



Missouri Division of Workforce Development  
DWD Issuance 22-2015

Issued: June 22, 2016  
Effective: June 22, 2016

**Subject:** Policy on Designation of a Local Fiscal Agent by the Chief Elected Official

**1. Purpose:** This Issuance describes the circumstances and process whereby a Chief Elected Official (CEO) may delegate the management of Local Workforce Development Area (LWDA) grant funds to a Local Fiscal Agent (LFA). That LFA can be an entity simultaneously performing other functions for the Local Workforce Development Board (Board).

**2. Background:** The Workforce Innovation and Opportunity Act (WIOA)<sup>1</sup> assigns the CEO of an LWDA important responsibilities relating to federal funding for employment, training, and workforce development. WIOA designates the local CEO as the responsible recipient of those funds for the LWDA.<sup>2</sup> WIOA provides that a CEO may use an LFA as a proxy recipient and administrator for grant funds. Rules for designating an LFA, and how that position functions, are in WIOA-implementation regulations proposed<sup>3</sup> by the U.S. Department of Labor (DOL).

The CEO cannot delegate personal liability for misuse of funds.<sup>4</sup> Fiscal liability remains with the CEO. It is also the policy of the Division of Workforce Development (DWD), the Missouri Workforce Development Board, and DOL<sup>5</sup> that a CEO can delegate only the *fiscal* duties, as described in 20 CFR 679.420, as proposed, to an LFA. These include:

- (1) receiving funds;
- (2) ensuring fiscal integrity and accountability for expenditures in accordance with Office of Management and Budget circulars,<sup>6</sup> WIOA, and corresponding federal regulations and State policies;
- (3) responding to audit financial findings;
- (4) maintaining proper accounting records and adequate documentation;
- (5) preparing financial reports; and
- (6) providing technical assistance to sub-recipients regarding fiscal issues.

The CEO **cannot delegate** to an LFA those **non-fiscal duties** in WIOA or Title 20 of the *Code of Federal Regulations* that involve **appointments, agreements, or an approval process**.

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<sup>1</sup> Pub. Law 113-128 [29 U.S.C. 3101 et seq.].

<sup>2</sup> WIOA sec. 107(d)(12)(B)(i)(I) [29 U.S.C. 3122(d)(12)(B)(i)(I)].

<sup>3</sup> Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking, Docket ETA 2015-0001, April 16, 2015 (80 FR 20689–20966). DOL submitted the Final Rule in this proceeding for review by the Office of Information and Regulatory Affairs on May 9, 2016. However, due to regulatory and statutory circumstances, it is possible that an effective version of this Final Rule will not be available for an indeterminate time. This Issuance assumes the Final Rule shall be as proposed, until the published version takes legal effect.

<sup>4</sup> WIOA sec. 107(d)(12)(B)(i) [29 U.S.C. 3122(d)(12)(B)(i)] and 20 CFR 683.710, as proposed.

<sup>5</sup> “The appropriate role of LFA is limited to accounting and funds management functions rather than policy or service delivery,” DOL rulemaking preamble narrative at 80FR20708.

<sup>6</sup> The OMB circulars referred to here have since been replaced since the passage of WIOA by formal Uniform Guidance in the *Code of Federal Regulations*, 2 CFR Parts 200 and 2900.

When the CEO does designate an LFA, the Board’s local Plan must include the standards, process, or performance measures that the Board will use to evaluate the performance of that LFA.<sup>7</sup> This is a system of checks-and-balances. The Board has no say about the CEO’s choice (if any) to be the fiscal agent who distributes workforce funds to the Board, but the Proposed Rules allow (and require) the Board to monitor and assess that fiscal agent’s performance.

**3. Substance:**

It may be advantageous for a CEO to designate as the LFA an entity that is already serving the Board in other capacities. These might include the roles of Board staff, One-Stop Operator, Career Services provider, and Youth Services provider, or any combination of these. (A companion Issuance<sup>8</sup> covers Board requirements for selecting and designating such service providers.)

CEOs and Boards must avoid conflicts of interest and ensure performance accountability when the LFA is fulfilling additional One-Stop Delivery System roles. Internal controls should be sufficiently rigorous, to the satisfaction of the Board and the CEO, to assure these ends. The Rules as proposed by DOL require that,

*“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 Board and Chief Local Elected Official to clarify how the organization will carry out its responsibilities while demonstrating compliance with the Workforce Innovation and Opportunity Act and corresponding regulations, relevant Office of Management and Budget circulars,<sup>9</sup> and the State’s conflict of interest policy.”<sup>10</sup>*

The Board cannot issue a competitive Request for Proposal (RFP) or create a contract including the role of LFA. Employment of the LFA is not within the purview of the Board. Therefore, the Board must not bundle LFA duties into an RFP or contract.

Once the Board fills the roles of Board staff, OSO, Career Services, and Youth Services, the CEO (or the CEO consortium) may choose to appoint or contract with one of those entities to be the LFA, or may select an entirely different entity.

The CEO does not have to fill the LFA position by competitive bidding (unless the CEO consortium’s own by-laws require it). The CEO also has the option of keeping personal control of the fiscal agency (for as long as that person is the CEO for the LWDA). The CEO can have fiduciary duties carried out by appropriate city/county financial departments under that CEO’s direct executive control (where the boundaries of the CEO’s political jurisdiction and the LWDA correspond—for example, a single-city or single-county LWDA). However, where one presiding commissioner of a county within a multi-county LWDA is the CEO for that LWDA, it may not be legal for that CEO to assign management of the LWDA funds to financial officers appointed or elected to serve only that county.

Where local workforce funds relate to comprehensive planning, a regional planning commission created under Missouri Revised Statutes 251.150 to 251.440 (and any planning commission or other organization, public or private, heretofore constituted or designated) may enter into a contract with the CEO to be the LFA and cooperate with the State and the Board.<sup>11</sup>

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<sup>7</sup> 20 CFR 679.560(b)(16), as proposed.

<sup>8</sup> DWD Issuance 20-2015, “Selection or Designation of Service Providers, including Selection of One-Stop Operators, by the Local Workforce Development Board,” June 14, 2016.

<sup>9</sup> Again, the OMB circulars referred to here have since been replaced since the passage of WIOA by formal Uniform Guidance in the *Code of Federal Regulations*, 2 CFR Parts 200 and 2900.

<sup>10</sup> 20 CFR 679.430, as proposed.

<sup>11</sup> RSMo 251.380.

Hiring, termination, and terms of service for an LFA are entirely the prerogative of the CEO. Neither WIOA nor the Proposed Rules include a “checklist” of minimum qualifications that the CEO should consider when choosing an LFA. Nevertheless, the functions of the LFA are complex and require financial expertise, technical keeness, and knowledge of workforce programs. DWD’s guidance to CEOs is that, at a minimum, the LFA should have:

- past experience/performance with similar functions;
- technical expertise;
- financial stability;
- internal controls; and
- qualifications to be insured and/or bonded.

In a circumstance where the CEO names the Board itself (the Board, not the staff-support entity) as the LFA, the State, DWD, will assume the fiscal monitoring of the LFA and performance reporting requirements that would normally be the responsibility of the Board with a different entity as LFA. This avoid conflicts of interest by the Board regarding WIOA sec. 108(b)(17) and Proposed Rule679.560(b)(16).

**4. Action:**

This Issuance is effective immediately. CEOs and the Boards should immediately notify DWD Fiscal and Administrative Services of any changes, additions, or deletions of LFA agreements in their LWDA. The identity of the LFA should be kept up-to-date and publicly available as part of local compliance with WIOA Sunshine requirements.<sup>12</sup>

DWD will distribute this Issuance directly to all current CEOs.

**5. Contact:**

Direct questions or comments regarding this issuance to: Julie Carter, Fiscal Manager, at (573) 526-1644, or [julie.carter@ded.mo.gov](mailto:julie.carter@ded.mo.gov).

**6. References:**

- Uniform Guidance for Federal Awards, 2 CFR Parts [200](#) and [2900](#).
- [Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq.](#)
- [Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking, Docket ETA 2015-0001, April 16, 2015 \(80 FR 20689–20966\)](#), and [Workforce Innovation and Opportunity Act, Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Notice of Proposed Rulemaking, ETA Docket 2015-0002, April 16, 2015 \(80 FR 20573–20687\)](#).
- [DWD Issuance 18-2009, Functional Leadership for Missouri’s Next Generation Career Centers, February 11, 2010.](#)
- Missouri Revised Statues Chapter 251, <http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex251.html>

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<sup>12</sup> WIOA sec. 107(e) [29 U.S.C. 3122(e)].

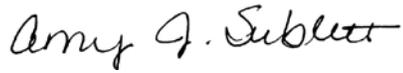
7. Rescissions: None.

8. Attachments: None.

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