



**CAREERSOURCE CITRUS LEVY MARION
Executive Committee**

MINUTES

DATE: March 3, 2021
PLACE: Zoom Only
TIME: 9:30 a.m.

MEMBERS PRESENT

Albert Jones
Charles Harris
Fred Morgan
Kimberly Baxley, Chair
Pete Beasley
Rachel Riley
Ted Knight

MEMBERS ABSENT

OTHER ATTENDEES

Rusty Skinner, CSCLM
Dale French, CSCLM
Cory Weaver, CSCLM
Susan Heller, CSCLM
Iris Pozo, CSCLM

Cindy LeCouris, CSCLM
Cira Schnettler, CSCLM
Robert Stermer, CSCLM Attorney
Richard Powell, Powell and Jones

CALL TO ORDER

The meeting was called to order by Kim Baxley, Chair, at 9:31 a.m.

ROLL CALL

Cira Schnettler called roll and a quorum was declared present.

APPROVAL OF MINUTES

Al Jones made a motion to approve the minutes from the December 2, 2020, meeting. Pete Beasley seconded the motion. Motion carried.

PRESENTATION / ACTION ITEM

Financial Audit

Richard Powell, with the Powell and Jones auditing firm, presented the financial audit report. The audit is in compliance with Florida statues and there were no findings to report. Charles Harris made a motion to accept the financial audit report. Al Jones seconded the report. Motion carried.

DISCUSSION ITEMS

State Update

Rusty Skinner provided an update on the House and Education Committee. Local

workforce boards recently made a presentation to the House Committee. The Committee requested additional information regarding costs associated with providing assistance per participant in the variety of programs offered by the workforce system. Rusty Skinner reviewed cost report of the CLM region to the members. He also presented the DEO and Workforce Association responses. He highlighted the Measures report, a comparison report between the State of Florida and nationwide services. The report portrays a positive picture of Florida's performance within the workforce system compared to national averages.

Rusty Skinner outlined the advantages and disadvantages to local workforce boards within three bills that are in development in the Senate and House; Senate Bill 98, House Bill 1507, and 1505.

Rusty Skinner has met with local Representatives Joe Harding and Stan McClain, both of which serve on the House Committee. Discussions will be ongoing and the board members will be updated as developments occur.

Workforce Issues that are Important to our Community

The committee did not have other issues to discuss.

WIOA: Draft Administrative Policy - Local Workforce Development Area and Board Governance

Rusty Skinner explained to the committee that local workforce boards were able to provide feedback on the draft policy. Clarifications were added to the policy and he does not see any concerns within the policy that are beyond our ability to manage.

Board Orientation Directions

Rusty Skinner notified the committee that the Sub-grantee agreement states that all new board members must attend a board orientation and all existing board members must attend an annual refresher. Board orientation attendance will become part of future auditing requirements. We have partnered with an auditing firm that has created an orientation that meets the requirements outlined in the Sub-grantee agreement. The packet contains the directions to sign-up for the orientation, which was also sent to the committee previously. Rusty Skinner encouraged the members to go through the orientation, so that they may provide feedback and discussion during the full board meeting later in March. The goal is to have all board members complete the orientation by June 30. Consortium members will also be asked to attend the orientation.

Membership Recruitment Committee

Rusty Skinner updated the committee on membership recruitment. Nominations have been received for Citrus and Marion counties to fill the two vacancies. Levy County has two private sector vacancies. David Pieklik has been hired as the new economic development director in Citrus County, leaving a vacancy for the economic development position in Levy County. A potential nominee in Levy County, that currently serves on the Nature Coast Economic Development Board, may be able to serve in the interim until a new director is hired.

PUBLIC COMMENT

None

ACTION ITEMS

Travel Policy

Rusty Skinner outlined the additions and amendments, highlighted in red throughout the policy. Pete Beasley made a motion to accept the revisions to the travel policy. Al Jones seconded the motion. Motion carried.

One Stop Operator ITN Selection

Cindy LeCouris explained to the committee that two proposals were received for the One Stop Operator ITN. Both proposals provide similar services, however, the review team determined that Thomas P. Miller & Associates offers more comprehensive services that better fit the needs of our region. Al Jones made a motion to approve the selection of Thomas P. Miller & Associates to provide One Stop Operation duties for CareerSource CLM beginning July 1, 2021 through June 30, 2022. Fred Morgan seconded the motion. Motion carried.

Youth Services ITN Selection

Cindy LeCouris explained to the committee that only one proposal was received for the Youth Services ITN. Rusty Skinner noted that although the review committee reached out to other companies directly and had a wide circulation of advertisement for the ITN, still only one proposal was submitted. Al Jones made a motion to approve the sole source selection and contracting with Eckerd Connects to provide youth services beginning July 1, 2021 through June 30, 2022. Pete Beasley seconded the motion. Motion carried.

Local Workforce Area Designation

Rusty Skinner explained that every two years local workforce boards must notify the State of their intent to continue as a board. The Designation forms must be signed by both the Executive Director and the Chair of the Consortium. Al Jones made a motion to approve the executive director's signature on the certification and submit it to the Consortium for signature and approval, then on to the State. Fred Morgan seconded the motion. Motion carried.

Policy Update OPS-26 and OPS-46

Cindy LeCouris explained to the committee that per the recent updated policy from CareerSource Florida under Policy 109, we are required to update policy changes regarding Priority of Service and Support Services. Additionally, the Programmatic Monitoring Report provided by Underwood Sloan & Associates provided information on a finding in OPS-46, which does not include guidance on the issuance and storage of reloadable/instant issue cards or on the method(s) of delivery to participants. Job title corrections were also updated. Pete Beasley made a motion to approve OPS-26 and OPS-46 to be implemented under our official policies and procedures and submitted to DEO. Al Jones seconded the motion. Motion carried.

Policy Update-81

Cindy LeCouris explained to the committee that per the recent updated policy from CareerSource Florida under Policy 109, we are required to update policy changes regarding Support Services. Additionally, the Programmatic Monitoring Report provided by Underwood Sloan & Associates provided information on a finding in OPS-81, which does not include guidance on the issuance and storage of reloadable/instant issue cards or on the method(s) of delivery to participants. Eligibility for Services amounts and

limits were adjusted to current prevailing limits/rates. Job title corrections were also updated. Al Jones made a motion to approve OPS-81 to be implemented under our official policies and procedures and submitted to DEO. Pete Beasley seconded the motion. Motion carried.

Request for Attorney General's Opinion: Conflict

Board Attorney, Bob Stermer informed the committee that it is his opinion the Sub-grantee Agreement requirement that a board member physically leave a board meeting when a conflict is declared on a board vote is in direct conflict of Florida statues. The conflict creates financial and criminal liability for board members, and ultimately the contract in conflict could be deemed voidable. We are seeking guidance from the Attorney General on the matter. The request for opinion letter is attached to these minutes. Al Jones made a motion to approve sending the Request for Attorney General Opinion. Pete Beasley seconded the motion. Motion carried.

PROJECT UPDATES

None

MATTERS FROM THE FLOOR

None

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:02 a.m.

APPROVED:_____

ROBERT A. STERMER

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March 2, 2021

Honorable Ashley Moody
Attorney General
Office of the Attorney General
State of Florida
The Capitol
Tallahassee, FL 32399-1050

RE: Request for Attorney General Opinion re: Citrus Levy Marion Regional Workforce Development Board, Inc.

Dear Attorney General Moody:

This office represents the Board of Directors of the Citrus Levy Marion Regional Workforce Development Board, Inc. ("CLM"), a special district of the State of Florida and an entity which is a subgrantee of the Florida Department of Economic Opportunity ("DEO") for various workforce development funds provided by the United States Department of Labor. By unanimous vote of the Executive Committee of CLM, I have been asked to request you to render an opinion on the following question:

Whether a contract provision required by DEO in its contract with CLM and with all twenty-three (23) of the other subgrantees to administer Federal workforce development funds is unenforceable as a matter of public policy, or, if enforceable, that CLM and its Board members will not be liable either civilly or criminally for enforcing the contractual provision. Specifically, whether the contractual provision is consistent with the provisions of Florida Statutes §286.011(2) and Florida Statutes §445.007(1) requiring that there be public access to all meetings of the Board and its various committees or whether Board members and employees declaring a conflict of interest may lawfully be excluded from Board Meetings and subcommittee meetings without subjecting the Board to potential non-criminal and Board members to potential criminal penalties.

Factual Background

In 2014 the Congress of the United States enacted Public Law 113-128 which is commonly known as the "Workforce Innovation and Opportunity Act of 2014" ("WIOA"). WIOA established a program to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment who are in special need of such training to obtain productive employment.

WIOA required the State of Florida to designate Service Delivery Areas (“SDAs”) to promote the effective delivery of job training services and further provided that a consortium of units of general local government might constitute such an SDA. The Governor of the State of Florida has designated a consortium of Citrus, Levy and Marion Counties to constitute one such Service Delivery Area. The aforementioned counties subsequently entered into an Interlocal Agreement which created CLM as their Regional Workforce Board. CLM is incorporated under the laws of the State of Florida as a not-for-profit corporation.

Recently, DEO required each SDA, including CLM, to enter into a Subgrantee Agreement (a copy of which is attached to the Accompanying Memorandum of Law) which specifies how subgrantees shall administer WIOA funds. That agreement contains a provision which requires Board members who declare a conflict of interest to leave Board meetings while the matter which was the subject of the conflict of interest declaration is discussed and voted upon. CLM’s Board is concerned that enforcement of the provision, which is apparently contrary to both Florida Statutes §289.011(1) and Florida Statutes §445.007(1) may result in CLM being assessed up to a \$500 non-criminal fine as set forth in Florida Statutes §286.011(3)(a) or individual Board members being subject to the criminal provisions of §286.011(3)(b). Accordingly, the CLM Board is seeking an Attorney General’s opinion as to the correct course of action.

Should you require any further information in regard to the foregoing, please do not hesitate to contact me. I remain,

Very truly yours,

Robert A. Stermer

RAS/ydw
Enclosure

Memorandum of Law

From: Robert A. Stermer
Counsel for Citrus Levy Marion Regional Workforce Development Board, Inc.

To: Ashley Moody
Attorney General, State of Florida

Date: February 23, 2021

Subject: Validity of a contractual provision between the State of Florida Department of Economic Opportunity (“DEO”) and the Citrus Levy Marion Regional Workforce Board, Inc., a Florida Special District (“CLM”) requiring CLM Board members and employees who declare a conflict of interest at a Board or committee meeting to leave the meeting room while the matter necessitating the declaration of conflict of interest is discussed and voted upon.

1. Introduction.

The Workforce Innovation and Opportunity Act, Pub. L. 113-128, (“WIOA”) is the federal legislation which sets forth the conditions under which states may receive various funds from the federal government to facilitate the development of its workforce. Chapter 445 of Florida Statutes, Workforce Services, sets forth Florida’s implementation of the requirements of WIOA.

In accordance with WIOA, Chapter 445 requires the Governor to designate Regional Service Delivery Areas (“SDAs”) to receive and administer WIOA funds. The Governor has established twenty-four (24) such areas. One of the SDAs encompasses Citrus, Levy and Marion Counties. Those counties entered into an Interlocal Agreement to establish the Citrus Levy Marion Regional Workforce Development Board, Inc., a non-profit corporation (“CLM,”) to administer the WIOA funds allocated to the three county SDA. CLM has been determined to be a Special District by the then Department of Community Affairs, now a bureau/unit within DEO.

In accordance with WIOA and Chapter 445, DEO and CLM entered into a Grantee-Subgrantee Agreement (“Agreement”¹) to delineate the duties and responsibilities of the parties with respect to funds administered under Chapter 445. A copy of the Agreement is attached hereto as Exhibit “A.” The provision in question, Paragraph 15.c.i. , provides in pertinent part:

I. Prior to entering into any Related Party Contract with any Related Party, the proposed Related Party Contract must be brought before the Board for consideration and approval. The Board shall ensure that: (I) the Board member or employee with the conflict removes himself or herself from the room prior to any discussions at any meeting, including subcommittee meetings, involving the contract; (ii) the Board member or employee with the

¹ Referred to as a Memorandum of Understanding in F.S. §445.009(4).

conflict is not physically present during the voting; and (iii) the Board member with the conflict abstains from any vote regarding the Related Party Contract.

The problematic portions of the above-quoted provision are subsections (I) and (ii) which require the Board to ensure that Board members or employees having a conflict remove themselves from the room prior to any discussion involving a proposed contract and further require Board Members to not be physically present during voting. There is no dispute as to subparagraph (iii) which requires Board members to abstain from voting on any matter for which they have a conflict of interest. The Board is concerned that enforcement of subparagraphs (I) and (ii) will subject the Board to a potential non-criminal penalty under Florida Statutes §286.011(3)(a) and could subject Board members to potential criminal liability under Florida Statutes §286.011(3)(c) merely for the act of attending a Board or committee/subcommittee meeting. Thus, the Board seeks guidance as to whether the contractual provision quoted above is unenforceable as a matter of public policy, or, if enforceable, that CLM and its Board members will not be liable either civilly (as to the Board) or criminally (as to the individual Board members in attendance) for enforcing the contractual provision.

2. The Law.

The starting point for analysis is the Florida Constitution which provides in Article I, Section 24 as follows:

Access to Public Records and Meetings

(a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

(b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public² and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

²Emphasis added.

(c) This section shall be self-executing. **The legislature, however, may provide by general law passed by a two-thirds vote of each house for the exemption of records from the requirements of subsection (a) and the exemption of meetings from the requirements of subsection (b), provided that such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law.**³ The legislature shall enact laws governing the enforcement of this section, including the maintenance, control, destruction, disposal, and disposition of records made public by this section, except that each house of the legislature may adopt rules governing the enforcement of this section in relation to records of the legislative branch. Laws enacted pursuant to this subsection shall contain only exemptions from the requirements of subsections (a) or (b) and provisions governing the enforcement of this section, and shall relate to one subject.

(d) All laws that are in effect on July 1, 1993 that limit public access to records or meetings shall remain in force, and such laws apply to records of the legislative and judicial branches, until they are repealed. Rules of court that are in effect on the date of adoption of this section that limit access to records shall remain in effect until they are repealed.

Florida Statutes, §286.011(1) and (2) provide m:

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

It is clear from the Florida Constitution that the public is required to be allowed access to all meetings unless a specific statutory exemption exists. A review of the Florida Statutes finds no law exempting Workforce Development Boards from the Application of Article I, Section 24. In fact F.S. §445.007(1) subjects Workforce Development Boards to Art. I, Section 24 of the Florida

³Emphasis added.

Constitution and to Florida Statutes Chapters 119 and 286 in their entirety. Specifically, F.S. §445.007(1) provides, “Regional workforce boards are subject to chapters 119 and 286 and s. 24, Art. I of the State Constitution.” Thus, there is no question as to the applicability of both Art I, s.24 of the Florida Constitution and Chapters 119 and 286 of Florida Statutes.

However, there may be a question as to whether Board members and CLM employees are members of the “public” for the purposes of the Florida Constitution and Chapter 286. Unfortunately, the term “public” is nowhere defined in Chapter 286 as it applies to who is entitled to access public records or attend meetings.

The term “public” is indirectly defined in Florida Statute §119.07(1)(a) in regard to public records wherein it is stated “(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by **any person** desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.” Thus, it is clear that Chapter 119 applies to public records requests received from “any person” and as Florida Statutes §286.011 applies to requests from the “the public,” it appears that the term “the public” means any person. This conclusion is further buttressed by the concluding sentence of F.S. §286.011(2) which grants jurisdiction to the Circuit Courts to enforce the section upon application by **any citizen** of the state. It would also seem that the term applies to both public records and public meetings, as it would be a very odd interpretation indeed which would hold that for the purpose of accessing public records, the Chapter 286 reference to the “public” applies to “any person,” but for the purpose of attendance at public meetings, Chapter 286 applies to a restricted subset of the population. This is especially true given that exemptions from the requirements of Art. I, s.24 of the Florida Constitution require a two-thirds vote of both houses of the Florida Legislature, “such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law,” and no such vote has occurred.

This position is supported by both prior Attorney General opinions and Court decisions. In AGO 79-01 the Attorney General approvingly pointed out that Webster’s Third International Dictionary defined “public” to mean “the people as a whole,” and that the staff of a municipal housing authority were members of the public as well as employees of the Housing Authority and hence could not be excluded from its meetings. In *Port Everglades Authority v. Int’l Longshoremen’s Ass’n, Local 1922-1*, 652 So. 2d 1169 (Fla. 4th DCA 1995) the Court held that a mere request for bidders to leave the room while their competitors made presentations on their bids not only violated the Sunshine Law but caused the contracts issued to be invalidated. In AGO 99-53 the Attorney General ruled that the Sunshine law must be “broadly construed to effect its remedial and protective purpose.” The Attorney General cited *Times Publishing Company v. Williams*, 222 So. 2d 470.473(Fla. 2d DCA 1969) which states “each. . . step [in the decision making process] constitutes an “official act,” an indispensable prerequisite to “formal action,” within the meaning of the act.” AGO 99-53 goes on to point out that the Florida Supreme Court has held in *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974) that the Sunshine Act extends to include the inquiry and discussion stages of public meetings.

From the foregoing it seems quite clear that, absent a specific statutory exemption, any contractual provision between two state agencies or between a state agency and any entity which by statute has been made subject to Chapters 119 and 286 can not limit the access of the public to meetings at any stage in the decision making process. To do so would constitute a prima facie violation of the Sunshine Law and such contractual provisions should be held void as against public policy. Anything less would fly in the face of logic and sound precedent.

3. Conclusion.

From the perspective of the CLM Board, although its members believe that laws should be applied consistently and so as to achieve their stated purposes, if the Attorney General opines that it is lawful for the Board to exclude Board members from Board and subcommittee meetings when discussing and voting on matters for which the member has a conflict of interest and that such exclusion will not result in the imposition of a fine on CLM and if the Attorney General also opines that Board members will not face potential criminal liability for attending a Board meeting at which another Board member is excluded as the result of a conflict of interest and if the Attorney General opines that contracts entered into while following the requirements of the Agreement are not invalid as a result, then the Board is quite prepared to proceed based on that opinion. However, it is the Board's belief and position that the contractual provision under review clearly should be held void as a matter of public policy until such time as the legislature enacts a law creating an exception to deal with Regional Workforce Board member conflicts of interest.



**POLICY
NUMBER
110**

Administrative Policy

Title:	Local Workforce Development Area and Board Governance
Program:	Workforce Innovation and Opportunity Act
Effective:	03/04/2021

I. PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to Chief Local Elected Official (CLEOs), Fiscal Agents, Local Workforce Development Boards (LWDBs), LWDB Chairpersons, LWDB Executive Directors, LWDB staff, and workforce system partners on the requirements for local workforce development area (“local area”) and LWDB governance. This policy outlines key roles, responsibilities, and requirements of the entities/individuals that make up the workforce development system within a local area.

This policy also identifies and describes required agreements to ensure the local area serves as a jurisdiction for the administration of workforce development activities and expenditure of Workforce Innovation and Opportunity Act (WIOA) adult, dislocated worker, and youth funds allocated to LWDBs by the state.

II. BACKGROUND

WIOA envisions a workforce development system that focuses on the needs of job seekers and businesses; and, anticipates and responds to the needs of local and regional economies.

WIOA requires LWDBs and CLEOs to design and govern the system regionally, align workforce policies and services with regional economies and support service delivery strategies tailored to those needs. The local area serves as a jurisdiction for the administration of workforce development activities which requires the CLEO to play

an active role in both the strategic planning and ongoing operation of the local system. Agreements between the CLEO and the entities responsible for the local workforce development system will address how the local area functions and how administrative tasks will be carried out within the local area.

III. AUTHORITY

[Public Law 113-128, Workforce Innovation and Opportunity Act](#), Sections 106 and 107

[20 Code of Federal Regulations 679.310](#)

[20 Code of Federal Regulations 679.320](#)

[20 Code of Federal Regulations 679.370](#)

[Sections 445.004 and 445.007, F.S.](#)

[Chapter 119, F. S.](#)

[Chapter 286, F.S.](#)

[CSF Strategic Policy 2020.02.20.A.1 – Board Governance and Leadership](#)

[CSF Strategic Policy 2018.09.26.A.1 – Ethics and Transparency Policy](#)

IV. POLICIES AND PROCEDURES

A. Roles and Responsibilities

1. Chief Local Elected Official (CLEO)

Pursuant to WIOA sec. 3(9), the CLEO is the chief elected executive officer of a unit of general local government in a local area and, in a case in which a local area includes more than one unit of general local government, the representative(s) under the agreement (interlocal, consortium, and other agreements as described in **Section IV.E.1.** of this policy) that specifies the respective roles.

The CLEOs responsibilities include:

- a) Requesting local area designation (as prescribed in [Administrative Policy 94 – Local Workforce Development Area Designation](#));
- b) Appointing members to the LWDB;
- c) Requesting LWDB certification (as prescribed in [Administrative Policy 091 – Local Workforce Development Board Composition and Certification](#));
- d) In coordination with the local board, establishing bylaws;
- e) Designating a fiscal agent (if not serving as grant recipient);

- f) Remaining liable for any misuse of WIOA grant funds by the local area;
- g) In coordination with the local board and/or staff to the board, negotiating and reaching agreement on LWDB local performance measures with the state;
- h) Negotiating with the LWDB and required partners to maintain the workforce delivery system through the Memorandum of Understanding (as prescribed in [Administrative Policy 106 - Memorandums of Understanding and Infrastructure Funding Agreements](#)); and
- i) Partnering with the LWDB and planning region, if appropriate, to develop and submit the WIOA local plan and regional plan.

The CLEO may delegate the listed administrative functions except:

- a) Appointment of members to the LWDB.
- b) Designation of a fiscal agent (designation of a fiscal agent does not relieve the CLEO or Governor of liability for misuse of grant funds – [20 CFR 679.420](#)).

The CLEO may remove a member of the LWDB, the executive director of the LWDB, or the designated person responsible for the operational and administrative function of the LWDB for cause.¹

2. Fiscal Agent

The fiscal agent is the entity designated by the CLEO to perform accounting and funds management on behalf of the CLEO. The duties of the fiscal agent may include but are not limited to:

- a) Receiving funds;
- b) Ensuring sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget (OMB) circulars, WIOA, corresponding federal regulations, state law, and state policies;
- c) Responding to audit financial findings;
- d) Maintaining proper accounting records and documentation;
- e) Preparing financial reports; and,
- f) Providing technical assistance to sub-recipients regarding fiscal issues.

Although the appropriate role of the fiscal agent should be limited to accounting and funds management functions rather than policy or service delivery, there may be circumstances in which the fiscal agent may be the LWDB, the procured one-stop operator or the workforce services provider and/or youth service provider.

¹ Section 445.007(2)(c)

At the direction of the LWDB, the fiscal agent may have the following additional functions:

- a) Procure contracts or obtain written agreements;
- b) Conduct financial monitoring of service providers; and
- c) Ensure an independent audit is conducted of all employment and training programs.

3. Local Workforce Development Board

The LWDB is appointed by the CLEO in each local area in accordance with state criteria established under WIOA sec. 107(b) and certified by the Governor every two years in accordance with WIOA sec. 107(c)(2). The state's criteria for LWDB certification is found in [Administrative Policy 091 – Local Workforce Development Board Composition and Certification](#).

The LWDB provides strategic and operational oversight, assists in achievement of the state's strategic and operational vision and goals, and maximizes and continues to improve quality of services, customer satisfaction, and effectiveness of services provided. LWDB responsibilities include, but are not limited to:

- a) Developing and submitting local and, if applicable, regional plans;
- b) Conducting workforce research and regional labor market analysis;
- c) Convening local workforce development system stakeholders to assist in the development of the local plan and identify expertise and resources to leverage support for workforce development activities;
- d) Leading efforts to engage a diverse range of employers and other entities in the region;
- e) Leading efforts to develop and implement career pathways;
- f) Leading efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and jobseekers;
- g) Conducting oversight of the WIOA adult, dislocated worker, and youth programs and the entire workforce delivery system, ensure the appropriate use and management of WIOA funds, and ensure the appropriate use, management, and investment of funds to maximize performance outcomes;
- h) Negotiating and reaching agreement on local performance measures with the CLEO and the state;
- i) In partnership with the CLEO, establishing bylaws and codes of conduct for LWDB members, LWDB executive director and staff to the LWDB; and;
- j) Establishing additional monitoring and reporting requirements if one entity fulfills multiple functions to ensure the entity is compliant with WIOA, final rules and regulations, OMB circulars, and the state's conflict of interest policy.

A full list of LWDB functions can be found in WIOA sec. 107(d) and [20 CFR 679.370](#).

4. Local Workforce Development Board Chairperson

The LWDB chairperson is elected by the members of the LWDB and must be one of the business representatives on the board. The LWDB chairperson shall serve a term of no more than two years and shall serve no more than two terms. At a minimum, the state will review the LWDB chairperson's term requirements during the LWDB's certification process as described in [Administrative Policy 091 – Local Workforce Development Board Composition and Certification](#). The Department of Economic Opportunity (DEO) will review each LWDB's composition during its annual programmatic monitoring, which may include a review of the LWDB chairperson's term(s).

The LWDB chairperson's duties may include but are not limited to:

- a) Leading the board to develop a guiding vision that aligns with the state's priorities;
- b) Acting as the lead strategic convener to promote and broker effective relationships between CLEOs and economic development, education, and workforce partners in the local area;
- c) Leading an executive committee to guide the work of the board, and ensure that committees or task forces have necessary leadership and membership to perform the work of the board; and
- d) Leading the agenda setting process for the year and guide meetings to ensure both tactical and strategic work is completed in all meetings.

5. Local Workforce Development Board Executive Director

The LWDB may hire a qualified executive director and staff to assist in ensuring the functions of the local board are achieved. The LWDB must ensure the individual or entity designated as the executive director has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively and ethically carrying out the functions of the LWDB which may include, but is not limited to:

- a) Coordinating with the CLEOs regarding the identification and nomination of members to the LWDB and ensuring membership is compliant with WIOA and Florida Statutes;
- b) Organizing board meetings and ensuring meetings are held according to the LWDB's bylaws and Florida's sunshine laws;
- c) Developing and submitting the local and regional workforce development plan;

- d) Conducting oversight of the WIOA adult, dislocated worker, youth programs and the entire one-stop delivery system, including development of policies and monitoring the administration of the programs;
- e) Negotiating and reaching agreement on local performance measures;
- f) Negotiating with CLEO and required partners for the Memorandum of Understanding (as prescribed in [Administrative Policy 106 - Memorandums of Understanding and Infrastructure Funding Agreements](#));
- g) In compliance with local board procurement policy, provide oversight of the competitive procurement process for procuring or awarding contracts for providers of youth program services, providers of workforce services (if applicable), and the one-stop operator as required in paragraph (I) of 20 CFR 679.370;
- h) Developing a budget for activities of the LWDBs; and
- i) Certifying the one-stop career centers. One-stop certification requirements may be found in [Administrative Policy 93 – One-Stop Career Center Certification Requirements](#)

B. One Entity Performing Multiple Functions

WIOA establishes clear roles and responsibilities for each entity or organization involved in the workforce delivery system. The LWDB should make every effort to ensure that roles and duties of workforce delivery system entities are clearly delineated. This includes efforts to designate or procure the functions of the fiscal agent, staff to the LWDB, one-stop operator, direct provider of workforce services, and provider of youth program services.

One entity may perform multiple functions if appropriate firewalls and internal controls are in place. Local entities or organizations often function simultaneously in a variety of roles, including fiscal agent, board staff, one-stop operator, provider of career services, and provider of youth services. **See Section IV.B.3.** of this policy for agreement requirements for one entity (not LWDBs) performing multiple functions.

See Section IV. C. 1. for requirements for LWDBs serving multiple functions.

C. Local Workforce Development Boards as Direct Providers of Workforce Services

Ideally, entities providing workforce services are procured through the LWDB, which is responsible for monitoring and overseeing the contracts, as well as services performed through the contract. The LWDB is designed to oversee the workforce delivery system and its services. Chapter 445.007(6), F.S. allows LWDBs to be designated as the one-stop operator and direct provider of services (except training

services), with the agreement of the CLEO and governor based on the criteria established by the state workforce development board.

LWDBs seeking to provide workforce services, except training services, will follow the requirements established in [Administrative Policy 083 – Direct Provider of Workforce Services](#).

Before a LWDB may be designated as the one-stop operator, LWDBs must still follow criteria established in [Administrative Policy 097 – One-Stop Operator Procurement](#).

1. Local Workforce Development Boards Serving Multiple Functions

LWDBs serving multiple functions must be able to demonstrate that roles, responsibilities and duties of each function are clearly defined and delineated in locally established processes and procedures that clearly detail:

- a) How functions are sufficiently separated;
- b) Descriptions of the steps the local area has taken to mitigate risks that could lead to impropriety;
- c) Firewalls (physical, technological, policies, etc.) created to ensure such risks are mitigated; and
- d) Oversight and monitoring procedures.

These processes and procedures must be included in the LWDB's WIOA Local Plan.

D. Temporary Assumption of Duties for Procured and Contracted Services

While LWDBs may provide workforce services and assume the role of one-stop operator, many LWDBs procure and contract with providers for these services. In certain critical circumstances, (e.g., sudden termination of contract or failed procurement), the local board may be faced with needing to temporarily assume the role(s) of one-stop operator, direct provider of workforce and/or youth program services. When this happens, LWDBs may request to temporarily assume the responsibilities that were being provided by a contracted vendor or services being sought when the procurement failed. Requests for boards to act as a one-stop operator and provider of workforce and/or youth program services on a time-limited basis must be approved by the CLEO and submitted to DEO. The request must include the duration for which the board will act as a one-stop operator and provider of services. DEO will make a recommendation to the state workforce development board.

1. Sudden Termination of Contract

If the circumstance arises that the LWDB or LWDB staff needs to temporarily serve in multiple roles due to sudden (unexpected) termination of a contract, a new competitive solicitation must be reissued timely. A new entity must assume the applicable role on or before the end of the temporary designation.

In the event of a sudden termination of contract, the LWDB must submit a formal request to serve in the capacity of the role in which the contract was terminated.

The LWDB will:

- a) Submit a request to serve in the role in which the contract was terminated;
- b) Provide documentation of the original contract and the termination notification, which should include the reason for termination;
- c) Provide an explanation and an organizational chart showing who will be responsible for assuming the role(s) temporarily. The explanation and organizational chart must clearly illustrate how the following will be enforced to minimize potential risks associated with the temporary designation.
 1. Separation of duties; (including but not limited to the temporary removal of duties from certain areas/individuals to allow assumption of the temporary role);
 2. Firewalls; (including but not limited to restriction from access to any information that may lead to impropriety); and
 3. Conflict of interest requirements.
- d) The length of time in which the LWDB seeks to temporarily serve in the role in which the contract was terminated, not to exceed one year from the date of request.

LWDBs will submit formal requests for temporary designation to CareerSource Florida and DEO via email at LWDBGovernance@deo.myflorida.com.

2. Failed Procurement

If the circumstance arises that the LWDB or LWDB staff needs to serve in multiple roles due to failed procurement, the LWDB will:

- a) Submit, in writing, the request to serve in the role sought through the failed procurement and provide the following:
 1. A copy of the competitive solicitation;
 2. Proof of the announcement medium used (e.g., newspaper, social media, website, email notification to potential bidders), including documentation showing how long the announcement was posted; and
 3. The length of time the LWDB seeks to temporarily serve in the role.

- b) An explanation and an organizational chart showing who will temporarily be responsible for assuming the role(s). The explanation and organizational chart will clearly illustrate how the following will be enforced to minimize potential risks associated with the temporary designation.
 1. Separation of duties; (including but not limited to the temporary removal of duties from certain areas/individuals to allow assumption of the temporary role);
 2. Firewalls; (including but not limited to restriction from access to any information that may lead to impropriety); and
 3. Conflict of interest requirements.

- c) The LWDB will review the previously issued competitive solicitation and identify any elements that led to the failed procurement (e.g., unrealistic compensation for requested services, duties outside the scope of the role for which services are being sought);
- d) Update and reissue the competitive solicitation (within one month of being granted temporary authority to serve in the role in which the procurement was not successful);
- e) Once an entity is selected, notify DEO of the selection upon final approval by the LWDB; and
- f) Onboard the selected entity of the new solicitation on or before the end of the temporary designation.

The individual or entity contracted to fulfill the role of the LWDB executive director **must not** be the one-stop operator or the provider of workforce and/or youth program services.

Formal requests for temporary designation will be sent to CareerSource Florida and DEO via email at LWDBGovernance@deo.myflorida.com.

3. Local Workforce Development Area Multi-Function Agreement

For circumstances in which an entity or organization, other than the local workforce development board, has been selected or otherwise designated to perform more than one function, the required contract or written agreement must include a clause to clarify how the entity will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the state's conflict of interest policy. The written clause in the contract or agreement must include, at a minimum, the following requirements:

- a) Definition of roles and responsibilities/duties per function (e.g., fiscal agent, one-stop operator, and/or procured provider of workforce or youth program services);
- b) Description of the separation of staff duties under each role, including deliverables for each separate function;
- c) Description of how budget authority is separated, including separate line item budgets for each function; and
- d) Description of how staff duties will be completed while demonstrating compliance with WIOA and corresponding regulations, OMB circulars, and the state's conflict of interest policy, including how conflict of interest will be minimized;
- e) Description of the roles and responsibilities within the organization, including an organizational chart, and sustainability if a function is removed; and
- f) Description of how fiscal monitoring will occur if the fiscal agent is performing multiple functions.

The written clauses in the agreement are intended to limit conflicts of interest or the appearance of conflicts of interest, minimize fiscal risk, and develop appropriate firewalls within a single entity performing multiple functions.

E. Governance Agreements

Implementation of a local workforce development system pursuant to WIOA requires that the CLEOs play an active role in both strategic planning and ongoing operation of the local system. When a local area includes more than one unit of general local government, the chief elected officials of such units may execute a written agreement that specifies the respective roles and liability of the individual chief elected officials. Chief local elected officials are liable in their official capacity but not personally liable for the misuse of WIOA funds.

1. Interlocal, Consortium and Other Agreements

The purpose of having interlocal, consortium or other governing agreements is to ensure the decisions that are delegated to CLEO(s), or a consortium, reflect the agreement of all the chief elected officials in all jurisdictions of a local area and consistent with requirements established in s 163.01, F.S. These agreements are between the chief elected officials of each jurisdiction within the local area and must contain signatures of the representative(s) authorized to enter into such agreements.

The interlocal or consortium agreement will clearly state the level of agreement to be reached amongst the governmental entities involved and identify the roles and responsibilities of the CLEOs within the local area. At a minimum, applicable agreements will address:

- a) **Identification of local workforce development area** - The agreement will clearly identify the units of local government which are covered by the agreement and which make up the local area.
- b) **Designation and responsibilities of the CLEO** - The parties to the interlocal agreement should identify the county commissioners and/or mayors to serve as the CLEO(s) of the local area for the purposes of approving local and, if appropriate, regional plans; establishing policy; authorizing WIOA expenditures; establishing contracts; paying for services outside of the local area; or paying costs associated with monitoring or audit findings or sanctions.

Areas where a consortium is serving in the capacity to perform the duties and functions of the CLEO will describe the duties/responsibilities of the consortium, members that make up the consortium, and the authority of its members in an agreement signed by the applicable elected officials or their authorized designee.

- c) **Establishment, appointment, and operation of the LWDB** - The agreement should include an agreed upon process for establishing and appointing the LWDB members, including:
 1. Membership of the LWDB that is consistent with WIOA and state guidance; and
 2. How the needs of all geographical areas in all jurisdictions will be represented within the local area.

- d) **Designation and responsibilities of the fiscal agent** - The fiscal agent is the entity designated to perform accounting and funds management on behalf of the CLEO. The agreement will identify the entity performing these duties.
- e) **Process for CLEOs to provide input** - The agreement will include a process for all CLEOs to provide input for the purposes of reaching a consensus on critical decisions that may impact the local workforce development system.
- f) **Liability** - Under WIOA, CLEOs are liable for misspent funds, disallowed costs, funds spent fraudulently, and potential sanctions for nonperformance. Therefore, it is recommended that CLEOs within a local area agree on how liability will be addressed. The following questions can be used to guide such discussions:
1. How will sanctions related to performance be shared among the jurisdictions within the local area?
 2. How will the issue of disallowed costs or misspent funds that cannot be covered by federal grant funds be addressed?
- g) **Performance Accountability** – Generally, performance accountability is addressed in the WIOA local plan. However, CLEOs should agree on an approach to performance accountability. The following questions may be used to guide such discussions:
1. Who will be responsible for negotiating local performance measures with the state (the Executive Director / staff to the board, local board)?
 2. Will the local area have any performance criteria in addition to federal and state criteria? How will performance be administratively tracked locally?
 3. Will performance-related incentives be shared among the jurisdictions within the local area?
- h) **Dispute Resolution Process** - The governing agreement should include provisions for resolving disputes. Below are possible issues to address in the agreement relative to dispute resolution:
1. What types of disputes arise to the level of needing a dispute resolution process?
 2. What type of dispute resolution process should be used (mediation, arbitration, consultation with state, etc.)?

i) **Other Agreement Provisions (Miscellaneous)**

1. Duration of the agreement; and
2. Process for modification or termination of agreement.

2. **Bylaws**

Bylaws are the provisions by which the local area is governed and the LWDB and its operations are managed. They provide consistency and clarification on the roles and responsibilities of the various representatives governing the local workforce development system. The LWDB must ensure that its bylaws are up-to-date and in alignment with requirements of WIOA and state policy. At a minimum, the following should be reflected in the local area's bylaws.

- a) **Purpose and Responsibilities (Functions)** – Describe the purpose of the LWDB (e.g. to set policy and establish oversight of the workforce development system). Describe the functions or the responsibilities of the LWDB (e.g. the local board has the responsibility to provide strategic and operational oversight, assists in achievement of the State's strategic and operational vision and goals, and maximizes and continues to improve quality of services, customer satisfaction, and effectiveness of services provided). A list of the board's responsibilities can be found in **Section IV.A.3.** of this policy.
- b) **Membership** – Include the processes and procedures for the following:
 1. Recruiting, nominating, vetting and appointing board members;
 2. Filling LWDB member vacancies; and
 3. Resignation, reasons for disqualification, removal, and reappointment of board members.

Board membership and composition requirements can be found in [Administrative Policy 091 - Local Workforce Development Board Composition and Certification.](#)

- c) **Authority of LWBD** – Include the power and authorities of the LWDB, including authority to recommend, select, and hire an Executive Director to perform operational and administrative functions of the board
- d) **Duties of the Members** – Describe the duties and term limits of the board members.

- e) **Officers** – Describe the authority of its officers, including terms of office, and board officer duties.
- f) **Committees** – Describe the types of committees (e.g. executive committee, finance committee, nominating committee, etc.) as well as their authorities, responsibilities, terms of committee members and chairpersons, who has the authority to appoint committee members, and who may sit on the committee. The LWDB will prohibit any LWDB staff from serving as members of a committee or subcommittee.
- g) **Meetings and Minutes**– Describe frequency of meetings and describe how regular board and committee meetings are planned and conducted. The LWDB will also describe the process and requirements for calling special and emergency meetings, what constitutes an emergency meeting or special meeting, and who is authorized to call such meetings. This includes but is not limited to the requirement to provide the schedule to the board members and the public.
 - 1. **Record Keeping** – The LWDB will describe how meeting minutes will be scribed/recorded, retain records of board members who are present/absent, and record official acts of the board including the number of votes of members (yeas, nays, and abstentions). Meeting minutes must be made available publicly on the LWDB’s website.
 - 2. **Voting, Board Actions, and Conflict of Interest** – Include voting and quorum requirements, record official acts of the board including the number of votes of members (yeas, nays, and abstentions). Abstentions due to conflict of interest must be recorded, include the name of the abstaining member, and the reason for abstention.

Strategic Policy [2012.05.24.A.2 - State and Local Workforce Development Board Contracting Conflict of Interest Policy](#) provides guidelines for approving contracts in which a conflict of interest may exist.

LWDBs must adhere to requirements in the Grantee-Subgrantee Agreement for board member conflicts of interest disclosures and applicable requirements. This includes but is not limited to the requirement to adopt and abide by a conflict of interest policy that ensures compliance with state and federal law, regulations and policies.

LWDB members and staff must maintain integrity, accountability and transparency in decisions and actions that earn and protect the public trust in compliance with

[Strategic Policy 2018.09.26.A.1 - Ethics and Transparency Policy](#). This includes taking all necessary steps to avoid the appearance of conflicts of interest.

The LWDB is subject to open government and confidentiality requirements in Chapters 119 and 286, Florida Statutes (F.S).²

While it is preferable that the elements outlined in **Section IV. E.** of this policy be contained in comprehensive documents as described, it is acceptable that the items identified in this section be contained in separate agreements (memoranda of understanding, governing policies and procedures, etc.), as long as the requirements of this section are clearly met.

F. New Board Member Orientation and Annual Training

Members appointed to the LWDB are required to participate in orientation and annual training to ensure they understand the purpose of their participation on the LWDB. The purpose of orientation and training is to provide LWDB members with information that empowers them to effectively serve as a board member. The LWDB is expected to take all reasonable steps necessary to encourage attendance by the CLEO at board member orientation and training.

1. New LWDB Member Orientation

All new board members, within six months of appointment, will complete a new board member orientation. The board shall develop board member orientation for board members, which will cover at a minimum:

- a) Overview of WIOA;
- b) Overview of the workforce development system and structure;
- c) The state's workforce development system goals and strategies;
- d) The purpose of the LWDB;
- e) LWDB composition, including required members and areas of representation;
- f) Roles and responsibilities of the CLEO, fiscal agent, LWDB, LWDB chairperson, and LWDB executive director and staff;
- g) Required partners and programs;
- h) How the workforce system is funded;
- i) Performance requirements;
- j) Sunshine law requirements; and

² The LWDB is subject to Chapters 119 and 286, F.S. The LWDB is responsible for responding to public records requests and subpoenas. The LWDB is responsible for ensuring that its staff and agents have a working knowledge of Chapter 119, F.S. The LWDB agrees to appoint a public records coordinator for the purpose of ensuring that all public records matters are handled appropriately.

- k) Conflict of interest policy and disclosure of potential conflicts of interest.

2. Annual Training Requirements

Board members will complete an annual refresher training to remind them of the purpose of their appointment as a member to the LWDB. The annual training will include at a minimum:

- a) The state's workforce development goals and strategies;
- b) The purpose of the LWDB;
- c) Roles and responsibilities of the CLEO, fiscal agent, LWDB, LWDB chairperson, and LWDB executive director and staff;
- d) How the workforce system is funded;
- e) Performance requirements;
- f) Sunshine law requirements; and
- g) Conflict of interest policy.

New member orientation and refresher training may be offered in-person and/or virtually at the local area's discretion. The LWDB must retain and, provide to DEO upon request, attendance records of participants and the dates of completion. New board members completing the board member orientation are not required to complete the annual refresher training in the same year they become a new member.

G. State and Local Monitoring

At the local level, the LWDB must conduct oversight of the procurement process and resulting contracts and agreements to ensure all aspects of written agreements and contracts are compliant with federal and state laws and regulations. Additionally, the LWDB must also ensure that governing agreements are upheld. In instances where the LWDB is also the one-stop operator, the LWDB must follow the monitoring requirements outlined in [Administrative Policy 97 – One-Stop Operator Procurement](#). The LWDB must monitor compliance with this policy.

DEO will perform programmatic and fiscal monitoring and will review the local area's agreements and contracts during the annual monitoring review for compliance with federal and state laws and regulations. Findings and other noncompliance issues will be handled through the state's monitoring resolution process.

V. DEFINITIONS

1. **Chief Local Elected Official (CLEO) (CEO in WIOA sec. 3(9)) –**

- a) A chief elected executive officer of a unit of general local government in a local area; and
 - b) In a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in Section 107(c)(1)(B).
2. **Governance Agreements (i.e. Interlocal, Consortium, and other governing agreements)** are written agreements designed to ensure that decisions to CLEO(s), or a consortium, reflect the agreement of all the chief elected officials in all jurisdictions of a local area. Including, how the local board is governed, roles and responsibilities of members, liabilities, etc.
 3. **Local Workforce Development Area (LWDA)** is a geographical area that serves as the jurisdiction for the administration of workforce development activities and has been granted such designation by meeting criteria as prescribed in [Administrative Policy 94 – Local Workforce Development Designation](#).
 4. **Fiscal Agent** is the entity designated to perform accounting and funds management on behalf of the CLEO.
 5. **Board Chairperson** is a business representative among the board members who is elected by the board.
 6. **Local Workforce Development Board** is a board established under WIOA sec. 107, to set policy for the local workforce development system.
 7. **Executive Director** is an individual hired or designated by the LWDB to perform the operational and administrative functions of the board.
 8. **Cause** includes but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence or irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

VI. REVISION HISTORY

Date	Description
03/04/2021	Issued by the Florida Department of Economic Opportunity.
02/18/2021	Approved by CareerSource Florida Board of Directors.

VII. RESOURCES

[WIOA Fact Sheet: Governance and Leadership](#)