

FISCAL AGENT GUIDANCE 2024 – 02

**Memorandum of Agreement
Between
Greater Memphis Elected Officials
Local Workforce Development Board
And
Greater Memphis Chamber
(Fiscal Agent & Staff to Board)**

TO: Chief Local Elected Officials
WIOA Fiscal Agent
WIOA Board Chair
WIOA Board Staff
WIOA Core Partners

FROM: Greater Memphis Local Workforce Board and Greater Memphis Chamber

DATE: **February 12, 2024**

SUBJECT: Agreement between the Chief Local Elected Official (CLEO), Greater Memphis Local Workforce Development Area, and Greater Memphis Chamber.

REFERENCES:

- WIOA Section 107(d)(12)(B)(i)(II)
- WIOA Section 107(d)(10)(E)
- WIOA Section 108
- WIOA Section 122
- WIOA Section 123(b)
- WIOA Section 188
- WIOA Section 194(15)(A)
- 20 C.F.R. §679.370
- 20 C.R.F. §679.400
- 20 C.F.R. §679.420
- 20 C.F.R. §678.600

Witnesseth that:

Whereas, in accordance with WIOA Section 107(d)(12)(B)(II), to assist in the administration of the grant funds, the Chief Local Elected Official may designate an entity to serve as a fiscal agent/grant sub-recipient for Workforce Innovation and Opportunity Act (WIOA) funds. This designation, however, shall not relieve the Chief Local Elected Official of the liability for any misuse of grant funds;

In accordance with WIOA Sec.107(d){12}{B}{i}{II}, the parties to this Agreement have agreed that the Greater Memphis Chamber shall serve as Fiscal Agent for the Greater Memphis Workforce Development Area;

Whereas the parties to this Agreement have agreed that Greater Memphis Chamber, in accordance with WIOA Sec. 107(f)(1), shall hire a director and other Staff to assist in carrying out the functions described in subsection (d);

Whereas in accordance with WIOA Sec. 107(f)(2) have established a set of objective qualifications for the position of director that ensures that the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively carrying out the functions of the local Board;

Whereas in accordance with WIOA Sec. 107(f)(3), the director and Staff shall be subject to the limitations on the payment of salaries and bonuses described in section 194(15);

Whereas WIOA Sec. 194(15)(A) states: None of the funds available under this title shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, whether as direct costs or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

The parties agree as follows:

As the designated entity, Greater Memphis Chamber, in accordance with Sec. 107(d){12}{B}{III}, shall disburse the grant funds for workforce development investment activities at the direction of the local Board and Chief Elected Official, under the requirements of this title and shall disburse the funds immediately on receiving such direction from the local Board 20 CFR §679.420 states that the designation of a fiscal agent does not relieve the Chief Elected Official of liability for the misuse of grant funds.

According to 20 CFR §679.420, when the Chief Local Elected Official elects to appoint a fiscal

agent to administer grant funds, the Chief Local Elected Official must ensure the fiscal agent has clearly defined roles and responsibilities. As the Fiscal Agent for the Local Elected Officials, the Greater Memphis Chamber will be responsible for the following functions.

- 1) Receive funds to expend or disburse for the purposes authorized under WIOA.
- 2) Ensure sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget circulars, WIOA, and the corresponding Federal Regulations and State policies.
- 3) Maintain an appropriate system of internal controls, proper accounting records, and adequate documentation.
- 4) Respond to audit financial findings.
- 5) Prepare financial reports.
- 6) Provide technical assistance to sub-recipients regarding fiscal issues.
- 7) Procure contracts or obtain written agreements.
- 8) Conduct financial monitoring of service providers.
- 9) Ensure independent audit of all employment and training programs.
- 10) Comply with state and federal reporting requirements and timelines defined by the Tennessee Department of Labor and Workforce Development.
- 11) Provide requested documentation to state monitors and external auditors.
- 12) Other duties required by direction of the Chief Local Elected Official or Greater Memphis Local Workforce Development Board.

Greater Memphis Chamber, as fiscal agent, shall have full authority, which includes signatory authority, to execute the above-listed duties and responsibilities but shall take no action that the Chief Local Elected Official has not authorized if approval is required. The appropriate role of the fiscal agent is limited to accounting and funds management functions rather than policy or service delivery as per 20 CFR§679.420. The Greater Memphis Chamber will ensure that the CLEO and the LEOs stay apprised of promising practices, potential issues in their area, and performance by submitting a monthly status report. Using a fiscal agent does not relieve the elected Official of responsibility for the misuse of grant funds allocated to the local area under WIOA sections 128 and 133.

Under 20CRF§679.400, should an entity be chosen to provide additional workforce functions beyond fiscal functions described in WIOA Section 107(d), such an entity must clarify other roles and responsibilities.

Further, following WIOA Sec. 107(f)(1), the parties to this Agreement have agreed that the Greater Memphis Chamber will serve as Staff to the Board to assist in carrying out the functions of the local Board in accordance with the Local Elected Officials. The functions of the Local Board include the following from 20 CFR § 679.370. Furthermore, WIOA sec. 107(f) grants the Local Workforce Board authority to hire and fire an executive director. The Local Workforce Board must establish and apply a set of qualifications for the executive director

position that ensures the individual selected has the requisite knowledge, skill and abilities to meet identified benchmarks and assist in carrying out the functions of the Local Workforce Development Board.

In general, the Local Workforce Development staff may assist the Local Workforce Development Board in fulfilling the required functions listed below:

WIOA sec. 107(d), the Local Board must:

1. Develop and submit a 4-year local plan for the local area in partnership with the Chief Elected Official and consistent with WIOA sec.108;
2. If the local area is part of a planning region that includes other local areas, develop and submit a regional plan in collaboration with other local areas. If the local area is part of a planning region, the local plan must be submitted as a part of the regional plan;
3. Conduct workforce research and regional labor market analysis to include:
 - a. analyses and regular updates of economic conditions, needed knowledge and skills, workforce, and workforce development (including education and training) activities to include an analysis of the strengths and weaknesses (including the capacity to provide) of such services to address the identified education and skill needs of the workforce and the employment needs of employers;
 - b. assistance to the Governor in developing the statewide workforce and labor market information system under the Wagner-Peyser Act for the region;
 - c. other research, data collection, and analysis related to the workforce needs of the regional economy as the Board is determined necessary to carry out its functions after receiving input from a wide array of stakeholders.
4. Convene local workforce development system stakeholders to assist in developing the local plan under 20 CFR§679.550 and identify non-Federal expertise and resources to leverage support for workforce development activities.
5. Lead efforts to engage with a diverse range of employers and other entities in the region to:
 - a. promote business representation (particularly representatives with optimum policymaking or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the Greater Memphis region) on the Local Board;
 - b. develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities;
 - c. ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development

- entities, and service providers;
 - d. implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as the establishment of sector partnerships) that provide the skilled workforce needed by employers in the region and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.
 - e. with representatives of secondary and post-secondary education programs, lead efforts to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services needed by adults and youth, particularly individuals with barriers to employment.
 - f. lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and job seekers, and identify and disseminate information on proven and promising practices carried out in other local areas for meeting such demands.
6. Develop strategies for using technology to maximize accessibility and effectiveness of the local workforce development system for employers, workers, and job seekers by:
- a. facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;
 - b. facilitating access to services provided through the one-stop delivery system involved, including access in remote areas;
 - c. identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery and increase access to services and programs of the one-stop delivery system, such as improving digital literacy skills;
 - d. leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.
7. In partnership with the Chief elected Official for the local area:
- a. conduct oversight of youth workforce development activities authorized under WIOA sec. 129(c), adult and dislocated worker employment and training activities under WIOA sec. 134 (c) and (d); and the one-stop delivery system in the local area;
 - b. ensure the appropriate use and management of the funds provided under WIOA subtitle B for the youth, adult, and dislocated worker activities and one-stop delivery system in the local area;
 - c. ensure the appropriate use management and investment of funds to maximize performance outcomes under WIOA sec.116.

8. Negotiate and agree on local performance measures with the Chief Elected Official and the Governor.
9. Negotiate with the Chief Elected Official and required partners on the methods for funding the infrastructure costs of one-stop centers in the local area in accordance with 20 CFR§678.715 or must notify the Governor if they fail to reach an agreement at the local level and will use a state infrastructure funding mechanism.
10. Select the following providers in the local area, and where appropriate, terminate such providers in accordance with 20 CFR part 200:
 - a. providers of youth workforce investment activities through competitive grants or contracts based on the recommendations of the youth standing committee (if such a committee is established); however, if the Local Board determines there is an insufficient number of eligible providers in a local area, the Local Board may award contracts on a sole-source basis as per the provisions at WIOA sec. 123(b);
 - b. providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122;
 - c. providers of career services through the award of contracts if the one-stop operator does not provide such services;
 - d. one-stop operators in accordance with 20 CFR§678.600 through 20 CFR§678.635.
11. Following WIOA sec. 107(d)(10)(E) work with the State to ensure there are sufficient numbers and types of providers of career services and training services serving the local area and providing the services in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive, integrated employment for individuals with disabilities.
12. Coordinate activities with education and training providers in the local area, including:
 - a. reviewing applications to provide adult education and literacy activities under WIOA Title II for the local area to determine whether such applications are consistent with the local plan;
 - b. making recommendations to the eligible agency to promote alignment with such a plan;
 - c. replicating and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals, such as cross-training of Staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.
13. Develop a budget for the activities of the Local Board, with the approval of the Chief Elected Official and consistent with the local plan and the duties of the Local Board.

14. Assess, on an annual basis, the physical and programmatic accessibility of all One-Stop Centers in the local area in accordance with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 USC. 12101et seq.).
15. Certification of one-stop centers in accordance with 20 CFR§ 678.800.
16. To assist the Chief Elected Official in carrying out the functions of Fiscal Agent and Staff to the Board, Greater Memphis Chamber will:
 - a. recruit, hire, and train staff to carry out the mission of the program
 - b. lead, supervise, and support the Staff in their job responsibilities.
 - c. provide or arrange for Human Resources/Payroll functions related to Staff.
 - d. provide procurement, purchasing, and contracting structure, including leases for the One Stop Centers, equipment purchases, sub-contracts with training providers, etc.
 - e. provide a budgeting and accounting system for accounts payable and accounts receivable functions.
 - f. provide cash management.
 - g. provide general liability for actions of Staff, board members, and directors, leased space, etc., and workman's compensation for Staff.
 - h. other duties necessary to carry out the functions of the Board and WIOA

SIGNATURES

This Agreement becomes effective upon acceptance by all parties for the execution of activities authorized by the Workforce Innovation and Opportunity Act. It shall remain in force until one or more parties call for a modification, amendment, or alteration of the terms or conditions contained herein.

Greater Memphis Local Chief Elected Official

Printed Name: Hon. Lee Harris, Shelby County Mayor

Signature: [Handwritten Signature]

Date 2/19/2024

APPROVED AS TO FORM AND LEGALITY:
[Handwritten Signature]
Contract Administration/
Assistant County Attorney

Interim Chair, Greater Memphis Local Workforce Development Board

Printed Name: Meka Egwuekwe

Signature: [Handwritten Signature]

Date 16 Feb 2024

Greater Memphis Chamber

Printed Name: Ted Townsend, President & CEO

Signature: [Handwritten Signature]

Date 02/12/2024