TN Department of Labor & Workforce Development

February 21, 2020

Workforce Services Policy – Interlocal and Partnership Agreement Policy

Executive Summary

1. What is the general purpose of this policy?

The chief executive officer of a county government can serve as the grant recipient and act as a Local Elected Official (LEO) or Chief Local Elected Official (CLEO). The county mayor is considered the LEO serving that area. Counties in Tennessee contain municipalities; however, the mayors of those municipalities are not considered to be LEOs and are ineligible to serve as WIOA grant recipients.

The Interlocal Agreement specifically outlines how each county will be responsible for the administration of WIOA funds within the LWDA. The Partnership Agreement details how the LEOs, CLEO, and Local Workforce Development Board (LWDB) will work together to jointly-administer the local governance activities of the LWDA.

2. What are the notable guidelines conveyed within this policy?

When a Local Workforce Development Area (LWDA) includes more than one (1) unit of government, the LEOs of each unit must execute a written agreement that specifies the responsibilities of each individual LEO. The Interlocal Agreement specifically outlines how each local government will be responsible for the administration of WIOA within the LWDA.

The Partnership Agreement between the CLEO, LEOs, and LWDB provides guidance on the nomination and appointment of members to the LWDB. This agreement clearly defines that the CLEO has the sole appointing authority and must solicit nominations in order to fill LWDB vacancies. It also defines the budget approval process and how meeting agendas will be set.

3. Have there been any changes since the last policy? If so, describe the modification(s).

The modifications to this policy are as follows:

- Interlocal and Partnership Agreements were formerly guidance, this document has changed it to a policy.
- This policy has been aligned with the Local Governance policy to remove redundancy and potential conflict of guidance.
- All policies must reflect the signature of the LWDB Chair, not the Executive Director.
- Clarified that the LEOs, Directors of Chambers of Commerce, and the Head of a nominees organization may nominate individuals to the board; however, the CLEO is still the final signatory.

- Clarified the difference between a LEO and a CLEO, in relation to WIOA. The CLEO aligns with the WIOA definition of Chief Executive Officer; the LEOs are county mayors, not city mayors.
- Solicitation for a nomination of a LWDB member from each county is now required.

4. What must the Local Workforce Development Board do to meet the requirements of this policy?

It requires the LWDB and the LEOs to design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to those needs.

5. How does this policy affect the workforce system?

This policy is provided to the LEOs to ensure their LWDB meets all certification requirements. It also sets the agreement between all LEOs that will elect one individual to serve as the CLEO and signatory authority. Finally, it provides guidance to the LWDB Chair and CLEO detailing how the LWDB functions will be defined in a mutually-approved agreement.

STATE OF TENNESSEE
STATE WORKFORCE DEVELOPMENT BOARD
220 French Landing Drive, 4A
Nashville, TN 37243-1002
(615) 741-0409

Workforce Services Policy – Interlocal and Partnership Agreements

Effective Date: February 21, 2020

Duration: February 21, 2022

Purpose:
The chief executive officer of a county government can serve as the grant recipient and act as a Local Elected Official (LEO) or Chief Local Elected Official (CLEO). The county mayor is considered to be the LEO serving that area. Counties in Tennessee contain municipalities; however, the mayors of those municipalities are not considered to be the LEOs and are ineligible to serve as WIOA grant recipients.

The Interlocal Agreement specifically outlines how each county will be responsible for the administration of WIOA funds within the LWDA. The Partnership Agreement details how the LEOs, CLEO, and Local Workforce Development Board (LWDB) will work together to jointly-administer local governance activities of the LWDA.

Scope:
Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); Title I – Adult, Dislocated Worker, and Youth Programs, Title II – Adult Education and Family Literacy Act Program(AE); Title III – Wagner-Peyser Act Program (WP); Title IV – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (Operator); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners)

I. Required Inclusions of the Interlocal Agreement:

LEOs must enter into an agreement with each other that, at a minimum, includes the following sections:

A. State the Purpose of the Agreement:

The agreement must describe the purpose and the term of the Interlocal Agreement, to include a statement that the term of the agreement cannot exceed two (2) years, to include begin and end dates of the agreement.

B. Participating Local Elected Officials:

The agreement must contain the name, representation, contact information, and signature of each LEO in the Local Workforce Development Area (LWDA).

C. Designation of a Chief Local Elected Official:

The LEOs must select a CLEO who will act on behalf of the other LEOs. If the CLEO is not performing their function, then the LEOs may unseat the CLEO by a two-thirds (2/3 or 66%) majority vote. If this occurs, the TDLWD must be notified immediately by sending correspondence to Workforce.Board@tn.gov.

Designation of a CLEO must include the following:

- The appointment process and term of the CLEO;
- Designation of the CLEO to serve as the signatory for the LEOs;
- Decisions that may be made by the CLEO on behalf of the LEOs; and
- Name, title, and contact information of the appointed CLEO.

D. Grant Recipient and Signatory[1]:

The agreement must acknowledge the CLEO, and their respective county, as the grant recipient for all local WIOA funds, or state that the CLEO has designated grant recipient authority to a Fiscal Agent. In either case, contracts related to the expenditure of WIOA funds must be signed by the CLEO as the signatory for the LEOs.

E. Liability of Funds[2]:

The liability of individual jurisdictions must be included in the agreement if disbursed among all local units of government, including the method to define how liability was calculated. The agreement must outline the process to determine each county's share of responsibility for the expenditure of WIOA funds. This determination of liability could be based on allocation, population, expenditures, or other criteria determined by the CLEO.

F. Fiscal Agent or Grant Sub-Recipient Designation:

The CLEO may designate an entity to serve as the Fiscal Agent or grant sub-recipient for WIOA funds. If the Fiscal Agent is competitively procured, the agreement must describe the competitive process used to designate the Fiscal Agent.

Such designation does not relieve the CLEO of the liability for any misuse of grant funds as apportioned in the Interlocal Agreement.

G. Resolving Disallowed Costs:

Since the liability of funds rests with all counties within the LWDA, LEOs must outline the process used to negotiate contracts and correct disallowed costs. The Interlocal Agreement must contain:

- A detailed process to reconcile disallowed costs;
- Acknowledgment that liability for costs rests with the entity responsible for incurring the cost, in most cases, which are recommended for disallowance and which are not resolved; and
- In the event the entity responsible cannot or will not assume the liability, the agreement

[1] WIOA Section 107(d)(12)(B)(i)(I)

[2] 20 CFR 683.710(b)(2)

must provide the process on how funds will be reimbursed.

H. LWDB Member Representation:

All LEOs in the LWDA must:

- Enter into an agreement that determines how the LWDB nominees will be selected, appointed, removed, or reappointed in adherence to TEGL 27-14; and
- Outline the LWDB member nomination process within the agreement.

The agreement must outline how LEOs will ensure LWDB representation is fair and equitable across the LWDA and is in accordance with WIOA policy through LWDB member nominations. An attempt must be made that each county within the LWDA is represented by at least one (1) LWDB member. The agreement must reflect that term limits have been established per LWDB bylaws, including replacement if a member's position becomes vacant mid-term.

I. Communication:

The agreement must include a description of how the LEOs will communicate with each other regarding LWDB activities, including how many times a year the LEOs will meet and how often a joint meeting with the LWDB will be held. The LEOs must meet at least one (1) time a year with the LWDB and one (1) time a year separately as LEOs to discuss the shared vision, goals, and strategy.

J. LWDB Budget Approval:

The agreement must describe the process used by the LWDB to create the annual LWDA budget, to include the process used among the LEOs to review and approve the budget. All LWDA budgets are subject to approval by the CLEO[3]. Fiscal oversight and fiscal performance reviews must take place throughout the year and should occur quarterly.

K. LWDB Performance:

The agreement must determine how the CLEO and LEOs, in collaboration with the LWDB, will monitor and review the programmatic and fiscal performance of the LWDA and One-Stop Operator (OSO) to ensure each county's workforce goals and needs are addressed according to the Local Plan. More information regarding monitoring is available in the TDLWD Monitoring Guide.

L. Dispute Resolution:

The agreement must state how disputes among LEOs will be resolved regarding LWDB appointments, budget approval, and execution of other responsibilities under WIOA.

M. Election of a New County Mayor:

In the event that a new county mayor is elected, the LWDB must inform the new LEO(s)—within thirty (30) business days—of their responsibilities and liabilities, as well as the need to review and update any written agreements among the LEOs[4]. Once the new LEO has had an opportunity to review the Interlocal Agreement they must submit an addendum to the LWDB acknowledging that they:

- Have read, understood, and will comply with the current Interlocal Agreement; and
- Reserve the option to request negotiations to amend the Interlocal Agreement at any time during the official's tenure as a LEO.

N. Amendment or Change to the Interlocal Agreement:

The agreement must have a section that outlines the process for amendments or changes to the Interlocal Agreement. All amendments or changes must be submitted to The Program Integrity Unit by sending an attachment to Workforce.Board@tn.gov.

[3] WIOA Section 107(d)(12)(A)

[4] 20 CFR 683.710(b)(3)

Once completed with all LEO signatures recorded on the Interlocal Agreement, the agreement must be sent to Workforce.Board@tn.gov.

II. Required Inclusions of the Partnership Agreement:

The LWDB and CLEO must enter into a Partnership Agreement that, at a minimum, addresses the following:

A. State the Purpose of the Agreement:

The agreement must describe the purpose and the term of the Partnership Agreement, to include a statement that the term of the agreement cannot exceed two (2) years, including the agreement begin and end dates.

B. LWDB Membership:

The agreement must acknowledge that WIOA Section 107(c)(1)(A) authorizes the CLEO, rather than 'chief elected official' as defined in WIOA, to appoint members of the LWDB per the criteria established under WIOA Section 107(b). The agreement must state that the CLEO has sole authority to appoint members to the LWDB through their role as the signatory for the LEOs. To make a nomination, the CLEO must:

- Receive and sign the nomination form required for all LWDB nominees;
- Approve the removal of any member, who does not resign, if that member becomes ineligible to serve on the LWDB; and
- Make all reappointments of LWDB members by one full quarter of the term of expiration.

Employees of entities serving as the fiscal agent, LWDB staff, OSO, and AJC career service providers are prohibited from serving on the LWDB.

C. Terms:

The agreement must reflect the term limits for members serving on the LWDB, as defined in the LWDB bylaws. LWDB member terms should be staggered so that only a portion of membership expires in a given year.

D. Change in Status:

The agreement must acknowledge that LWDB members who no longer hold the position or status that made them eligible to serve must resign, or be removed by the CLEO, immediately as a representative of that entity. For example, a LWDB member no longer working in the private sector or no longer employed by an educational institution.

E. Mid-Term Appointment:

LWDB member replacements made mid-term will serve the remainder of the out-going LWDB member's term. LWDB vacancies must be filled, by the CLEO, within the subsequent calendar quarter from the last official day that the member served on the LWDB.

Any action taken by an LWDB, with a vacancy or term expiration beyond the time period described in the LWDB bylaws, shall be void unless the LWDB has an approved waiver from the TDLWD prior to the LWDB meeting. Waivers are to be requested in writing to the Assistant Commissioner of Workforce Services with an explanation of why a vacancy was not filled in the defined timeframe and a description of the process underway to fill the vacancy.

F. Removal:

LWDB members must be removed by the CLEO if any of the following occurs:

- Documented violation of conflict of interest;
- Failure to meet LWDB member representation requirements defined in WIOA and this

policy; or
- Documented proof of fraud and/or abuse.

LWDB members may be removed for other factors outlined in the LWDB bylaws, such as attendance. The agreement must define the specific criteria that will be used to establish just cause for such removal and the process required to document proof, including the steps to file an appeal or petition for arbitration.

G. Relationship between CLEO, LEOS, and the LWDB:

This agreement must establish the roles and responsibilities of the CLEOs and the LWDB along to include specific responsibilities of each party. The agreement must outline:

- How meeting agendas are set;
- How the CLEO and the LWDB will communicate to share the vision, goals, and workforce development needs of the local communities; and
- How performance metrics will be reviewed, monitored, shared, and communicated, to include staff responsible for each of the aforementioned tasks.

The agreement must establish requirements for the LWDB to regularly inform the CLEOs and LEOs regarding activities, performance outcomes, and budgets a joint meeting held annually between CLEOs/LEOs and the LWDB. LEOs must meet once a year with the LWDB.

The TDLWD encourages joint meetings between the CLEO and LWDB more than one (1) time per year.

H. Local Plan Requirements[5]:

The agreement must define how the Local Plan will be developed in partnership between the LEOs, CLEO, and the LWDB.

I. LWDB Budget[6]:

The agreement must describe how the LWDB will develop the LWDA budget, how the LEOs will participate in drafting the budget, and specify the process to obtain the CLEO's approval.

J. Selection of OSO and CSP[7]:

The agreement must establish the guidelines followed by the LWDB to select the OSO and CSP, including the process to obtain the CLEO's approval of the selection. The agreement must also outline the process to terminate for cause the eligibility of the OSO and CSP, to include how this determination is documented.

K. Youth Council[8]:

The formation of youth councils is optional.

L. Accessibility Review

The agreement must describe the process of how the LWDB will assess the physical and programmatic accessibility on an annual basis.

M. Local Board Policy:

The agreement must describe the process to draft, review, and approve LWDA policy. All policies must reflect the signature of the LWDB Chair to demonstrate that they have been formally reviewed and approved by the full LWDB.

---

[5] WIOA Section 107(d)(1)
[6] WIOA Section 107(d)(12)(A)
[7] WIOA Section 107(d)(10)
[8] WIOA Section 107(b)(4)(A)(ii)

N. Authorized Signatures:

The agreement must be signed by the current CLEO—or by all LEOs identified as participating in the Interlocal Agreement—and the LWDB Chair.

O. Amendments, Change, or Election:

The agreement must state that amendments or changes to the agreement, notice of an election of a new LEO or CLEO, or notice of an election of a new LWDB Chair must be maintained at the LWDA administrative entity office and available for monitoring by the TDLWD.

If a new CLEO, LEO, or LWDB Chair is elected within the LWDA, the newly-elected individual must submit to the LWDB a written statement acknowledging that he or she:

- Has read, understands, and will comply with the current Partnership Agreement; and
- Reserves the option to request negotiations to amend the Partnership Agreement at any time during the individual's tenure.

References:

20 CFR 683.710(b)(2), 683.710(b)(3); WIOA Section 107(b)(4)(A)(ii), 107(d)(1), 107(d)(10), 107(d)(12)(A), 107(d)(12)(B)(i)(I)

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.

Tim Berry, State Workforce Development Board Chair