

## WtW/WIA QUESTIONS

### **Welfare-to-Work and WIA Implementation**

The Workforce Investment Act (WIA), which became fully effective July 1, 2000, mandates the formation of Local "Workforce Investment Boards" (Local Boards) to provide strategic planning and oversight for the system of workforce investment programs within a specific local area and to oversee a One-Stop service delivery system designed to provide quality information and services for customers. The following key questions have been posed about the impact of WIA legislation on WtW program operations.

#### **W/W1: Is the Local Workforce Investment Board (Local Board) the successor entity to the Private Industry Council (PIC)?**

Yes. The Local Board has assumed the role previously held by the PIC as the administrative entity for Welfare-to-Work (WtW). (Section 403(a)(5)(D)(ii) of the Social Security Act was amended in October 1998 to expand the definition of "private industry council" to read as follows: "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to the Job Training Partnership Act or Title I of the Workforce Investment Act of 1998, as appropriate." (Pub. L. 105-277). This change in the WtW authorizing legislation makes it clear that local workforce investment boards (local boards) were intended as successor entity to PICs for purposes of the WtW program. The Workforce Investment Act (WIA) of 1998 authorized the creation of Local Boards in Section 117. The Job Training Partnership Act (JTPA), which authorized the establishment of PICs, was no longer in effect after July 1, 2000.

#### **W/W2: How will WtW fit into the local workforce investment system?**

Section 622.220 of the WIA regulations defines which entities serve as partners in the One-Stop system. Under WIA, the WtW program is a required partner in the One-Stop service delivery system. We interpret this requirement, in 645.430 of the WtW Regulations, to mean that the WtW formula program operator must undertake the responsibilities of the One-Stop partner. Title I of WIA and its regulations require a Memorandum of Understanding (MOU) between each partner and the Local Board. MOUs must include information about what services each partner will provide, including coordination of referrals and use of resources. Information on the responsibilities of One-Stop partners, including specific information on MOUs, may be found in 20 CFR Part 662. Technical assistance and samples of MOUs may be found at <http://usworkforce.org/resources/mou.htm>.

While the relationship between the WtW competitive grantees and the Local Boards may not be as formal as that of the WtW formula grantee, a partnership with the local One Stop system can enhance

participant services. Therefore, we suggest that competitive grantees discuss the possibility of entering into cooperative arrangements with the Local Board.

**W/W3: Are all WtW competitive grantees required to be individually represented on the Local Board?**

No. The Chief Elected Official (CEO) must appoint a representative for each One-Stop partner program in the local area. Thus, the Local Board must contain at least one member who represents the WtW program. One representative may represent multiple grantees, but the CEO may also select more than one representative. For example, the CEO may appoint a representative from multiple grantees of the same program to facilitate more effective representation of the program on the Local Board.

**W/W4: If PICs were providing WtW services directly to participants, can the Local Boards (former PICs) do so under WIA and under WtW?**

Under WIA, one of the key reform principles is focusing local, business-led workforce investment boards on strategic planning and oversight. As a result, Local Boards may only directly provide core and intensive services under Title I of WIA with the agreement of the chief elected official and the Governor. Local Boards may only directly provide training services funded by Title I of WIA if they obtain a waiver from the Governor. Details on these restrictions are outlined in section 117(f) of WIA and 20 CFR 661.310. The Question and Answers page at <http://usworkforce.org/asp/qanda.asp> provides general information on PICs and their transition to Local Boards under WIA.

Under WtW, Local Boards are required to provide job readiness, job placement and post-employment services through contracts and vouchers. While the WtW 1999 Amendments permit grantees that are not Local Boards to provide these services directly, the prohibition on providing these specific services directly still exists for Local Boards. The WtW law and regulations permit Local Boards to provide other WtW services directly (such as outreach, recruitment, assessment, employment activities and job retention/support services), although the Department encourages Local Boards to focus on their strategic planning and oversight responsibilities as described under WIA.

In some cases, PICs were providing prohibited services directly under WtW due to a misinterpretation of a policy clarification issued by the Department. Sec. 645.221 of the WtW Final Rule and Interim Final Rule, published in the Federal Register January 11, 2001, clarifies the activities and services which must be provided through vouchers or contracts with public or private providers and provided relief to those PICs and Local Boards which, due to the misinterpretation, inadvertently violated the contract/voucher limitations. Local Boards were required to be in compliance with the law and regulation on this issue no later than February 12, 2001. Please refer to WtW Q&A AA2, which addresses this issue in greater detail, for additional guidance on this topic.

**W/W5: Did the agreement with the WtW State administrative entity have to be modified as a**

**result of a former PIC's transition into a Local Board?**

Yes. Some form of a transaction had to occur to transfer fiscal authority and liability for WtW grant funds. Such a transaction ensured that the State formula grant remained in compliance with the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," codified in the DOL regulations at 29 CFR part 97. These requirements are intended to ensure the sound management of Federal funds and are incorporated by reference in both WtW and WIA regulations. However, it was up to each State to determine the nature and extent of the required modifications to local agreements. In some cases the modification may have only consisted of changing the name of the local entity. In other cases, where substantial changes were taking place in the mode of service delivery, a more extensive modification was likely to be required by the State.

If there was no change in geography, the State should have arranged for or facilitated "novation agreements" (see the Federal Acquisition Regulation at 48 CFR Section 42.12). This document, found online at <http://www.arnet.gov/far/>, exists between the outgoing PIC and the Local Board taking its place. This agreement establishes that all parties are in agreement with the terms and will allow the new entity (the Local Board) to administer the WtW funds as the successor entity.

**W/W6: What procedure was followed if the geographic configuration of the local workforce investment areas under WIA was different from the geographic configuration of the service delivery areas under JTPA?**

If the local geographic configurations changed when WIA was implemented, the State entity that administers the WtW grant was required to ensure that funds were appropriately redistributed among local workforce investment areas. Based on the elements in the State's distribution formula outlined in the WtW State Formula Plan, the State determined what, if any, adjustments to local area allocations were necessary. States should have reapplied their original WtW formula to the new areas, based on the data used at the time of the initial allocation, if possible. Adjustments, to the extent needed, should have been made only out of funds that were unexpended or unobligated at the local level.

**W/W7: Did the approved WtW State formula plan require modification in order to reflect this geographical change?**

Yes. If the geographic configurations of local areas and WtW formula allocations were different than those provided by the State in the approved FY 98 and/or FY 99 WtW formula plan, then the State should have submitted a modification to the Department. The modification would have reflected the newly designated local workforce investment areas and the adjusted amount of WtW funds allocated to those areas. Please see Training & Employment Guidance Letter (TEGL) 15-00 for instructions on how to modify the WtW State Formula Plan to reflect geographical changes. TEGL 15-00 may be found at <http://wtw.doleta.gov/documents/tegltein/15-00.htm>.

**W/W8: If the State does not have a WtW formula grant, can competitive grantees represent the WtW program on the State Board?**

Yes. WIA requires the representation of each One-Stop partner program on the State Workforce Investment Board by the lead State agency official with responsibility for the partner program. Where no lead State agency is responsible for a partner program, the partner program is represented by a person with expertise relating to the partner program, and with optimum policy-making authority within the entity (s)he represents. For WtW, a competitive grantee may be designated as the representative with expertise relating to WtW, although the Governor may choose to designate some other representative.

**W/W9: Since competitive grantees that are Local Boards (formerly PICs) must contract out job retention, job placement and post-employment services to the local One-Stop operator, or do a novation agreement to make the One-Stop operator the WtW grantee, did the transition to WIA require a modification to the competitive grant document?**

No. The WtW requirement that a Local Board must contract out certain services did not necessarily change a competitive grantee's scope of work, as originally funded. If it was not clear in the original grant document how services were going to be provided (directly or through subrecipients), then a change in the mode of service delivery may not have required a modification to the grant document. However, if a change in the mode of service delivery significantly affected the grant's scope of work, then a modification would have been necessary. Lack of clarity in the grant document does not relieve a competitive grantee, which is a Local Board, from the requirements of the WtW statute - providing job readiness, job placement and post-employment services through contracts or vouchers.

If a Local Board has a WtW competitive grant and is providing services in compliance with WtW, but WIA requires them to make other changes in their mode of service delivery, the same standard would apply. A modification would be necessary if the changes in service delivery are different than those expressly stated in the WtW competitive grant document.

**W/W10: When a PIC phased out, how were the funds transferred to the Local Board? Did the change take place when the geographic configurations for the local workforce investment areas changed?**

If the geographic areas were the same, the parties could have entered into a "novation agreement" which, in essence, established that all parties were in agreement and transferred funds and the responsibility and liability for those funds over to the new administrative entity (See the Federal Acquisition Regulation at 48 CFR Section 42.12). If the geographical areas changed when the Local Board was established, the State was responsible for redistributing funds on an equitable

basis, using the elements in the State's distribution formula outlined in the WtW State Formula Plan, to ensure that the appropriate funding amounts were available to each local area after transformation to WIA. Presumably, this redistribution took place through new grant agreements with the reconfigured local areas.