:

Participants in WIOA programs who face significant barriers to employment – such as recipients of public assistance, low-income individuals, or individuals who are basic skills deficient – should be given service according to their level of need. Please refer to the TDLWD's *Priority of Service Guidance* concerning the order of service delivery which can be accessed at: <http://www.tn.gov/workforce/article/wioa-technical-assistance>

IX. DUPLICATION OF SERVICES:

Funds for supportive services should be monitored to ensure that they are spent in a manner that avoids redundancy. Please refer to the TDLWD's *Duplication of Services Guidance* for more information concerning co-enrollment of participants in multiple programs and best practices to leverage resources for maximum benefit. This document can be accessed at: <http://www.tn.gov/workforce/article/wioatechnical-assistance>

X. GRANDFATHER CLAUSE:


Customers who have been enrolled in the program prior to the execution of this policy shall not be affected by its terms and conditions.

XI. CONTACT:

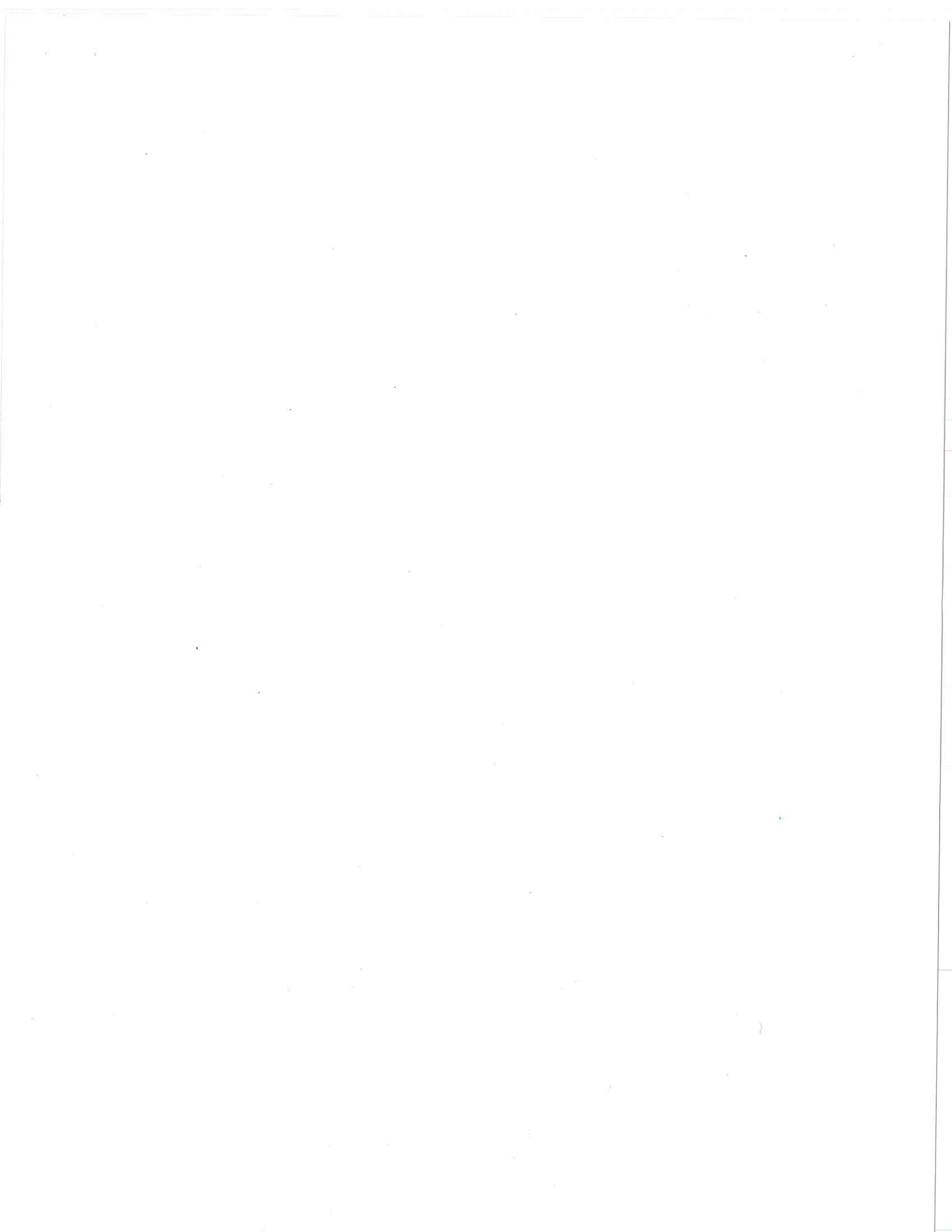
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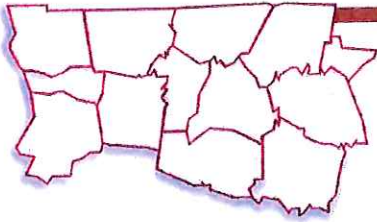
EFFECTIVE DATE:

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John Zobl, Chairman
NMTWDB





Northern Middle Tennessee Local Workforce Development Board

Workforce Innovation and Opportunity Act Policy Letter No: NMTLWDB #22

Subject: Procurement Policy

From: Susie Bourque, Director of Policy and Planning

BACKGROUND:

WIOA Sec. 184(a)(3)(A) requires each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title to comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget (OMB).

OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations; 2 CFR 200 supersedes and streamlines requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, A-133 and the guidance in Circular A-5- on Single Audit Act follow-up. 2 CFR 200, also referred to as the "Super Circular", consolidates the guidance previously contained in the aforementioned citations into a streamlined format that aims to improve both the clarity and accessibility of the guidance.

The effective date of 2 CFR 200 is December 26, 2014. Fiscal policies and OMB Circulars A-87, A-110, A-122 and A-133 requirement are still in effect for funding distributed prior to December 26, 2014 must be in compliance with 2 CFR 200.

Procurement standards referenced in 2 CFR 200.110 and 200.317 – 200.326, allow for non-federal entities to continue to comply with procurement standards in previous OMB guidance for three additional fiscal years after this part goes in effect (June 30, 2018).

I. PURPOSE:

This policy communicates the methods for the procurement of goods and services obtained with Workforce Innovation and Opportunity Act (WIOA) funds and sets forth the requirements provided by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule Title 2 of the Code of Federal Regulations; 2 CFR 200.

II. INSTRUCTIONS

A. Cost-Reimbursement Only [WIOA Sec. 184(a)(3)(B)]

Procurement transactions under this title between local boards and units of state or local governments shall be conducted on a cost-reimbursement basis only.

B. General Procurement Standards (2 CFR 200.318)

The Northern Middle Tennessee Local Workforce Development Board (Board) will use documented procurement procedures that reflect State and local laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in 2 CFR Parts 200.317 through 200.326.

The Board will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

The Board Conflict of Interest Policy provides standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer or agent may participate in the selection, award, or administration of a contract supported by the Federal award if he or she has a real, perceived or potential conflict of interest. Conflicts of interest must be disclosed in writing when known in advance or announced to the voting body. The party must excuse themselves from any further discussion and/or vote on the matter in question. Violations of such standards are subject to disciplinary actions provided in the Board's Conflict of Interest Policy.

The Board procurement procedures will avoid acquisition of unnecessary or duplicative items and promote cost-effective use of shared services by entering into state and local intergovernmental agreements for procurement of use of common or shared goods and services where appropriate. The Board will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The Board will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as:

- Contractor integrity
- Compliance with public policy
- Record of past performance, and
- Financial and technical resources

The Board will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to:

- Rationale for the method of procurement
- Selection of contract type
- Basis for contractor selection or rejection, and
- The basis for the contract price

Time and materials contracts [For major construction only; 2 CFR 200-318(j)]: The Board may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

The Board will be responsible for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to:

- Source evaluation
- Protests
- Disputes, and
- Claims

C. Competition (2 CFR 200.213)

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards provided in section 200.319 or 2 CFR 200. In order to ensure objective contractor performance and eliminated unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded for competing for such procurements.

The Board procurement transactions will contain no requirements that unduly restrict competition as specified in 200.319(a) and (b).

The Board procurement procedures will ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured in a manner that does not unduly restrict competition; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The Board will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free completion. The Board will not preclude potential bidders from qualifying during the solicitation period.

D. Methods of Procurement (2 CFR 200.320)

The Board may use one of the following methods of procurement:

1. **Micro-Purchases** (purchases of \$1-\$3,000): Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the Micro-purchase threshold. To the extent practicable, the Board will distribute micro-purchase equitably amount qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations in the Board considers the price to be reasonable.
2. **Small Purchases** (\$3001-\$150,000): Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (as of the publication of 2 CFR Part 200, the Simplified Acquisition Threshold is \$150,000 but is periodically adjusted for inflation.) If small procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources
3. **Competitive Proposals** (purchases of \$150,001-and above): The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - a. **Purchases over \$150,000 must be approved by the Board.**
 - b. Requests for proposals must be publicized on the Board website and in the Tennessean newspaper and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - c. Proposals must be solicited from an adequate number of qualified sources;
 - d. The Board will follow its written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - e. Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - f. The Board may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

4. **Sealed Bids (Formal advertising)** purchases of \$150,001-and above): Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

a. **Purchases over \$150,000 must be approved by the Board.**

b. In order for sealed bidding to be feasible, the following conditions should be present:

- i. A complete, adequate, and realistic specification or purchase description is available;
- ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
- iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

c. If sealed bids are used, the following requirements apply:

- i. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids for state, local and tribal governments, the invitation for bids must be publicly advertised;
- ii. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- iii. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- iv. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- v. Any or all bids may be rejected if there is a sound documented reason.

6. **Noncompetitive Proposals (Sole Source)** Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source; or
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
- 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.
 - e. **Purchases over \$150,000 must be approved by the Board.**
 - f. The Board can piggyback on other state or local government procurement.

E. **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 CFR 200.321)**

The Board will take necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus firms are used when possible.

F. **Contract Cost and Price (2 CFR 200.323)**

1. The Board will perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Board will make independent estimates before receiving bids or proposals.
2. Where applicable, the Board will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the Board under Subpart E — Cost Principles-of the Uniform Administrative Guidance 2 CFR Part 200. The Board may reference its own cost principles that comply with the Federal cost principles.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting are not allowable.

G. **Procurement Review (2 CFR 200.324)**

1. The Board will make available, upon request by the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

2. The Board will make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates when the circumstances detailed in 200.323(b) apply.
3. The Board is exempt from the pre-procurement review if the Federal awarding agency or pass-through entity determines that its procurement systems comply with this part.
 - a. The Board may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.
 - b. The Board may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the Board that it is complying with these standards. The Board must cite specific policies, regulations, or standards as being in compliance with these requirements and have its system available for review.

H. Bonding Requirements (2 CFR 200.325)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently \$150,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the requirements of 200.325(a) — (c) must be followed.

I. Contract Provisions (2 CFR 200.326)

The Board's contracts must contain the applicable provisions described in Appendix II to Part 200 — "Contract Provisions for non-Federal Entity Contracts Under Federal Awards."

J. Sub-recipient and Contractor Determinations (2 CFR 200.330)

The Board will make a case-by-case determination whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a sub-recipient or a contractor (see Sub-recipient and Contractor in the Definitions section of this policy).

In determining whether an agreement between The Board and another non-Federal entity casts the latter as a sub-recipient or a contractor, the substance of the relationship is more important than the form of agreement. The Board will use judgment in classifying each agreement as a sub-award or a procurement contract.

In compliance with 2 CFR 200.330, the Board will classify eligible providers of WIOA Adult, Dislocated Worker and Youth services as sub-recipients.

K. Delivery of Career Services-Adult and Dislocated Workers [WIOA Sec. 134(c)(2)(C)]

Career services described in WIOA Section 134(A) for eligible adult and dislocated workers shall be provided through the one-stop delivery system. :

1. Directly through one-stop operators Identified pursuant to section 121(d), or
2. Through contracts with service providers (sub-recipients), which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

L. Training Contracts [WIOA Sec. 134(c)(3)(G)(ii)]

1. Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account (ITA) if :
 - a. The Consumer Choice Requirements [WIOA Sec. 134(c)(3)(F)] are met;
 - b. Such services are on-the-job training (OJT), customized training, incumbent worker training or transitional employment;
 - c. The Board determines there are an insufficient number of eligible providers of training services in the local area involved to accomplish the purposes of a system of individual training accounts;
 - d. The Board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve individuals with barriers to employment;
 - e. The Board determines that:
 - i. It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations; and
 - ii. Such contract does not limit customer choice; or
 - f. The contract is a pay-for-performance contract.

2. Training services must be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that the Board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area [WIOA Sec. 134(c)(3)(G)(iii)].
3. Nothing in this paragraph shall be construed to preclude the combined use of Individual training accounts (ITAs) and contracts in the provision of training services, including arrangements that allow individuals receiving ITAs to obtain training services that are contracted this clause [WIOA Sec. 134(c)(3)(G)(iii)].

M. Selection of Eligible Providers of Youth Workforce Investment Activities
(WIOA Sec. 107(d)(10)(B) and Sec. 123)

1. The Board shall award grants or contracts on a competitive basis to providers (sub-recipients) of youth workforce investment activities based on the criteria in the State plan (including such quality criteria as the Governor shall establish for a training program that leads to a recognized postsecondary credential), and taking into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program as described in WIOA Section 116(b)(2)(A)(ii) and in WIOA section 102(b)(2)(D)(i)(V), based on the recommendations of the youth standing committee; and
2. Shall conduct oversight with respect to such providers.
3. Exceptions: A local board may award grants or contracts on a sole source basis if such board determines there is an insufficient number of eligible providers of youth workforce investment activities in the local area involved for grants and contracts to be awarded on a competitive basis.
4. Consistent with section 123, the local board may terminate for cause the eligibility of such providers (sub-recipients).

N. Selection of One-Stop Operators [WIOA Sec. 121(d)]

The Board, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators 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 or certified as a one-stop operator through a competitive process; 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.

The Board will adhere with State Workforce Board guidelines and direction,

1. Disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers.
2. Do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training and education services; and
3. Comply with Federal regulations, and procurement policies, relating to the calculation and use of profits.

Q. Suspension and Debarment (2 CFR 2900)

Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

DEFINITIONS

Contract (2 CFR 200.22): A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal Instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or sub-award.

Contractor (2 CFR 200.23): An entity that receives a contract as defined in "Contract", above.
(2 CFR 200.330(b)): A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor (see 200.22 Contract). Characteristics indicative of a procurement contract relationship between the non-Federal entity and a contractor include when the non-Federal entity receiving the Federal funds:

- 1) Provides the goods and services within normal business operations.
- 2) Provides similar goods or services to many different purchasers.
- 3) Normally operates in a competitive environment.
- 4) Provides goods or services that are ancillary to the operation of the Federal program; and
- 5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Cooperative Agreement (2 CFR 200.24): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 63026305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal government of pass-through entity's direct benefit or use.
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Customized Training (WIOA Sec. 3(14) Training:

- A. That is designed to meet the specific requirements of an employer (or group of employers);
- B. That is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and
- C. For which the employer pays a significant portion of the cost of training, as determined by the local board, taking into account the size of the employer and other factors determined by the board and further defined in this part.

Federal Award (2 CFR 200.38): Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1): The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

- (a)(2): The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.
- (b) The Instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance in paragraph (b) of 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal Awarding Agency (2 CFR 200.37): The Federal agency that provides a Federal Award directly to a non-Federal entity.

Federal Financial Assistance (2 CFR 200.40): For grants and cooperative agreements, assistance that non-Federal entities receive or administer in the form of:

- (a) Grants
- (b) Cooperative agreements
- (c) Non-cash contributions or donations of property (including donated surplus property)
- (d) Direct appropriations; and
- (e) Other financial assistance.

Fixed Amount Awards (2 CFR 200.45): A type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award.

Grant Agreement (2 CFR 200.51): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;
- (b) Is distinguished from a cooperative agreement In that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Incumbent Worker Training (proposed CFR 20 680.780): WIOA funded training for incumbent workers is designed to meet the specific requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment and conducted with a commitment by the employer to retain or avert the layoff of the incumbent worker. An ideal incumbent worker training would be one where a participant acquires new skills

allowing him or her to move into a higher skilled and higher paid job with the company, thus allowing the company to hire a job seeker to backfill the incumbent worker's position. Incumbent worker training must increase both the participant's and the company's competitiveness. An incumbent worker does not necessarily have to meet the eligibility requirement for career and training services for adults and dislocated workers under WIOA. Individual with Barrier to Employment [WIOA Sec. 3(24)]: A member of one or more of the following populations:

- o Displaced homemakers
- o Low-income individuals
- o Indians, Alaska Natives, and Native Hawaiians
- o Individuals with disabilities
- o Older individuals
- o Ex-offenders
- o Homeless individuals (see definition of Homeless Individuals], or homeless children and youth (see definition of Homeless Children and Youth)
- o Youth who are in or have aged out of the foster care system
- o Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers
- o Eligible migrant and seasonal farm workers
- o Individuals within two (2) years of exhausting lifetime TANF eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)
- o Single parents (including single pregnant women)
- o Long-term unemployed individuals
- o Such other groups as the Governor involved determines to have barriers to employment.

Local Plan (WIOA Sec. 3(35)): A plan submitted under WIOA section 108, subject to WIOA section 106(c)(3)(B).

Micro-Purchase (2 CFR 200.67): A purchase of supplies or services using the simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and costs. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

Northern Middle Tennessee Local Workforce Board (Board) (W 10A Sec. 3(33)): A local workforce development board established under W 10A section 107, subject to section 107(c)(4)(B)(i).

Non-Federal Entity (2 CFR 2900): A state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or sub-recipient.

On-the-Job Training (OJT) (WIOA Sec. 3(44)): Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- A. Provides knowledge or skills essential to the full and adequate performance of the job.
- B. Is made available through a program that provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided in WIOA section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- C. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

Pass-through Entity (2 CFR 200.74): A non-Federal entity that provides a sub-award to a sub-recipient to carry out part of a Federal program.

Proposal Costs (CFR 200.460): The costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals.

Simplified Acquisition Threshold (2 CFR 200.88): The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation.

State Plan (WIOA Sec. 3(58)): A unified State plan under WIOA section 102 or a combined State plan under WIOA section 103.

Sub-award (2 CFR 200.92): An award provided by a pass-through entity to a sub-recipient for the sub-recipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Sub-recipient (2CFR 200.93): A non-Federal entity that receives a sub-award from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2 CFR 200.330(a): A sub-award is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the sub-recipient, characteristics of which support the classification of the non-Federal entity as a sub-recipient and include when the non-Federal entity:

- 1) Determines who is eligible to receive what Federal assistance.
- 2) Has its performance measured in relation to whether objectives of a Federal program are

- met.
- 3) Has responsibility for programmatic decision making.
 - 4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
 - 5) In accordance with its agreement, uses the Federal funds to carry out program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

Transitional Employment (WIOA Sec. 134(5) and proposed 20 CFR 680.830): A transitional job is one that provides a limited work experience (WEX), that is subsidized in the public, private, or non-profit sectors for those individuals with barriers to employment because of chronic unemployment or inconsistent work history; these jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment.

Standing Committee [WIOA Sec. 107(b)(4)(A)]: The Board may designate and direct the activities of standing committees to provide information and to assist the Board in carrying out activities under WIOA.

ACTION REQUIRED

The Board and its sub-recipients of WIOA funds must adhere to the procurement practices outlined in this policy.

REFERENCES

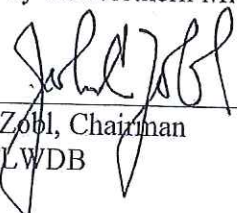
- WIOA Sections:
 - 3-Definitions
 - 107(d)(10)(B)-Selection of Youth Providers
 - 107(h) - Conflict of Interest
 - 108(16)-Competitive Process in the Local Plan
 - 108(19)- Training Services In the Local Plan
 - 134(c)(3)-Training Services Adults and Dislocated Workers
 - 134(cX3)(G)(ii)-Training Contracts
- OMB Uniform Guidance 2 CFR Part 200
 - Parts 200.318-200.326
- Final Guidance: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Office of Management and Budget (OMB); Federal Register Vol. 79, No. 244
 - 2 CFR part 2900, Department of Labor
- TEGL 15-14-Implementation of the New Uniform Guidance Regulations
- WIN 0064, Change 1 - Federal Awarding Agency Regulatory Implementation of OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Rule, 2 CFR 200

CONTACT:

Questions concerning the above may be addressed to the Director of Policy and Planning.

EFFECTIVE DATE:

Effective October 16, 2018 and will remain in effect until amended, modified, or set aside by the Northern Middle Tennessee Local Workforce Development Board.



John Zobl, Chairman
NMTLWDB