



## NEMO WORKFORCE DEVELOPMENT BOARD



# Firewall Policy

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### Purpose

This local issuance has established policy to provide direction – specifically to sub-recipients, contractors, staff and members of the Northeast Missouri Workforce Development Board – in order to 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 has been developed and will be signed by all board members, CLEOS, board staff and job center staff 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.

### 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 that has a value of \$25 or more. However, the WDB may waive this standard for situations in which the gift is an unsolicited item 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 or person 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.

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.

Membership on the WDB Board, or being a recipient of WIOA funds to provide training or other services, is not by itself a violation of conflict of interest provisions of WIOA or corresponding regulations unless and until a situation arises where there is a conflict of interest. For example, under circumstances where a board member's organization through which s/he volunteers or serves stands to benefit, the board member will recuse him/herself from discussion and decision-making.

#### B. 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.

##### I. Fiscal Agent Role – the CLEO Consortium designated the Northeast Missouri Workforce Development Board as the Fiscal Agent.

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 the Job Centers in all respects to ensure proper usage of WIOA funds; procure contracts or obtain written agreements, conduct programmatic and financial monitoring of subcontractors, and ensure an independent audit is conducted of all employment and training programs.

Fiscal and program monitoring of subcontractors will be conducted by the WDB and results will be presented to the WDB Board 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 subcontractor 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 Laws 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. The competitive 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.

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.
3. The One-Stop Operator has the responsibility to ensure non-discrimination in those customers have an equal opportunity to access programs and services administered by the Northeast Region. If a person is enrolled in a WIOA program or if you are employed as a staff person in an agency administering a WIOA program, you cannot be denied benefits or services, be segregated or treated any differently from other participants or staff, nor be discriminated against in any way on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title 1 of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title 1-financially assisted program or activity.

- IV. WIOA Staffing/Service Providers - Appropriate firewalls must exist between staff providing services and staff responsible for oversight and monitoring of services. The 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 Northeast Region shall not be staff of the local WDB Board. This creates a firewall between the services provided through Adult/Dislocated Worker/Youth, One Stop Operator and the local WDB board.

WDB board staff in accordance with WDB's sub-state monitoring policy shall monitor the work and performance of the Subrecipient program services. Any issues related to the provision of services by a Title I services provider shall be handled following the NEMO WDB Issuance Sub-State Monitoring and Corrective Actions Sanctions Policy and Guidelines.

#### 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.

#### V. 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 meeting.