

**Workforce Investment Act**  
**Frequently Asked Questions**  
**Volume VIII**  
**10/6/03**

This publication is intended to address some of the most frequently asked questions regarding the Workforce Investment Act, One-Stop Systems, local authority and other program related interests. The questions listed are not exhaustive and often represent a series of questions around a specific topic. Answers have been developed that are consistent with Federal and State rules and policy. References are included.

**Regarding Conventional Area Administrative Structures**

**1. Must a Chief Local Elected Official (CLEO) designate an Administrative Entity for the WIA Title I programs?**

Although given the authority in WIA, the Chief Local Elected Official (CLEO) is not required to designate an Administrative Entity for WIA Title I programs. The CLEO is the Administrative Entity by virtue of being the grant recipient: as such CLEO staff may perform the administrative functions such as monitoring, oversight, and contracting. The Local Plan must describe who is performing the administrative functions for WIA whether the CLEO retains that responsibility or designates it.

**2. Can an Administrative Entity for Workforce Investment Act (WIA) programs (Adult, Dislocated, Youth) also deliver the direct services of those programs?**

Yes, the Administrative Entity can deliver WIA Title I services under certain conditions. An Administrative Entity can deliver direct services in either of these ways:

- a.) If it is selected as the One-Stop Operator, either through the RFP process or as a consortium of three required partners. In the role of One-Stop Operator the Administrative Entity may provide direct WIA Title I program services.
- b.) If an RFP for direct services was issued by the LWIB but no qualified proposals were received. In this case, the Administrative Entity may be selected by the Local Workforce Investment Board (LWIB) as a “provider of last resort.”

In either of these situations the Administrative Entity acts in two roles - providing administrative functions and providing direct services to participants. Please note the additional conditions concerning delivery of core, intensive and training services outlined in 20 CFR 661.310, 663.155, 663.210, and 663.400. (See question 7 below for additional information concerning the Youth Program services.)

**3. Can the WIA program Fiscal Agent also be the One-Stop operator? And can it also be the WIA program Administrative Entity? In other words can one entity assume all three roles?**

Yes, but the intent of WIA is to have clearly defined roles for the Administrative Entity, Fiscal Agent, and One-Stop Operator (OSO). The CLEO designates the Administrative Entity and the Fiscal Agent. Even though the CLEO designates these entities, the CLEO is still liable for all funds. The Administrative Entity and the Fiscal Agent are given the responsibility to insure appropriate expenditure of WIA funds within the cost limitations as well as other oversight, monitoring, and operational activities.

The Local Workforce Investment Board designates or certifies the OSO in agreement with the CLEO. The OSO and the One-Stop system are primarily focused on providing services to customers with an additional focus of meeting performance goals. Therefore, the Administrative Entity and the Fiscal Agent focus on compliance with the administrative laws and regulations, and the OSO focuses program law requirements regarding customers and performance. The WIA Law, by its very language, creates two focuses: administration and service delivery to customers. The Law also creates a system of checks and balances with designation authority at both the CLEO and LWIB levels.

It is possible for one entity to execute all three roles with full and complete compliance with the Conflict of Interest requirements at 29 CFR 95.43 or CFR 97.36(b)(3) (as appropriate) and 20 CFR 667.200 and the sunshine provisions. Full compliance with Conflict of Interest requirements requires the CLEO (who has fiscal liability) and the Local Workforce Investment Board (who has program responsibility) to execute all of the designations or certification requirements in a succinct, documented, and transparent way.

- 4. Can some visuals be provided to outline different administrative structures under a conventional area designation? These would show structure combinations of responsibilities under same and/or different entities (i.e., Fiscal Agent, WIA program administration, One-Stop Operator).**

See Attachments A and B.

#### **Regarding the Local Workforce Investment Board (LWIB)**

- 5. If the LWIB is also a 501(c)(3), can it also be the WIA program Fiscal Agent? Are there conditions that need to be met for this to occur?**

A Local Workforce Investment Board, if it is a 501(c)(3), may serve as the Fiscal Agent for WIA programs. As long as the LWIB is a legally established entity, it may be designated as the Fiscal Agent for the area. The Fiscal Agent may be a public, private, for profit, or non-profit entity or organization. WIA Act §117(d)(3)(B)(I)(II)

The Chief Local Elected Official (CLEO) has the authority to designate an entity to serve as the local Fiscal Agent in order to assist in the administration of grant funds at the local level. The CLEO is recommended to set criteria to ensure the fiscal integrity of those resources. However, the CLEO remains liable for funds received under Title I of WIA.

As described in the Regulations, when the Local Workforce Investment Board is also organized as a nonprofit corporation, it is required to use OMB Circular A-122 (Cost Principles for Non-Profit Organizations) as stated in § 667.200(c)(2) (Allowable costs/cost principles) of the regulations.

- 6. Is the LWIB budget all administrative funds? Is there a cite outlining what constitutes administrative expenses?**

If the LWIB is not providing direct WIA Title I program services to job seekers and/or the business community, then costs related to LWIB functions would be categorized as administrative costs. Administrative costs are costs that are associated with specific functions that are not related to the direct provision of WIA services to participants and employers. They can be both personnel and non-personnel and both direct and indirect. See the Regulations §667.220 and USDOL TEGL No. 1-00, dated July 10, 2000, for a list of what are considered administrative costs.

#### **Regarding the Fiscal Agent for WIA Programs**

- 7. Can the WIA program Fiscal Agent act as a “pass-through” entity?**

There are no “pass-through” provisions under the WIA Law. The intent of having one fiscal agent for a local workforce investment area is for that entity to manage the fiduciary duties within the One-Stop System and to maintain control of the funding. The intent is not to act in a “pass-through” capacity and flow all of the funds along with the responsibilities to other multiple entities.

- 8. Can the Fiscal Agent, with approval from the Council of Governments (COG), move funds from county to county without prior State approval?**

Yes, as long as there is agreement among the counties affected. An area does not need State approval, but does need Local Workforce Investment Board approval, for moving funds from county to county. However, State approval is necessary for the 20% transfer of funds between the adult and dislocated worker programs. (See

### **Regarding the Consortium of Three Partners**

#### **9. What constitutes the consortium of three in the Regulations §662.410?**

The One-Stop Operator is designated by the local WIB, with agreement from the CLEO, in one of 2 ways (the third way, grandfathering, is not an option now): 1) through a competitive process, or 2) under an agreement between the local WIB and a consortium of at least three of the required One-Stop partners. This is clarified in the Preamble of the Regulations, under Part 662, Subpart D - One-Stop Operator: “The operator may be selected by the local Board through a competitive process, or the local Board may designate a consortium that includes three or more required One-Stop partners as an operator.” This is defined as three different partners representing three different required programs. In multi-county areas, for example, the three partners could be Education, Title V and TANF but not the ABLE representatives from three different counties. In addition, a single partner representing multiple programs, such as ODJFS, could not solely make up the consortium of three.

#### **10. Can the consortium of three partners, as the One-Stop Operator, solely define their own duties?**

The role and responsibilities of the One-Stop Operator are decided at the local level as determined by agreement between the Local Workforce Investment Board and the One-Stop Operator. (See Regulations §662.400) The One-Stop Operator would be the contracted entity or the consortium of three or more partners. When the Operator is a consortium of three, those partners, with the agreement of the Local Workforce Investment Board, could further agree to split those responsibilities, such as the day-to-day operation of the One-Stop, or they could agree to hire a One-Stop Manager to conduct the day-to-day operations.

### **Regarding the Closeout Plan**

#### **11. Regarding the Closeout Plan, how are aggregate vs. individual equipment costs determined? Give examples.**

Aggregate value is considered when disposing of supplies, and individual value (per unit) is considered when disposing of equipment as described in 29 CFR, part 97.32 (Equipment) and 97.33 (Supplies) of the Regulations.

All equipment/supplies purchased in administering the WIA programs must be inventoried, and to the extent possible, all equipment and supplies should be (retained) transferred to the new area during re-designation.

Equipment is typically any property, which is tangible, non-expendable, has a useful life of more than one year, and has an acquisition cost of \$5,000 or more, including exempt property charged directly to the grant (e.g., copier). The cost of equipment includes tax, installation charges, and freight. These charges are added to determine the acquisition cost.

When referring to WIA equipment, fair-market value is determined by the individual value (per-unit) of an item.

- All equipment (not typical) with a fair-market value of less than \$5,000 per unit may be retained, sold, or otherwise disposed of with no further obligation to the State.
- All equipment with a fair-market value of \$5,000 or greater per unit may be retained or sold. If sold, the State shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the State’s share of the equipment.

Supplies are typically any items, which are tangible, expendable, consumable, and have an acquisition cost of less than \$5,000. Examples of supplies would be paper, desktop supplies, computers, laptops, printers, fax machines, phones, calculators, etc.

When referring to WIA supplies, fair-market value is determined by the aggregate value (total of all individual units) of residual inventory of unused supplies.

- If the aggregate value of residual, usable WIA supplies has a fair-market value of less than \$5,000, these supplies may be retained, sold, or otherwise disposed of with no further obligation to the State.
- If the aggregate value of residual, usable WIA supplies has a fair-market value of \$5,000 or greater, these supplies may be retained or sold. If sold, the State shall have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the State's share of the supplies.
  - A group of items costing less than \$5,000 each, when combined, make up one functional unit with a combined (aggregate) cost of \$5,000 or greater is considered one supply unit (e.g., five computers cost \$1,500 each for a total of \$7,500. This constitutes one supply unit).

**12. Regarding the Closeout Plan, please specify, in Ohio Option areas designating as conventional areas, the role, and responsibility of the Local Workforce Policy Board as far as review and sign-off?**

The liability and responsibility for review and approval of the Closeout Plan and Closeout Package rests with the Chief Elected Official(s) in the designated area. This includes both the Conventional and the Ohio Option Sub-Areas.

In accordance with 661.300 of the Regulations and sections 6301.06 and 6301.07 of HB 470, the Workforce Investment Board and the Policy Boards work in partnership with the Chief Elected Officials(s) to set policy and perform functions to carry out Title I activities.

In fulfilling that role, the Local Workforce Investment Board and, in the Ohio Option areas, the Local Workforce Policy Boards must review the Closeout Plan and Closeout Package prior to submission to the Local Elected Official(s) for sign off.

Hence, the Local Workforce Investment Board and the Local Policy Boards have responsibility, under the authority and in conjunction with the Chief Elected Officials, for ensuring that the entire Closeout Plan and Closeout Package accurately reflect and summarize the financial position of the Local Workforce Investment Area and Sub-Area at the time of closeout. In this manner, the Local Workforce Investment Board and Policy Boards will be aware of the outcomes related to the program and in a position to foresee any issues that may arise as a result of the realignment efforts.

A board consultation form must be completed and submitted to the State with the Closeout Plan and Package. For the Ohio Option Area, a Board consultation form will need to be completed by both the Local Workforce Investment Board and the Local Policy Board(s).

**Other Miscellaneous Questions**

**13. Does the Youth Program need to be competitively awarded, including the ten program elements, or can it be run in-house without procurement?**

The ten youth program elements must be competitively awarded, except for the summer employment opportunities program element, which can be either run in-house or competitively awarded (See Regulations §664.610)

**14. In regard to questions 3, 4 and 5 of FAQ Vol. VII, what are the Request for Proposal (RFP) procedures to be followed?**

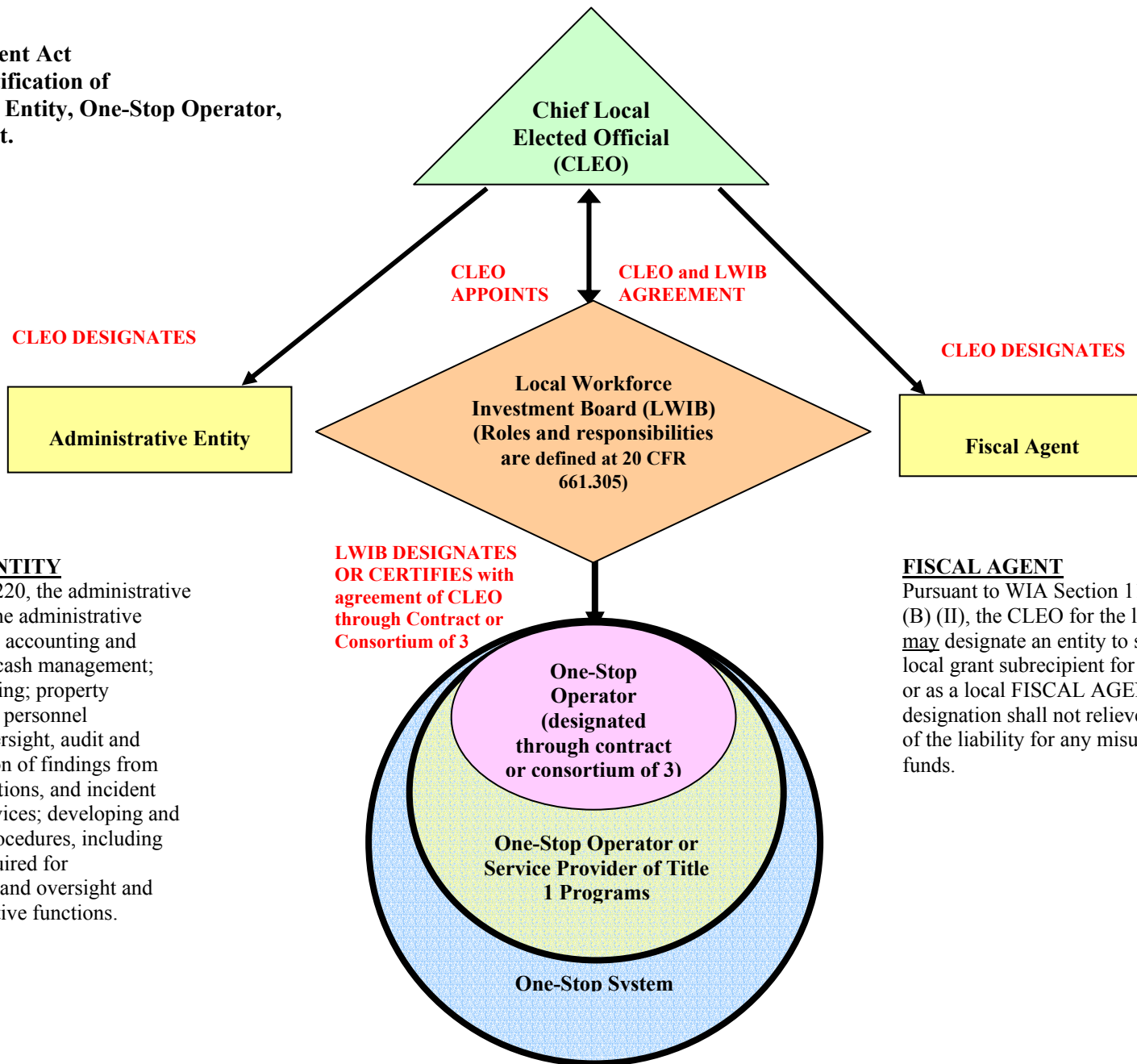
The procurement procedures described in 29 CFR 97.36 or local procurement rules, whichever is more restrictive, must be followed. Non-profit entities must follow 29 CFR 95.44 or local procurement, whichever is more restrictive.

**Workforce Investment Act Roles, Functions, and Entity Configurations**

<b>Role</b>	<b>ADMINISTRATIVE ENTITY</b>	<b>ONE-STOP OPERATOR</b>	<b>FISCAL AGENT</b>
<b>Selection Process</b>	Designated by the Chief Local Elected Official	Designated or Certified by the Local Workforce Investment Board thru either of 2 processes (RFP or consortium of 3 different partners from 3 different required programs) in agreement with the CLEO.	Designated by the Chief Local Elected Official
<b>Responsibilities</b>	Administrative Functions	Delivery of WIA Title I Program services	Fiscal Functions
<b>Possible Entity Configurations</b>			
<b><u>Scenario 1</u> Roles Performed by 3 Separate Entities</b>	<b>Entity A</b>	<b>Entity B</b>	<b>Entity C</b>
<b><u>Scenario 2</u> Roles Performed by 2 Separate Entities *</b>  Examples at right: a) Apply to any combination of 2 entities in which a single entity is responsible for dual role. b) Any combination of 2 entities (A, B, or C).	<b>Entity A</b>	<b>Entity B</b>	<b>Entity A</b>
	<b>Entity A</b>	<b>Entity A</b>	<b>Entity B</b>
	<b>Entity A</b>	<b>Entity B</b>	<b>Entity B</b>
<b><u>Scenario 3</u> Roles Performed by a Single Entity*</b>	<b>Entity A</b>	<b>Entity A</b>	<b>Entity A</b>

\* See conditions noted in Questions 2 & 3 of the FAQ Vol. VIII document.

**Workforce Investment Act  
Designation or Certification of  
The Administrative Entity, One-Stop Operator,  
and the Fiscal Agent.**



**ADMINISTRATIVE ENTITY**

Pursuant to 20 CFR 667.220, the administrative functions performed by the administrative entities are the following: accounting and budgeting; financial and cash management; procurement and purchasing; property management; payroll and personnel management; general oversight, audit and coordinating the resolution of findings from audits, reviews, investigations, and incident reports; general legal services; developing and operating systems and procedures, including information systems, required for administrative functions; and oversight and monitoring of administrative functions.

**FISCAL AGENT**

Pursuant to WIA Section 116 (d) (2) (B) (II), the CLEO for the local area may designate an entity to serve as a local grant subrecipient for such funds or as a local FISCAL AGENT. Such designation shall not relieve the CLEO of the liability for any misuse of grant funds.

**ONE-STOP OPERATOR**

Under WIA Section 121(d) (1), the LWIB, with the agreement of the CLEO, is authorized to designate or certify One-Stop Operators. To be eligible to receive funds made available, an entity (which may be a consortium of entities) shall be designated or certified as OSO: (i) through a competitive process: or (ii) in accordance with an agreement reached between the LWIB and a consortium of entities that, at a minimum, includes 3 or more of the One-Stop partners.