

Appendix D: Local Board as One-Stop Operator

Note: The following takes precedence over corresponding policy language, as appropriate.

General

A local workforce development board, or local board, or LWDB, if approved by the governor and chief elected official, or CEO, as required in the Workforce Innovation and Opportunity Act, or WIOA, section 107(g)(2), may be eligible to be an operator. To help ensure the LWDB maintains the vision and strategic objectives as articulated in Pennsylvania's WIOA Combined Plan, as well as the LWDB's approved WIOA local plan, LWDB membership is required to consider and vote on a measure allowing the LWDB to make itself available for operator selection. LWDBs must still compete to be the one-stop operator in the local area and meet mandatory competition requirements in 20 CFR §§ 678.605(c) and 678.615(a), if appropriate fire walls and conflict of interest policies and procedures are in place. These policies and procedures must conform to the specifications of 20 CFR § 679.430 for demonstrating internal controls and preventing conflict of interest. In situations in which the outcome of the competitive process is the selection of the LWDB itself as the one-stop operator, the governor and the CEO must agree to the selection of the LWDB as required by WIOA sec. 107(g)(2).

Stipulations

In cases where a LWDB desires to be the operator, WIOA requires the LWDB be held responsible and liable for all procurement-related costs that arise due to the LWDB participating in the procurement process. The LWDB must secure a qualified third-party entity to conduct the full competitive procurement process including selection and contract negotiation.

If the LWDB decides to participate in the procurement process used to select system operators, the LWDB is required to first establish a Workforce Delivery System (WDS) Committee. This committee provides procurement-related information and recommendations such as planning, development of the operator roles, responsibilities and criteria employed in the request and procurement implementation. Further information on the WDS Committee is presented in *Appendix C: Workforce Delivery System Committee*.

In cases where the LWDB is selected as the operator, WIOA and its regulations require limitations to certain statutory and regulatory roles and responsibilities accorded to the LWDB. The LWDB is held solely responsible and liable for costs that arise due to the LWDB's acceptance of performing the roles, responsibilities and duties of the operator and not being able to perform the duties normally accorded the LWDB. For example, the LWDB or its staff are not eligible to certify the local area's one-stop centers (§ 678.800(a)(3) and § 679.410(a)(3)). Another duty accorded the LWDB is the annual operator evaluation. This will need to be accomplished by a qualified third-party.

If the LWDB is selected to serve as the operator, the LWDB must modify the WIOA local plan to include:

- LWDB's strategic reasoning for why it chooses to be involved with the operational aspect of the local workforce system and the benefits it envisions for the local area
- Description of all operator roles, responsibilities and other duties
- Descriptions of internal control and conflict of interest measures
- Description of how the LWDB will ensure certain roles and responsibilities via statute and regulations accorded to the local board, but are no longer within the purview of the LWDB, will be accomplished by procured qualified third parties and/or the Pennsylvania Workforce Development Board as applicable.

There are three situations that will null and void the operator contract when a LWDB is selected as the operator:

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failure to comply with the contents of the request letter sent to the governor; failure to abide by any of the stipulations and conditions articulated within this policy; or if a valid sanction is imposed. The voiding of an operator contract triggers the commencement of a new operator procurement process.

LWDBs interested in serving as the operator must gain the governor's approval by providing written communication of such interest to Pennsylvania Department of Labor & Industry, or L&I, no later than 90 days prior to the commencement of the operator procurement process. The request letter must include approval of the local area CEO demonstrated by inclusion of his/her signature within the letter. In circumstances where there is more than one local area included or more than one CEO, the letter must contain all necessary signatures.

Governor's Request Letter Requirements

The request letter must address concerns and agree to certain stipulations as detailed below:

- Ensure LWDB compliance with the structural restriction conditions found in L&I's Local Governance policy
- Describe the LWDB's strategic objective(s) for assuming the role(s) of the operator and the benefits this will bring to the local area
- Describe how the local board will ensure open operator procurement and fair competition
- Provide the identity, credentials and point of contact information of a third-party entity selected to conduct the operator procurement and contract negotiation process
- Describe the measures, including internal controls and conflict of interest management, designed to ensure administrative and operational compliance, if selected
- Describe how one-stop center daily management will be accomplished, including conflict of interest and resolution processes, between partners and the operator, if selected
- Describe how the LWDB will ensure certain roles and responsibilities via statutes and regulations accorded to the local board (that are no longer within the purview of the LWDB) will be accomplished by procured third-parties as well as the expected additional cost associated with the local board bidding for the operator role and continuing cost if LWDB is selected as an operator, if selected
- Describe how the LWDB's oversight and monitoring of the one-stop delivery system will be enacted, if selected
- Describe how operator oversight and evaluation responsibilities will occur, if selected
- Indicate acceptance of the governor's approval conditions:
 - The LWDB, as operator, may have paid staff to act as PA CareerLink® center site administrators only. The operator will solely be held responsible and liable for any other staff costs thereby absolving the state, its agencies and assignees, the PA Workforce Development Board, and all entities party to the local workforce delivery system Memorandum of Understanding, or MOU, from providing financial and other contributions to support additional operator staff.
 - The third-party contractor conducting operator procurement must have an understanding of the local workforce development area required program partners to inform the drafting of an RFP/RFQ. The LWDB will organize, but not attend, a public meeting between the third-party contractor and required partners to gain a better understanding of the partner program goals and service coordination expectations.

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Governor's Approval

L&I will review the request letter and any additional information submitted upon receipt. A LWDB may be informed of the governor's final decision using two (2) potential methods. A decision will be rendered and communicated to the LWDB no later than 90 days after receipt of the request letter. Or, the LWDB's request may be presumed approved if at least 90 days has passed since the receipt of the request without receiving any decision or communication from L&I.