

INSTRUCTION LETTER

INSTRUCTION NUMBER: 17-11 WIOA

TO: All Grantees

SUBJECT: Conflict of Interest Regarding Entities Performing Multiple Functions

**DATE
ISSUED: April 23, 2018**

**DATE
EFFECTIVE: July 1, 2018**

**DATE
EXPIRES: Indefinitely**

PURPOSE: To issue a local policy regarding conflict of interest applicable to single entities performing multiple functions under Title I of the Workforce Innovation and Opportunity Act (WIOA).

BACKGROUND: Throughout the SC Works system, the objectives of WIOA must be met through effective policies, procedures, and safeguards that ensure the integrity of public funds. WIOA and its implementing regulations require policies and procedures that prevent actual and potential conflicts of interest. Conflict of interest must be avoided when aligning WIOA Title I functions, entities, and services in a local workforce area. Structures that allow a single entity to have control over the administration and use of funds, have oversight of programs and the local one-stop delivery system, and also provide direct services do not have the internal controls necessary to ensure full transparency and accountability of public funds. Separation of duties is a prudent and necessary business practice. As such, the State Workforce Development Board approved the following policy on February 28, 2018.

POLICY: This policy separates and defines functions as either oversight/administrative or operational/service delivery and prohibits a single entity from performing both types of functions. When referencing operational services within this policy, business services are excluded. An entity providing oversight and administrative services in a local workforce area is restricted from also providing operational services for youth, adults or dislocated workers under Title I. The local workforce development board (LWDB), fiscal agent, and entity providing staff to the board are responsible for providing oversight and administrative services. Therefore, the following conditions apply:

- A LWDB is prohibited from serving as one-stop operator and from being a direct provider of Title I services for youth, adults or dislocated workers.
- A local entity designated by the chief local elected official(s) (CLEO) as the fiscal agent for Title I funds is prohibited from serving as one-stop operator and from being a direct provider of services for youth, adults or dislocated workers under Title I.

- An entity that provides staff to the LWDB, to assist the board in carrying out its functions per WIOA Section 107(d) and 20 CFR Part 679.370, is prohibited from serving as one-stop operator and from being a direct provider of Title I services for youth, adults or dislocated workers.
- An entity designated as the local fiscal agent may also provide staff to the LWDB, as the services provided are defined as oversight/administrative functions. If a single entity performs these multiple roles, the organization must develop a written agreement with the LWDB and the CLEO(s) to identify responsibilities and clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA, corresponding regulations and relevant OMB circulars, specifically 2 CFR Part 200 (Uniform Guidance).

Provisions for Temporary Waiver

A LWDB may request a temporary waiver of the above conditions that would allow a single entity to provide oversight and administrative services, as well as operational services for youth, adults, or dislocated workers under certain circumstances. Such circumstances would include:

- National disaster grants;
- Transition centers to handle mass layoff events;
- Untimely termination of contract, either by local board or by a service provider;;
- Revised procurement timelines due to Request for Proposal (RFP) responses.

Competitive Procurement of Services

- Per WIOA Section 121(d) and 20 CFR Parts 678.600(e)(1) and 678.605(a), a full and open competition for the selection of one-stop operators must occur at least once every four years. Operators must disclose any potential conflicts of interest arising from relationships with training providers or other service providers.
- Direct providers of Title I services for youth, adults and dislocated workers must be competitively procured.
- Competitive processes must be based on local procurement policies that are consistent with the procurement standards of the Uniform Guidance at 2 CFR 200.318 through 200.326 and Training and Employment Guidance Letter 15-16.
- A one-stop operator may also be a service provider. In such cases, there must be internal controls within the operator-service provider entity, as well as specific policies and procedures at the LWDB level regarding oversight, monitoring, and evaluation of performance of the service provider. Agreements with a single entity that performs the functions of one-stop operator and service provider must identify responsibilities and clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA, corresponding regulations and relevant OMB circulars, specifically 2 CFR Part 200 (Uniform Guidance).

Effective Date

The effective date of this policy is July 1, 2018. If necessary, a LWDB may request an extension to complete procurement actions. Full implementation and compliance with the policy must be in place no later than July 1, 2019.

ACTION: Ensure that this policy is distributed to all staff. Any request for temporary waiver or procurement extension should be sent to workforcesupport@dew.sc.gov.

INQUIRIES: Should you have any questions concerning this instruction, please contact Dana Wood at (864) 596-2028 (TTY: 711 or wood@upstateworkforceboard.org).


Ann Angermeier, Director

Source: Workforce Innovation and Opportunity Act, Public Law 113-128, Sections 101(d)(2), 101(d)(12), 102(b)(2)(D)(i)(I), 107(d)(10), 20 CFR Parts 678.625, 679.130(b), 679.130(l), 679.370, 679.430, and State Instruction Letter 17-07.