



WORKFORCE DEVELOPMENT BOARD OF VENTURA COUNTY

LOCAL POLICY BULLETIN #2018-08: Firewall Policy WDBVC Adult, Dislocated Worker and Youth Programs, One-Stop Operator, and Career Services Provider

Effective date: August 23, 2018
(Original effective date: July 6, 2018)

SUBJECT: Policy on Workforce Development Board Firewall

PURPOSE: The purpose of this policy is to provide guidance in the commitment of the Workforce Development Board of Ventura County (WDBVC) to the highest level of system integrity and the appropriate oversight of the Workforce Innovation and Opportunity Act (WIOA) and America's Job Center of California (AJCC), in order to comply with federal, state, and local laws and regulations. In addition, the purpose of the policy is to establish a "firewall" in the event of a conflict of interest.

REFERENCES:

- Workforce Innovation and Opportunity Act (WIOA) Public Law (113-128)
- Title 2 Code of Federal Regulations (CFR) Part 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance)
- Title 2 CFR § 200.318
- Title 2 CFR Part 2900: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Department of Labor Exceptions)
- Title 20 CFR WIOA, "Department of Labor; Final Rule"
- Title 34 CFR WIOA, "Point Rule for Unified and Combined State Plans Performance Accountability, and the One-Stop System Joint Provisions; Final Rule"
- WIOA Title I, 20 CFR § 679.420 and § 679.370
- Training and Employment Guidance Letter WIOA NO. 21-16 Operating Guidance For The Workforce Innovation And Opportunity Act
- State of California Employment Development Department Workforce Services Directive WSD16-14
- America's Job Center of California Memorandum of Understanding (MOU) Phase I & II
- County of Ventura Human Services Agency Conflict of Interest and Code of Conduct outlined in the Contracts & Grants Purchase Order Procedures and RFP Contract Procedures.

DEFINITIONS:

Conflict of Interest – an employee, officer, agent, or any member of the organization that has an interest in a financial gain or tangible benefit and who participates in the selection, award, or administration of a contract supported by a federal award.

Firewall – an established policy or procedure that acts as a barrier or protection against an undesirable influence, outcome, or authority. Examples of firewalls include but are not limited to organizational arrangements that provide clear separation of duties and responsibilities, reporting hierarchy of managers and staff that provide clear separation between job duties and responsibilities, and conflict of interest/confidentiality/disclosure agreements.

POLICY:

- I. The WDBVC Staff and Members, AJCC Operators ("Operators"), Service Providers and Fiscal Agent must act solely in the best interest of the community without regard to personal interest and must not participate in matters in which they have a disqualifying financial interest.

II. Firewall Guidelines:

- A. The appropriate role of fiscal agent is limited to accounting and funds management functions rather than policy or service delivery as per Title 2 CFR § 679.420.
- B. Providers delivering Title I, Dislocated Worker and Adult Services and Title I, Youth Direct Services will report any concerns or issues relating to conflicts of interest with Operators directly to WDBVC staff and bypass the Operators.
- C. Operators will report any concerns or issues relating to conflicts of interest with the Title I, Dislocated Worker and Adult Services and Title I, Youth Direct Service Providers directly to the WDBVC staff and bypass the Direct Services agency.
- D. WDBVC will be responsible for all conflicts of interest oversight and monitoring activities including but not limited to imposing separation of duties and/or functions among individuals and entities party to this policy and restriction of access to physical and electronic information. WDBVC will be required to recuse themselves from any vote where a conflict of interest exists. In the event of a conflict of interest with WDBVC staff, such person will not be involved in any selection process, meetings or discussions. All conflicts will be shared with the WDBVC Executive Director (or designee) and WDBVC Chair. In the event that the conflict involves the WDBVC ED, the WDBVC Chair will communicate with the County Human Services Agency Director, who provides oversight to the WDBVC Executive Director position. In the event that the conflict involves the WDBVC Chair, the WDBVC Executive Director will communicate with the WDBVC Vice-Chair or other WDBVC Executive Committee member. Access to information is protected from WDBVC members due to files being stored at the County of Ventura Human Services Agency office. When a conflict involves WDBVC staff, files will be kept in a locked cabinet and saved in a password protected file within the County's server.
- E. In the event that a WDBVC member recuses themselves from a vote at a public board meeting, causing a quorum vote to not be met, the item will be tabled until a future meeting. If this occurs at a WDBVC Executive Committee meeting, the item will be included on the WDBVC agenda at a subsequent meeting. If there is an instance where the WDBVC does not have a quorum vote due a recusal then the item will be tabled and added to a future agenda for further discussion and vote.
- F. Members of WDBVC shall comply with County of Ventura Human Services Agency Conflict of Interest and Code of Conduct outlined in the Contracts & Grants Purchase Order Procedures and RFP Contract Procedures.

III. AJCC (One-Stop) Operators:

- A. Local Boards must select their AJCC Operator through a competitive process at least once every four years (WIOA Section 121[d][2][A]). According to EDD Directive WSD16-14 December 19, 2016: As part of that competitive process,

Local Boards are required to clearly articulate the expected role(s) and responsibilities of the AJCC Operator (Title 20 CFR Section 678.620[a]).

- B. When selecting an AJCC Operator, Local Boards are required to fully adhere to the federal procurement standards outlined in Uniform Guidance Sections 200.318-200.326, as well as their local procurement policies.
- C. Local Boards who use a third party to conduct the competitive process must create a firewall in its procurement policy that only allows the Local Board to contribute the necessary and relevant federal, state, and local procurement requirements to the third party for them to conduct the competitive process.
- D. Operators are selected through a competitive procurement process and either be a single agency or a consortium that includes, at a minimum, three or more AJCC partners.
- E. When a single entity operates in more than one of the following roles including but not limited to local fiscal agent, WDB staff, one-stop operator, or direct service provider, it is required that such agency adhere to the policy set forth in this document.
- F. The AJCC Operators and the Adult and Dislocated Worker Career Services Providers fulfill two distinct and separate roles within the local AJCC system. These roles may be filled by the same entity or different entities based on what the Local Board determines is best for meeting the needs of its customers and demographic area, but, the roles must be clearly articulated as part of the competitive procurement and selection processes.
- G. The role of the AJCC Operator includes the following:
 - 1. Coordinating the service delivery of required AJCC partners and service providers.
 - 2. Ensuring the implementation of partner responsibilities and contributions agreed upon in Memorandums of Understanding - Phase I and Phase II.
- H. Operators responsibilities include:
 - 1. Coordinating the service delivery of required AJCC partners and service providers.
 - 2. Ensuring all partners are in compliance with AJCC Memorandum of Understanding (MOU) **Phase I & II**.
 - 3. Provide reports to the WDBVC on operations, performance and continuous quality improvement recommendations. Operators may be asked to take on additional tasks as directed by the WDBVC.
 - 4. Implement local WDBVC policies.
 - 5. Adhere to all applicable federal and state guidance.
- I. Operators must adhere to the following:
 - 1. Disclose any potential conflicts of interest arising from the relations of the AJCC Operator with particular training service providers or other service providers in accordance with Uniform Guidance General Procurement Standard as per Title 2 CFR §200.318.
 - 2. Will 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.
 - 3. Comply with the federal regulations and procurement policies relating to the calculation and use of profits outlined in Uniform Guidance.
 - 4. Adhere to WIOA Title I subtitle E § 679.430 to ensure appropriate firewalls within a single entity performing multiple functions, including when a fiscal agent also functions as a provider of services.

IV. **Title I, Dislocated Worker and Adult Services Providers:**

- A. Title I, Dislocated Worker and Adult Services Providers are provided through the County of Ventura Human Services Agency's Adult and Family Services Department.
- B. According to EDD Directive WSD16-14 December 19, 2016: Local Boards are responsible for identifying eligible Adult and Dislocated Worker Career Services Providers. If an AJCC Operator wishes to also serve as the Adult and Dislocated Worker Career Services Provider they must have appropriate firewalls in place between the staff providing services, the staff responsible for oversight and monitoring of services, and the Local Board. The firewalls must conform to Title 20 CFR Section 679.430 for demonstrating internal controls and preventing conflicts of interests.
- C. Title I, Dislocated Worker and Adult Services Provider will recruit, provide orientation, conduct comprehensive assessments, screening and determine WIOA eligibility for a minimum number of eligible participants to be enrolled and ensure that participants are on track to achieve program outcomes as outlined in WIOA (Public Law 113-128); and EDD Directive WSD16-21 June 12, 2017.
- D. The AJCC Operators and the Adult and Dislocated Worker Career Services Providers fulfill two distinct and separate roles within the local AJCC system. These roles may be filled by the same entity or different entities based on what the Local Board determines is best for meeting the needs of its customers and demographic area, but, the roles must be clearly articulated as part of the competitive procurement and selection processes.
- E. The role of the Title I Adult and Dislocated Worker Career Services Provider includes the following:
 - 1. Providing basic career services including but not limited to participant intake, orientations, initial assessments, employment services, and referrals to other partners and services.
 - 2. Providing individualized career services including but not limited to comprehensive and specialized assessments, case management, individual employment plans, training, and career planning.
 - 3. Manage the hours of operation for AJCC's
 - 4. Managing the daily operations in coordination with local fiscal agents for the lease, utilities and other property activities in support of the AJCC premises.
 - 5. Report to the WDBVC on operations, performance and continuous improvement recommendations
 - 6. Adhere to all applicable federal and state guidance

V. **Title I, Youth Service Providers:**

- A. Title I, Youth Service Providers are selected through a competitive procurement process.
- B. Title I, Youth Service Providers responsibilities include:
 - 1. Recruit, provide orientation, conduct comprehensive assessments, screening and determine WIOA eligibility for a minimum number of eligible youth to be enrolled and ensure that enrolled youth are on track to achieve program outcomes as outlined in WIOA (Public Law 113-128) Section 129(a)(1); Training and Employment Guidance Letter (TEGL) 21-16, Third

WIOA Title I Youth Formula Program Guidance (March 2, 2017); and EDD Directives WSD17-07 January 16, 2018 and WSD16-21 June 12, 2017. Program activities must comply with WDB contract and with associated guidance from the Department of Labor, State EDD Workforce Services Department and County of Ventura.

2. Local area youth service providers are required to provide at least one of the 14 program elements for initial enrollment / participation into the WIOA Youth services program. Contractors must make available, but are not required to provide all 14 elements to each youth participant. Each youth is to receive all services directly relevant to his/her needs. Local area youth service providers have the flexibility to determine what specific services a youth will receive based upon the youth's assessment and service strategy.

C. Performance:

1. The Contractor will engage youth in allowable activities in order to meet the areas of evaluation for program/contract accountability as established by the WDB and/or the WDB's Programs Committee.
2. Applicable areas of evaluation reporting will conform to the State-approved automation system.
3. Performance at levels below those identified may require Contractor to submit a corrective action to WDB Administrative staff. The WDB retains the right to terminate the contract should performance fall below acceptable levels.
4. CONTRACTOR is obligated to utilize 100% of the funds of this contract in a timely manner, indicating on each monthly invoice both accrued and paid expenditures.

VI. **Fiscal Agent:**

- A. The County of Ventura Human Services Agency (HSA) acts as the fiscal agent, as appointed by the Ventura County Board of Supervisors.
- B. Per 2 CFR § 679.420, the Fiscal Agent responsibilities include:
 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 sub recipients regarding fiscal issues.

In Ventura County, the fiscal agent also:

1. Enters into contracts with sub-recipients and works with WDBVC to establish the scope of services aligning with requirements set forth in WIOA law and local policies set by the WDBVC.

2. HSA manages monitoring of all sub-recipients and issues monitoring reports.
3. HSA processes monthly invoices, payments and is responsible to draw funds down from the State of California.

VII. **WDBVC Administrative Staff:**

Per 2 CFR § 679.370, the Local Workforce Development Board, through the WDBVC Administrative staff, responsibilities include:

1. WDBVC staff coordinates between the WDBVC and partners to the workforce system in Ventura County.
2. WDBVC staff acts a liaison between the WDBVC and America's Job Center of California.
3. WDBVC staffs all WDBVC board meetings; taking minutes, developing agendas, and writing reports.
4. WDBVC staff coordinates efforts between education, industry, economic development, labor unions and community-based organizations.
5. WDBVC staff writes grant applications, state reports, local and regional plans, and any necessary document that is required by the California Workforce Development Board.
6. WDBVC staff ensures that all necessary local policies are updated and circulated to all partners.
7. WDBVC staff assists in policy development.
8. Per 2 CFR § 679.370, WDBVC staff engage in the monitoring of service delivery contracts and sub-awards and approve invoices to ensure funds are used in accordance with regulations and approved contract budget.
9. In partnership with the Chief Elected Official:
 - a. Conduct oversight of youth workforce investment activities authorized under WIOA sec. 129(c), adult and dislocated worker employment and training activities under WIOA secs. 134(c) and (d), and the entire one-stop delivery system in the local area.
 - b. Ensure the appropriate use and management of the funds provided under WIOA subtitle B for the youth, adult, and dislocated worker activities and one-stop delivery system in the local area.
 - c. Ensure the appropriate use management, and investment of funds to maximize performance outcomes under WIOA sec. 116.
 - d. Support the competitive bidding process for providers of the youth workforce investment activities, training services, career services and One-Stop Operator(s).

INQUIRIES: The WDB Administration staff can be reached at 805-477-5306 and will answer questions regarding this policy, which will be revised as need arises.