

ADMINISTRATIVE POLICY NO. AP- 209

Subject: Workforce Connection of Central NM (WCCNM) Firewall Policy

Effective: 8-16-2021

PURPOSE: To ensure compliance with WIOA 20 CFR §679.430, which states that any organization that has been selected or otherwise designated to perform more than one principal function within a local workforce system must develop a written agreement with the Local Workforce Development Board (LWDB) and Chief Elected Official(s) (CEO) to clarify how the organization will carry out its responsibilities while demonstrating compliance with Workforce Innovation and Opportunity Act (WIOA) and corresponding regulations, relevant Office of Management and Budget (OMB) circulars, and the State's conflict of interest policy.

This policy is to serve as an agreement between the WCCNM and Mid-Region Council of Governments (MRCOG) as the entity providing multiple principal functions within WCCNM's workforce system.

POLICY: The WCCNM's Board Members, Administrative Entity, One-Stop Operators, Service Providers, and Fiscal Agent must act solely in the best interest of the community without regard to personal interest and must maintain appropriate firewalls between roles, as defined in WIOA and corresponding regulations, as well as in WCCNM's Conflict of Interest policy.

DEFINITIONS:

"Chief Elected Official (CEO)" is the chief elected executive officer of a unit of general local government in the Central Region.

"Administrative Entity" means the entity designated by the WCCNM for the administration of WIOA in the Central Region.

"Local Workforce Development Board (LWDB)" means the local workforce development board established by the governor.

"One-Stop Operator" means a public, private, or nonprofit entity, or a consortium of entities designated or certified under WIOA section 121.

"Workforce Connection Center" means a physical one-stop center within the one-stop delivery system.

"Mid-Region Council of Governments (MRCOG)" the entity selected or designated by the WCCNM to perform Multiple principal WIOA functions to include: Administrative Entity, Fiscal Agent, One-Stop Operator and Adult and Dislocated Worker Service provider.

“Administrative Reporting” means a direct line of authority for the organizational hierarchy which includes evaluation and HR related activities. ***As related to this policy: The Workforce Administrator and Operations Manager report directly and administratively to the MRCOG executive Director, etc. (see attached Organization Chart)***

“Functional Management” is an oversight relationship to provide direction of a particular or variety of functions. ***For example: The One-Stop Operator has Functional Management responsibilities of all partners within the Workforce Connection without direct administrative authority. This ensures proper coordination and adherence to policy, initiatives and strategic imperatives as directed by the WCCNM LWDB are properly addressed.***

Roles and Responsibilities:

WCCNM Staff to the Board (Administrative Entity): Per 20 CFR § 679.400, local WDB staff assist the Local WDB in fulfilling the required functions at WIOA sec. 107(d):

- A. Developing a Local Plan;
- B. Conducting workforce research and regional labor market analysis;
- C. Convening stakeholders to assist in Local Plan development, identify expertise and resources, and leverage support for workforce activities;
- D. Employer engagement;
- E. Develop and implement Career Pathways;
- F. Identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers and job seekers;
- G. Develop strategies for utilizing technology;
- H. Conduct subrecipient program oversight;
- I. Negotiate local performance accountability measures;
- J. Coordinate activities with education providers;
- K. Budget and Administration (develop budget); and
- L. Ensure accessibility for individuals with disabilities.

Operator: Per 20 CFR § 678.620 and WCCNM Operational Policy OP-434 One-Stop Operator Policy:

The WCCNM One-Stop Operator should engage in the following:

- A. Facilitate the daily operations of the Workforce Connection Center by coordinating service delivery among partners and staff;
- B. Manage partner responsibilities as defined in MOUs;
- C. Facilitate Workforce Connection Center staff/partner development;
- D. Oversee and ensure performance and continuous quality improvement activities;

- E. Handle EEO responsibilities, customer complaints, and ensure accessibility as outlined in local, state and federal guidance;
- F. Implement board policy;
- G. Facilitate the development of reports and presentations to WCCNM Board focused on partnership engagement, workforce development operations, performance accountability, and continuous improvements and other reports as required;
- H. Coordinate the integration and collaboration of all Workforce Connection Center partners/staff to ensure a seamless and streamlined system for customers and businesses;
- I. Collaborate with WCCNM Board, partners, and staff to ensure businesses and the public are aware of all services available through the career centers and information is provided for accessing these services;
- J. Assure the Workforce Connection Centers comply with all required customer support and information as required under local, state and federal regulations;
- K. Collaborate with partners to facilitate and participate in special projects such as job fairs, business driven workshops, and be responsible for communicating employers' needs to the Workforce Connection Center partners;
- L. Convene regular meetings of the Workforce Connection staff and partners as required by local, state and federal regulations, and;
- M. Other duties as outlined by local, state and federal regulations for the One-Stop Operator.

The WCCNM One-Stop Operator may not perform the following functions:

- A. Convene system stakeholders to assist in the development of the local plan;
- B. Prepare and submit local plans (as required under sec. 107 of WIOA);
- C. Be responsible for oversight of itself;
- D. Manage or significantly participate in the competitive selection process for one-stop operators;
- E. Select or terminate one-stop operators, career services, and youth providers;
- F. Negotiate local performance accountability measures; or
- G. Develop and submit budget for activities of the Local WDB in the local area.

Under WIOA, one-stop operators are required to be selected through a competitive process, and the WCCNM Board may specify that the Operator take on the role of:

- A. coordinating services across multiple Workforce Connection Centers or entire workforce areas
- B. functioning as a direct service provider, and
- C. managing the day-to-day operations of their Workforce Connection Centers.

Fiscal Agent: Per 20 CFR § 679.420, the Fiscal Agent responsibilities include:

- A. Receive funds;
- B. 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;
- C. Respond to audit financial findings;
- D. Maintain proper accounting records and adequate documentation.
- E. Prepare financial reports; and
- F. Provide technical assistance to subrecipients regarding fiscal issues.

Service Providers: Per 20 CFR § 678.420 and 20 CFR § 678.430, each Service Provider must:

- A. Provide access to its programs or activities through the one-stop delivery system, in addition to any other appropriate locations;
- B. Use a portion of funds made available to the partner's program, to the extent consistent with the Federal law authorizing the partner's program and with Federal cost principles in 2 CFR parts 200 and 2900 (requiring, among other things, that costs are allowable, reasonable, necessary, and allocable), to:
 - a. Provide applicable career services, including:
 - i. Basic career services including but not limited to participant intake, orientations, initial assessments, employment services, and referrals to other partners and services;
 - ii. Individualized career services including but not limited to comprehensive and specialized assessments, case management, individual employment plans, training, and career planning; and
 - iii. Follow-up services including but not limited to counseling regarding the workplace for up to 12 months after the first day of employment.
 - iv. Work collaboratively with the State and the LWDB to establish and maintain the one-stop delivery system.
 - b. Enter into an agreement with the WCCNM relating to the operation of the one-stop delivery system that meets the requirements of § 678.500(b);
 - c. Participate in the operation of the one-stop delivery system consistent with the terms of the agreement, requirements of

authorizing laws, the Federal cost principles, and all other applicable legal requirements; and

- d. Provide representation WCCNM as required and participate in WCCNM committees as needed.

Organizational Firewalls: WCCNM firewalls aim to separate organizational functions and staff reporting relationships between different departments that handle governance, policy, coordination, administration, operations, monitoring and oversight, and program services. Attachment – WCCNM – MRCOG Organizational Chart.

- A. **Governance Activities:** Governance activities are activities related to the organization of the WCCNM and the one-stop delivery system; identification and selection of WCCNM one-stop operator(s), providers of workforce investment activities, and providers of training services; negotiation of local performance accountability measures; negotiation of the local area MOU among WCCNM one-stop system partners; development of a budget for the Local Workforce Development Area; and development of the local and regional plans. WCCNM Administrative Entity staff assist the Chief Elected Officials and the WCCNM in carrying out these activities.
- B. **Policy:** The WCCNM Administrative Entity staff conducts workforce research and makes recommendations and develops policy and proven and promising practices to the WCCNM based on that research.
- C. **Coordination Activities:** The WCCNM Administrative Entity staff assists the WCCNM in convening, brokering, and leveraging stakeholder resources; engaging employers; and coordinating with education providers.
- D. **Administration:** The WCCNM Fiscal Agent entity manages WIOA Title I-B funds and other workforce development funds as the local grant sub-recipient.
- E. **Operations:** The WCCNM Operations staff assists the One-Stop Operator in carrying out the operations responsibilities listed above.
- F. **Monitoring and Oversight:** The WCCNM Administrative Entity staff conducts monitoring and performs oversight of all local WIOA Title I-B grant subrecipients (Adult and Dislocated Worker Service Provider, Youth Service Provide and One-Stop Operator). Each unit of the Central Operations, in turn, receives oversight from a standing committee of the WCCNM and functional management to the Workforce Administrator. For purposes of monitoring and oversight, all certified, local Workforce Connection Centers are considered to be local grant subrecipients. Monitoring and oversight includes evaluating and monitoring subrecipients' compliance with federal laws, regulations, and policy, as well as state and local policy, and contract compliance.
 - a. Programmatic and Fiscal monitoring of WIOA subrecipients One-Stop Operator, Adult and Dislocated Worker provider, and Youth service provider(s) is performed by the WCCNM Administrative Entity and Fiscal Agent staff for the WCCNM LWDB. The WCCNM Administrative Entity staff will follow the Monitoring and Resolution

Policy No. MP-304, for guidance and procedures. The WCCNM Executive Committee shall review and approve the monitoring activities and reports developed by WCCNM Administrative Entity staff.

Once each program year, WCCNM Administrative Entity staff prepares and presents directly to the WCCNM Executive Committee (in an open meeting) a detailed report containing a summary of all programmatic and fiscal monitoring findings in instances such as: noncompliance with applicable federal, state, and local laws, regulations, contract provisions or grant agreements, policies, and official directives, and provide recommendations for corrective action and program quality enhancements and best practices. **Note: The Administrative Entity Staff must provide the monitoring report directly to the WCCNM Executive Committee. The Workforce Administrator nor the MRCOG Executive Director shall receive an advance copy prior to submission to the WCCNM Executive Committee.**

The WCCNM Executive Committee shall review and accept the monitoring reports or recommend modifications as a condition for acceptance. Furthermore, the review will provide opportunities for the WCCNM Executive Committee to ask questions about the report and request actions from the WCCNM Workforce Administrator, Operations, Administrative Entity and Fiscal Agent staff. The report and resulting discussion will be documented and distributed to the WCCNM LWDB. These reports shall be submitted to the WCCNM Performance and Monitoring, and Youth Standing Committees for continued review and monitoring of any recommended actions with the development of related continuous improvement plans.

The WCCNM Performance and Monitoring Committee, in coordination with the Workforce Administrator and Administrative Entity staff, also have the responsibility to monitor continuous improvement plans and report to the WCCNM LWDB (at full board meetings) on objectives, progress and actions. **Additionally, the monitoring process and reports will be reviewed and examined for compliance within the annual WCCNM Audit.**

- G. **Program Services:** Program services are provided by required and additional one-stop partners in the Workforce Connection network. Services include WIOA-funded Youth service activities and Adult and Dislocated Worker career services that are provided by WCCNM staff through the New Mexico Workforce Connection (NMWC) Centers.

- H. **Staff Reporting Relationships:** The following reporting relationships ensure that the WCCNM's monitoring and oversight staff does not have a reporting relationship with the Service Providers that it monitors.
- a. WCCNM Fiscal Agent Staff all report to the MRCOG Finance Manager either directly or through other WCCNM Fiscal Agent Staff. Functions carried out by WCCNM Fiscal Agent staff are WIOA Fiscal Agent functions. As such, they report to the MRCOG Workforce Administrator with functional management from the WCCNM CEOs.
 - b. WCCNM Administrative Entity staff report to the Workforce Administrator either directly or through other WCCNM Administrative Entity staff. Functions carried out by WCCNM Administrative Entity staff are WCCNM WIOA Administrative Entity functions. As such, they report to the WCCNM LWDB, functionally, through the Workforce Administrator.
 - c. WCCNM Operations staff all report to the WCCNM One-Stop Operator either directly or through other WCCNM Operations staff. Functions carried out by the WCCNM Operations staff are WIOA One-Stop Operator. The WCCNM One-Stop Operations will have a direct report to the MRCOG Executive Director and functional management reporting to the WCCNM Workforce Administrator and to the WCCNM LWDB.
 - d. WCCNM Service Provider staff all report to WCCNM WIOA Supervisor(s), either directly or through other program staff. If the Operator is also functioning as a direct service provider, the WCCNM WIOA Adult Dislocated Worker Supervisor(s), reports to the WCCNM Workforce Administrator and functional management responsibilities will reside within the WCCNM One-Stop Operator.

There are additional firewalls between the contracted Service Providers, WCCNM One-Stop Operator, Fiscal Agent staff, and Administrative Entity staff, and the WCCNM LWDB. Firewalls guarantee separate reporting and monitoring relationships and separate functions. Functions are shared among roles only where explicitly defined in WIOA law, regulations, or operating guidance.

Staff with Functional Overlap: Staff may be shared between Operations Staff and Administrative Entity staff. Therefore, in conducting their work, these staff are reporting to both the WCCNM Workforce Administrator and the One-Stop Operator. When working on operations activities and Program Services, they report to the One-Stop Operator. When working on governance, program policy, coordination, and programmatic monitoring of sub-recipients, they report to the WCCNM Workforce Administrator and WCCNM LWDB.

References:

- 20 CFR § 679.430
- 20 CFR § 679.400
- 20 CFR § 678.620
- 20 CFR § 679.420
- 20 CFR § 678.420
- 20 CFR § 678.430
- NMAC 11.2.4
- NMAC 11.2.5
- WCCNM Operational Policy OP-434 One-Stop Operator Policy
- WCCNM Conflict of Interest Policy AP-207
- TEGL 15-16
- TEGL 16-16