



**OKLAHOMA**  
DEPARTMENT OF COMMERCE

**OKLAHOMA WORKFORCE DEVELOPMENT ISSUANCE # 05-2013**

**TO:** Chief Local Elected Officials  
Workforce Investment Board Chairs  
Workforce Investment Board Staff

**FROM:** Terry Watson, Director  
Workforce Strategic Initiatives, Policy and Programs  
Oklahoma Department of Commerce

**DATE:** April 25, 2013

**SUBJECT:** Guidance Policy for Role or Workforce Investment Area Change

**PURPOSE:** To provide guidance and direction to those WIBs that are making the decision, due to the current economic climate, to consolidate or change current roles in order to provide more efficient services that meet the needs of both their business and job seeker customers.

**BACKGROUND:** The Department of Commerce, Workforce Solutions Division, would like to offer these guidelines and definitions or steps for these efforts if your area so chooses one of the options.

**Guidance for Consolidation or Change of Roles or Areas**

**Section 1: Relates to changing fiscal agents or having a single fiscal agent for two or more areas.**

Below are some initial steps that need to be taken regarding change in fiscal agent:

- The law states that the CLEO can designate the fiscal agent, so action to designate a new fiscal agent can be taken any time by the LEO board. Section 117(d)(3)(B)(i)(II).
  - The new fiscal agent must agree to accept being the fiscal agent.
  - Once the above actions are taken, ODOC needs to be notified so that contracts can be changed for funds to flow to the new fiscal agent. This will require some transition time.
  - An agreement between the LEO's and the fiscal agent should be written and signed to clarify the agreements Roles and Responsibilities OWDI see MOU examples.
  - A joint LEO board meeting between the two areas should be held. ODOC will participate as needed and requested.
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- Out of that meeting, a new LEO consortium agreement should be drafted outlining the agreement and roles so that there are no misunderstandings. Roles and responsibilities policy OWDI #1-2012.

## **Section 2: Relates to Board Staff Employer of Record Change**

This section is referenced in OWDI #02-2012 Two-Year WIB Certification in regards to total role separation to prevent a conflict of interest.

- If the role change requires an employer of record contract the employer of record contract must be inclusive of the entire LWIB board staff budget and address what it takes to perform the day to day operations of the board staff i.e., salary, benefits, travel, rent, communications, supplies, etc. **Definition** The entity that is legally responsible for paying wages and employee's taxes. It is also the entity that is responsible for providing the employee the necessary facilities and supplies to carry out their assigned duties.
- Before finalizing employer of record negotiations, ODOC must review and provide written approval of the employer of record agreements and financial status of the intended employer of record.

Properly executed agreements shall contain the following:

1. Agreements for employer of record services must cover the budget for all board staff expenses e.g. staff salaries, insurance, fringe benefits, rent, travel, etc.
  2. Fee for service charges are required to be for actual costs to perform services and detailed in an itemized expense sheet to the contracted area and available for monitoring review.
  3. Contracts must include detail of the services to be performed by the employer of record and the limit of obligation the employer of record is assuming under the agreement.
  4. The board contracting these services must certify that they understand that the contracting of these services does not relieve them of the responsibility for ensuring that all of its federal employment tax duties are met. The EoR assumes no liability for the area's employee/clients employment tax withholdings, reporting, payment, and /or filing status. Therefore, it is crucial that proper oversight by the contracting entity is maintained as the board is ultimately responsible.
  5. If reimbursement contracts are entered into, there must be clear guidelines set out for ensuring timely payment, tracking, documentation, etc.
- Employer of Record approvals will not be granted if an audit or monitoring results in unresolved financial management system or cash management finding(s).

- If the LWIB is on an advance payment system with ODOC, all expenditure reports must be accompanied by a general ledger showing reimbursement of the WIA program for employer of record costs.
- LWIBs on a reimbursement payment system with ODOC are not required to submit supporting documentation at the time of cash request. Supporting documentation will be reviewed during on-site monitoring.
- It is preferable that only areas with unrestricted funds enter into employer of record contracts. As such, no documentation is required to support expenses at the time of reporting if unrestricted funds are being used. Supporting documentation will be reviewed during on-site monitoring.
- ODOC will monitor both the employer of record and the contracting area to ensure compliance either through desk or on-site monitoring as needed.

### **Section 3: Relates to forming a new area, i.e. local area designation – re-designation.**

The consolidation of boards into a new workforce investment area is the process that takes place between notice to the state for re-designation, and the new board becoming operational.

Re-designation of an area:

- Agreement needs to be reached by the area local elected officials that a new area or re-designation is desired.
- After above agreement has been reached, a letter needs to be sent to the Governor (through ODOC) requesting re-designation of the area to include the larger regional area.
- The above letter must be accompanied by documentation that there was a 30-day public comment period, how the public was notified, and any comments received as a result of the public comment period. Final Rule 661.341.
- The Governor’s Council, as the state WIB will need to recommend approval of the new area.
- Once approved, the process of appointing new board members to ensure representation of the entire area can be done as per the new consortium agreement. (See policy on WIB certification for nomination and appointment process.)
- Additional clarifying agreements should be done to ensure that each entity knows and understands their role and the relationships (agreement between WIB and LEO’s, agreement between WIB and fiscal agent) (examples provided in roles and responsibilities policy). See above section for guidance to change fiscal agent.
- Certification documentation is submitted to ODOC that includes the make-up of the board membership and other required certification documentation.

- The state will certify the board as per normal certification processes, including final approval from the Governor's Council. (Reference the WIB certification policy.)
- The state plan will need to be modified and sent to DOL after a public comment period.
- The local plan also will need to be modified and sent to ODOC after a public comment period.
- Once certified, the new board representing the new area should be operational.

These processes should become a part of any new consortium agreement for new or existing areas. Any contractual changes to existing agreements will be held to this guidance at the end period of the current contracts.

**ACTION REQUIRED:** Workforce Investment Board Staff are requested to distribute copies of this issuance to appropriate staff within the Workforce Investment Area for WIA compliance. This is official state policy and should be kept in your permanent policy issuance file.

Questions, comments or requests for assistance regarding this policy or these steps or guidelines should be directed to Jeane Burruss, Project Director, 405-815-5256, or email [jeane\\_burruss@okcommerce.gov](mailto:jeane_burruss@okcommerce.gov) or Tina Lindsay, Compliance Director, 405-815-5137, [Tina\\_lindsay@okcommerce.gov](mailto:Tina_lindsay@okcommerce.gov).