**WorkforceGPS**

**Transcript of Webinar**

**Regs 101 - Local Workforce Development Boards under WIOA:**

**What You Need To Know**

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LAURA CASERTANO: And now, I'm going to pass things right over to today's moderator, Frank Stluka. He is the regional director for the Office of State Systems, region four in Dallas. Frank?

FRANK STLUKA: Thank you very much, Laura. Hello, everybody, and welcome. I'll start us off by introducing the real experts that we have with us today, our subject matter experts who will be talking.

So today's presenters, Heather Fleck who is a unit chief for governance in our Office of Workforce Investment in D.C., Christina Eckenroth who is the executive assistant in the Office of the Regional Administrator in our Boston regional office, and Roseana Smith here with me who's chief of our Division of Workforce Investment here in Dallas. These people know a lot more than I do about these things. So I'll be glad to turn it over to them in just a moment.

First, I want to cover our objectives today. We're not going to cover everything about local boards. There's just not enough time, and we have various other tools and technical assistance sessions to go into more depth in some of these. Rather, this will be a focused conversation on things that are new or difficult to understand. We know that you all are real mixed audience, and by mixed I mean people who work at the state level and local level, some of the core partners, core program folks, some of the other partners, service providers, One-Stop operators, a real variety of roles, not to mention federal staff who provide oversight, technical assistance, and guidance.

So we're trying to meet the needs of this diverse audience, and that often means that we'll not get into extreme detail. We do have to assume some knowledge of what local boards are and how they operate. You'll find a lot more about local boards in our strategic boards toolkit that Heather Fleck will talk about later on in this presentation, and the materials there are a wide range from very basic information to more advanced tools to give you a deeper dive into some of the topics that we'll be covering – hitting on today.

So our agenda, Heather Fleck is going to talk to us about functions of a local board first. Roseana Smith will then talk about consumer choice and training. Christina Eckenroth will talk about the Sunshine Policy. She'll turn it back to Roseana to talk about staffing a local board. Then Christina will talk about the local board as direct provider. Heather will talk about the functions of a fiscal agent and internal controls and conflicts of interest. We're going to then go into questions. So we invite you to enter questions into the chat on your screen as they occur to you, but know that we'll address them at the end of the session, not as we go.

Before I turn things over to Heather, I want to talk just briefly about the WIOA vision. As you know, the vision of WIOA is that local workforce boards will ensure local workforce systems provide solutions that are driven by the needs of two sets of customers, workers and businesses. This is what a lot of us have called our dual customer approach and it's not really new but it has been given greater emphasis in WIOA.

WIOA also adds a greater emphasis on excellent customer service to both of those sets of customers, and it strengthens our feedback loop and our research and planning requirements to support strategic decision making based on real data and building continuous improvement.

To ensure that the workforce system supports strong regional economies and plays an active role in community and workforce development, WIOA also streamlined the board. Board membership requirements are a little bit less so that it can be more nimble and strategic. As you know, local boards are appointed by local elected officials.

They're chaired by businesspeople and the majority of the membership are businesspeople to ensure we're meeting the needs of business but also to make sure that we're preparing people with skills that are in demand in their local and regional economy. The boards also include representatives of workers to make sure that we meet the needs of workers and representatives with expertise in our various core and partner programs and some other stakeholders to ensure workforce solutions provided in the local area make the best use of the available resources and expertise.

A key thing to keep in mind as we talk about the responsibilities of the boards is that board membership is a voluntary thing. It is not a professional position or a paid position. So if you'll just keep all that in mind kind of as a backdrop, and we'll talk about how local boards are key to WIOA. Local boards are central to WIOA implementation as they look across programs and design services and customer flow across those programs so that they fit together, and it comes across as a seamless system to our customers.

The local boards take the act, vision, regulations, federal and state guidance, various other inputs, and they build them into strategies that work in their local economy and their regional economy. They identify career pathways and sector strategies that make sense for their local area, and they oversee the implementation of those strategies.

They engage employers to ensure we focus on the right careers and sectors and to leverage their expertise and other resources. They employ work-based learning strategies to ensure that workers can apply what they learn to the job, and they forge partnerships and integrate service delivery systems to maximize the impact and their effectiveness and efficiency in reaching that impact.

So I think it's pretty obvious local boards are where the rubber meets the road in WIOA implementation. Having said that, I'll turn it over to Heather Fleck to talk a little more about the vision of the local board.

HEATHER FLECK: Great. Thank you, Frank, and good afternoon, everyone. Thank you for joining us. So there is a big vision I think for local boards under the Workforce Innovation and Opportunity Act, and that vision is really that they are the strategic leader in their community that brings together a lot of different interests and stakeholders so that they can effectively serve the dual customer that Frank mentioned just a moment ago.

And they're really – they're seen as the leader in the community, the convener of these interests, and kind of more want to be kept out of the weeds so that they can keep their eye on the big pictures for what would work best for the functioning in their regional economy and for their different industry sectors and the needs of the people who live there who are working.

So because it's critical that the local board keep their eye on that big picture, the big vision, it's also critical that they understand how to take care of the operational side so that they can really get the job done and keep their eye on the ball. WIOA does assign a lot of responsibility to local boards. In fact, if you look in the regulation you'll see that there are 13 different functions assigned to local boards, which is a lot.

And then underneath each of those 13 functions there's a lot of sort of sub-parts, sub-functions that the boards are responsible for. So within that we want to try to help you understand kind of a grouping, and this slide gets to sort of a grouping of those responsibilities. And it's not – certainly not all-encompassing of those 13 different functions, but it should give you an idea of kind of the separation of the things local boards are responsible for.

There's a whole set of strategic functions which is more like the planning role, the local planning role kind of looking across, analyzing data, figuring out within your local area, regional economy what you should do strategically to meet the needs of your customers. Negotiating performance measures is an important strategic role of the board so that you're targeting – and then helping to target your services toward meeting and hopefully exceeding the performance measures. Developing a budget and leading career pathways development, sector strategies, those are all very strategic functions.

At the same time boards are responsible for doing more of a system capacity building type of function, which is all about helping to figure out what best practices are and delivering workforce services and making sure that they're able to integrate those into the work of the service providers and their day-to-day operations. Certainly continuing to do outreach in a local community, bringing in the businesses, convening them, strengthening relationships is an important capacity building role.

And then finally, the third bucket of responsibilities is around system alignment and effective operations or sometimes also thought about as sort of a grant steward role. And this is more sort of the nuts and bolts day-to-day stuff that actually can sometimes distract the attention of boards from the strategic role that they need to carry out because it's a lot of complicated stuff. It's the monitoring. It's the procurements. It's getting a One-Stop operator in place. It's ensuring that funds are spent in accordance with rules and regulations that are out there. It's making sure that you've got the right providers on your list.

So there's a lot of just day-to-day stuff that boards are responsible for, and that's what we're going to spend our time on today so that you can understand some of the complexities and rules of the road for those more compliance-oriented requirements, master those so that the strategic functions of the boards can be more effectively carried out.

But I know a lot of you on the – a lot of participants are interested in the more strategic aspects, as well as some of you may not know that much about what boards do in general. So I want to point you to a resource we have available on our ION. I'm going to pull up the link to the strategic board toolkit so that you all can have a moment to check it out and think about looking at some of these resources in the future, which digs more deeply into what boards are for and how you can do different things well.

So here's the link to the strategic boards toolkit. It got some good interviews here with other boards. They have information here about what sort of things boards can do around policy implementation, how you can be strategic versus tactical for boards. So a lot of rich material. There's a little bit here on – for single area states which do have some different considerations they need to make in terms of how they operate.

So I really encourage you all to check this great resource out that's on the ION Network, which is our technical assistance platform for WIOA, because I think even for new board members or more experienced board members, this will offer a lot of good information to help you sort of figure out your role in WIOA. It also has some useful information for chief elected officials as well. So I just wanted to point that out to you before we get into really the focus of our systems alignment and effective operations discussion today.

Going to go back to the PowerPoint. OK. So as I mentioned earlier, there are 13 separate functions in the law that local boards have to carry out, and the ones we're really going to focus on today and unpack a little bit further are in part 679.370 (i), (l), (m), and (o).

So oversight, monitoring, and use of funds is one sort of functional area we'll cover. Provider selection is another functional area we'll cover. Ensuring that there are sufficient number of service providers and training providers. And then we're not going to get into a lot of depth on how you develop a local area budget, but we'll cover some things about who's the appropriate party for carrying out certain budget functions and expenditure functions.

So those are the areas we're going to unpack more today, and we know there – as I mentioned, there are a lot of functions. So we're going to do a quick poll here so you can let us know which functions in particular of local boards you may need additional technical assistance on. That's the next poll. You can take a moment and type that – answer that question in the chat box, and then Frank will summarize the results.

MS. CASERTANO: Again, we're going to ask everyone to take a moment now and, using the chat box below, answer the question, with which functions would local boards appreciate technical assistance? We'll leave the polling up for just a couple more seconds, and answer it now.

MR. STLUKA: OK. I'm seeing a lot of people talking – mentioning the word "member engagement," and certainly that is something that's occasionally a challenge and that we have on our scopes for additional technical assistance. Oversight, monitoring, and procurement are three topics that are very interrelated that keep coming up here.

Some specifics about procurement like firewalls and how a local board can compete competitively, if it wants to be the operator, things like that. RFP management, engaging board, procurement. Clarifying roles, particularly between the state and local boards, and we'll be putting a lot of things out to help with that during our convenings as well as some of these other sessions.

Local plan versus a regional plan, we have some guidance in the works on that, and we'll be getting that out before long. Heather, I don't know if you want to say more about that.

Engaging adult ed programs. Actually, I'm surprised I'm not seeing more about engaging the various partners, but certainly we're working at the federal level to help get them engaged at the federal level. The various partners have been very engaged in developing the regulations, working with us on the guidance and technical assistance. So we'll continue that and work with you to make sure it happens at the local level.

Infrastructure costs, we do have some guidance in the works on that. It should be coming out hopefully by the end of this calendar year. Various different partners, senior citizen programs, partners and potential partners, important to engage them.

OK. So it's kind of refreshing. What I'm seeing is a lot of things that we have targeted. I've not seen something, but we will preserve these chat notes, and we'll review them again later to make sure that we are addressing all the needs that have been brought up.

Heather, is there anything more you would want to say about the functions that we'll be providing technical assistance on?

MS. FLECK: No. I mean, I think this is a great list of us to consider as we move forward with our technical assistance, and I think it will be coming at you different ways. And certainly, we'll have a lot of additional information coming out very soon on the One-Stop piece, which I know is weighing heavily on people's minds right now.

MR. STLUKA: OK. Thank you, Heather. And now, I'd like to turn it over to Roseana Smith to talk about consumer choice and training.

ROSEANA SMITH: Thanks, Frank. So we're going to just dive right into section 679.380, which talks about consumer choice requirements. This is something that under WIA local boards were required to maximize their consumer choice for training services, but consumer's choice for career services is a new requirement under WIOA. So today we want to clarify what the local board's role is in order to minimize confusion for One-Stop managers and for front-line staff.

So throughout the last year of implementation, the state – in the state planning process, the states issued their own ETPL policy which would have outlined what the eligibility requirements are and the process for getting onto the ETPL. The local board's responsibility is to assist the state board in identifying providers, ensuring a sufficient number of providers, and that provider performance and cost information is available through the One-Stop system. Consumer choice is more than just the ETP, but the ETPL is one concrete way that we offer consumer choice.

At the end of the day an informed customer is our best customer. There really shouldn't be just one local training provider that is used. There really needs to be something for individuals with disabilities as well as adult learners. So besides having access to the list, case managers should walk through the list with participants in order to help them choose the best training provider option.

For career services, that's described in how the local board satisfies that in 679.380 section B. In general, the local board must decide which services are best provided by the One-Stop operator and which services may require a contracted provider. So this is an important thing for state – or local boards to be thinking about now as you are preparing for the competition of the One-Stop operator.

The board needs to identify a wide range of services based on the needs of the local area and pay special attention to services for individuals with disabilities and literacy services. Requiring the board to identify a wide range of potential career service providers while still allowing the board to ultimately determine the career service providers balances board flexibility and customer choice. One thing that's important to know is that there's no requirement to provide customers with a choice of providers for a given career service.

So here are some things that you want to consider, some ways to look and think about are you meeting the consumer choice requirement. Are your staff familiar with the list of eligible training providers? Are participants spread out across training providers, or do you tend to see the majority of your participants enrolled in one or two training providers in your local area? Is there one provider of career services in the local area who's maybe been providing those services for more than a decade?

Are there other organizations that might be able to provide some of those career services? And you could also take a look at what percentage of your participants are individuals with disabilities. That would enable you to have a conversation about what is the quality of service that we're providing, and are career services really available to individuals with disabilities?

So now, we're going to have a pop quiz. So on your screen you'll see there are five different options. Which of the options below illustrate ways in which the local board may satisfy WIOA's consumer choice requirements for training and career services? So you can select one of the radio buttons there now.

All right. We're starting to see some of these come in, and it looks like overwhelmingly the majority of you have chosen options one, four, and five, which is correct. Ways that you can ensure the local board satisfies these requirements is training case managers to use the ETPL, competitively awarding contracts for career service providers, and requiring that the ETPL include performance and cost information on all training providers.

So with that I'm going to turn it over to Christina who's going to talk about – what's the next topic?

CHRISTINA ECKENROTH: I'm going to talk about Sunshine Policy.

MS. SMITH: Awesome.

MS. ECKENROTH: Hi. I'm Christina Eckenroth from the Boston regional office where it's a balmy 47 degrees but the sun is shining and I hope it's shining where you are as well because the intent of this section of the regulation 679.390 is to ensure that there is sun shining over the operations of the local board.

So 679.390 is the Sunshine Policy section that indicates that local workforce development boards must conduct business in an open manner. So that seems fine; right? So how are you supposed to do that? Well, you need to be accessible. The intent is that we are available to our diverse population and to our diverse stakeholders so that folks, wherever they may be, have the opportunity to get the same information.

So that section of the regulation specifically says you need to be available to the public, you need to have your information updated on a regular basis through electronic means, and you need to have open meeting. So everybody is probably nodding their heads like, sure, that's me.

So what are the things that are covered in 679.390? Well, there are six things you want to know. So what needs to be publicly available? You have to have information about the local plan or a modification to it public before you submit that, a list and affiliation of your local board members, your selection of One-Stop operators, anything you do awards of grants or contracts, so your eligible training providers or your workforce investment activities, minutes. Your bylaws need to be on the website. So hopefully many of you are nodding your heads saying, sure. Sure. I have all that.

So when I go out and ask folks that exact question, how are you complying with Sunshine Policy or are you familiar with it, these are some of the types of responses that we get that might resonate with a few of you. So some of the responses to that question include, hey, yeah. Of course our information is publicly available.

All you need to do is come into the office between 9:00 and 4:00 Tuesday to Thursday and ask the secretary to see the binder at her desk. She totally has it. Our information is completely public. We post the members on the bulletin board at the One-Stop. Anybody in the One-Stop can see it. Or we have a website where we post our members and our annual meeting, and if you want a copy of our plan, you can request it through e-mail and we'll get it to you.

So that's potentially not exactly letting the sunshine in. You can see that some of the information's not exactly available for what we're talking about here. So what is an example of boards that are completely open and transparent? So these are the examples of you can go to the website for all the members, the dates and locations of meetings, your notes, bylaws. You can read the plan. If you're a service provider or you're looking or interested, all that information is on there. You can check out a website that is updated regularly with new information.

Before we go to the pop quiz, though, I just want to make a context about – a little bit about the Sunshine Policy. This seems really pretty straightforward; right? So everybody thinks we got a handle on it. I want to be clear that I'm not saying don't put your materials on a bulletin board in the One-Stop. I love One-Stop bulletin boards. I'm not saying don't have a special section that's just for board members on your website. That's perfectly OK too.

There are a lot of different ways we can provide information to a diverse population of folks looking to know more about what's going on in the area, but the requirement here is that you meet the requirements that are listed in the regulation for sure. And you can do above and beyond that at any time. And with that, let's test your knowledge on this sunny section.

MR. STLUKA: OK. Thank you, Christina. So we've got three different questions here. What topics are covered under the Sunshine Policy? Who do we have to make the information available to, and when must we make it available? So please make sure you answer all three as you're going through.

OK, Christina. It's pretty clear what our audience is telling us. Options one and three for the first question are very popular. Information about the local plan or modification to the local plan before submission of it and selection of One-Stop operators are some content that must be on the – must be made available. It must be made available to the public, and it must be done so regularly. Is that right?

MS. ECKENROTH: You guys all get a gold star. That's excellent. Very well done, and I'm really hopeful that when we all go out and take a look at your website, that this holds true and that you also have some other great and interesting things posted that's of a benefit to your partners and to your community. So everybody gets trivia points for this section.

So good job for you guys, and I'm going to pass it on now to your next challenge which is the staffing of the local boards. So, Roseana, take it away.

MS. SMITH: Staffing, how much fun is all of that. So 679.400 talks about how local boards can hire a director and other staff, and it explicitly authorizes the local board to hire staff. So you don't have to, but the law actually says that you can. Of course, though, there will be a number of parameters around it.

So the board can hire a director and other staff, but because the board is a volunteer board, they may not have the capacity to fulfill the required board functions outlined in WIOA Section 107. So hiring a director and other staff can really help ensure these functions are achieved. It's in the best interest of the public workforce system to ensure the director of the board is competent and experienced with workforce programs and service delivery. So that's why the boards are required to establish objective qualifications to ensure that the selected candidate process possesses the knowledge and skills to assist the board in carrying out its function.

The board staff role is limited to assisting the board in fulfilling their functions. So unless an entity – if an entity is selected to staff the board, they have to enter into a written agreement with the board and the CEOs, and this is described in 679.430 and will be talked about a little bit later in this presentation. In that section of the regulations we also talk about why that written agreement is required.

And the final parameter around this is the salary and bonus limitations. This isn't a new requirement, but it's new to actually being stipulated in the law and the regulations. So the regulations limit the payment of the local board director and board staff to the basic pay rate for level two of the executive schedule under section 5313 of Title V. This requirement ensures that board staff are compensated at a reasonable level.

MR. STLUKA: OK. So we now have a quiz about what local boards must do when hiring a director to fulfill its WIOA-required functions. You've got four options, introduce her to the board members or establish an objective set of qualifications or have the governor or CEO interview all candidates or option four, all of the above. So we'll give you a couple minutes for that, and then I'll ask Roseana to comment on the responses.

So what do you think, Roseana? It looks like the majority of our folks are saying they must establish an objective set of qualifications. Is that right?

MS. SMITH: Yeah. Unfortunately, the governor and the CEO is probably not very interested in interviewing all of the candidates. So you guys are absolutely right. Establishing an objective set of qualifications is what's required.

MR. STLUKA: OK. Thank you, Roseana. We've had a lot of questions coming in already about the local board as a direct provider. So I'm going to ask Christina to talk about that for a little bit. Christina?

MS. ECKENROTH: OK. So you want to be a service provider. Where would you find out about that information? It's covered in the regulation in 679.410 which says, under what condition may a local workforce development board directly be a provider of career services, training services, or act as a One-Stop operator?

I'm going to set the stage right now by telling you that there are a lot of different scenarios nationally that might apply to you, and we're not going to be diving into those necessary specifics here. But what I will provide you is a general umbrella and a direction to go if it's an area that applies to you. So if you have a particular comment or question we don't cover in this, make sure you get it captured in the comment section, in the question section in the chat, and we'll try to get back to you.

OK. So can you do it? Yes. And how can you do it? You can provide career services through a sole source procurement or winning a competition. And the details for that is in 678.610 and 678.615. So competition is covered under those sections of the regulation, but you could provide career services through that mechanism. But you also have to get an agreement of the CEO and the governor if that's what you want to do. Generally speaking, the board is, as Heather Fleck indicated earlier, really a strategic body. But there might be some circumstances that appropriately apply where this would need to be addressed through the board.

So you want to be a One-Stop operator. The same rules really apply as career services. Under what conditions can you do that? You know it's going to be a shock, but through a sole source procurement or winning a competition and getting the agreement of your chief elected official and the governor.

Again, generally speaking, the board is a strategic body rather than a direct service provider, but if you've taken all of that into consideration through the planning process and you've involved your partners and you've all really decided strategically that there is a need here that applies to you, this is how you'll need to go forward.

However, there's some news you can use about that. If you do become a One-Stop operator, note that it's the state that then takes over the certification of the One-Stop centers; OK? And there some other applicable information in 678.800. Also, additionally, there are some restrictions, obviously we just discussed, on the board about providing career services as a One-Stop operator. If you have staff, all those restrictions apply to those staff as well. So there's not a work around or circumvention to breaking those rules by using staff. So just be aware of what that is so that everybody is on the same page, if this scenario applies to you.

So what about training? Some folks are probably asking themselves about being training providers. Well, the big stop there was, generally speaking, that's not the role of the board. However, as we've indicated, there might be a scenario in which it's appropriate after the board's taken into consideration all of their options. So say that you find yourself in that situation. You will need a waiver from the governor. That's covered in WIOA 107(g)(1) as well as 679.410(c).

And there's a lot in that section on what the governor has to do to establish a waiver process, what the local would have to satisfy in the waiver. I'm not going to go in detail here about waivers because it's probably going to be just a couple of you across the country with some specific scenarios and where this applies to you.

But if it does apply to you, know that there are some additional steps, and you'll need to work with your state for more information. And if you're a state, you'll need to contact us if you have questions about these sections of the regulation nor the law about what to do in a waiver scenario. OK.

Here's your quiz.

MR. STLUKA: OK. Thank you, Christina. So our question is, how can a local board be a One-Stop operator or a service provider? Option one, they win a competition or sole source procurement. Option two, they get agreement from the chief elected official and governor. Option three, they put it in the local plan, or option four, options one and two above. So let's see what answers we're getting here.

OK. So we've got the vast majority, 96.5 percent, saying options one and two, win a competition or sole source procurement and get agreement from the chief elected official and governor. Christina, do you want to comment on that?

MS. ECKENROTH: And you are absolutely right. Everybody give yourselves a round of applause. So if that applies to you, then you understand what you need to do going forward. So great job.

MR. STLUKA: OK. And we have another question, if we can pull that up. What does a local board need to provide training? OK. If we can – there we go. What does the local board need to provide training? They need a building, they need a waiver from the chief elected official, or they need a waiver for the governor?

And again, Christina, it looks like we're getting near unanimity on one answer, that they need a waiver from the governor. Is that correct?

MS. ECKENROTH: You guys are excellent. That is correct. You need a waiver from the governor, and again, we didn't get into all of the wonderful things that have to happen for a waiver. But if that is you, then you know that that needs to happen and you have the section of the reg that you should take a look at and circle back with the right folks in your state, depending upon what level you are for more information. So excellent. Perfect scores, guys. Thank you.

MR. STLUKA: Thank you, Christina. And now, I'll turn it over to Heather to cover our last two major topics, functions of a fiscal agent and internal controls and conflicts of interest. Heather?

MS. FLECK: Great. Thank you, Frank. So what are the functions of the local fiscal agent? For those of you that – we're more – worked in WIA, our predecessor law, and are familiar with the regulation, you might see this regulation and say, I haven't seen that before. This is the new regulation under WIOA.

The Department of Labor intentionally added this to the regulations because we've been seeing over the years under WIA a lot of merging and blending of roles among different entities. And it became confusing both to carry out maybe effectively some of the board functions as well as it created a lot of situations of conflict of interest. So we introduced this regulation to provide some clarity around what is an appropriate role for fiscal agents.

So the law does allow for a chief local elected official to designate an entity to receive the funds on their behalf. Remember, the chief elected official retains liability for the use of funds at the local area, but they can designate a separate entity to actually receive the funds. So that authority is given to that local chief elected official. If it's a case of where in some places the CEO has delegated that authority to the governor, and in that situation the governor or state can actually be the one to designate the fiscal agent, but that's the only situation where the state can choose the local fiscal agent.

So just to clarify, we wanted to clarify that this regulation is – to make sure that people know what this entity does. So what does it do? It can do these six key things. At this most basic level, it's an accounting function. Fiscal agents can receive funds. They can account for the funds, ensuring that everything follows OMB circulars and other rules and WIOA. They can help respond to financial audits, maintain the records, prepare financial reports, help with fiscal matters that may pop up with sub-recipients. So it's really an entity that handles money.

One issue we've seen occur over the years, though, is that fiscal agents have sometimes acted on their own, and I want to make it clear, the law makes it clear that fiscal agents, while they're designated by the chief elected official, they must be authorized to – by the local board itself to do any of the things that they do. So they – if they want to make a major purchase, it needs to be authorized by the local board. So it's really the local board that retains the authority to direct the actions of the fiscal agent.

OK. What else can they do? This is really up to I think the chief elected official with input from the local board on defining what the appropriate roles of the fiscal agents are. They can help with getting contracts in place, doing procurements. They can help with fiscal monitoring of the sub-recipients. They can help with independent audits.

It's really a whole host of things that the chief elected official and local board finds appropriate, but again, that role is not defined by the fiscal agent itself. It's defined in agreement between the chief elected official and the local board. Just to make it clear, the fiscal agent has really limited authority on their own to do things outside of what the local board thinks is appropriate.

And again, I just want to point out that this is not an exclusive list. Your local area may find there's other appropriate roles for the fiscal agent, but it does link to the next regulation that we wanted to cover and that's about what do you do when organizations do wear multiple hats. We know in a lot of local areas it makes some sense for, say, a ward to the staff to also be – and somehow directly providing services or for a fiscal agent to also be a One-Stop operator, for example. So what do you do if you're – in your local area you do have sort of a dual role for a single entity?

And the regulation at 679.430 states that where multiple functions are performed by a single organization, a written agreement with the local board and chief elected official must clarify the responsibilities, be in line with state conflict of interest policies, and demonstrate compliance with WIOA and regulations and OMB circulars. So it's very important that this agreement be in place. It can't be a fuzzy thing where you're performing – or you're a board staff, for example, and you're also a party to a One-Stop operator. This seems to be incredibly clear about who's doing what and under what authority they're doing it.

And the conflict of interest policies are really governed at the state level. You need to check out what your state's conflict of interest policy is because sometimes those can be very, very clear about whether entities can wear multiple hats or not, and sometimes they're not as clear. But it's really the state conflict of interest policy that governs some of what this multiple functions regulation can allow. Sorry. Reading my notes.

So what are some scenarios that are not acceptable? And these are really based on some of the things we've seen over the years in WIA and they focus on the fiscal agents because that's where we've seen a lot of issues but it's not necessarily only fiscal agents where you can get in trouble. So some things that are not OK. A fiscal agent making a huge purchase like a huge computer system without local board approval, that's not OK.

When a fiscal agent is a service provider and is issuing payments to themselves, they really need to put some internal controls and restriction in place because that is the perception of conflict of interest if the fiscal agent is writing a check to itself for something that was a direct service action, and it can just – it can have the appearance of them sort of being on the take. So that's where you really need to have clear firewalls and internal controls in place for that kind of situation.

And then if in your local area you let fiscal agents help develop the terms of a contract or a competitive bid, they cannot also compete on it. Same situation applies to staff to the board. If the staff to the board help write procurements, their organization that they work for cannot in turn compete for that same procurement without some sort of clear separation between who wrote that procurement and who's competing on it. You really want to avoid the conflict of interest in those kind of situations.

And then one other thing is who makes policy? The policy-making authority is really in WIOA assigned to the local board, and of course the state. The state and state board is the policy-making entity, but the local board also has ability to make additional policies that they think they were – may help operations in their area. So that's the situation where you want to be very clear. Fiscal agents can't – the ones that are responsible for making policy or staff to the board without sort of an oversight role of the board shouldn't be making policy on their own. It really should be a local board who is helping to develop the policy or at least approving the policy that's being put in place.

So those are just a few examples. I know many of you have – probably want to know, what do these internal controls look like, or what do these agreements look like that can help us separate out these roles? And we'll be trying to compile some concrete examples and provide them to you in the future so that you can have those templates to work from and something to refer to. But today we just wanted to kind of point out the regulation that's governing these situations.

So just to wrap up before we get into the questions – and we have a lot of questions coming in – we just want to make sure that you keep your eye on what local boards are responsible for. They're largely responsible for the strategy. They're responsible for the system building, and they're definitely responsible for effective operations and grant stewardship. Make sure your board does its business in the open.

Keep an eye on the bigger picture for the local area. Use your staff wisely. Don't pay them more than you're allowed to, and ensure that you have a wide variety of organizations providing training services and career services so that your customers have a lot of choice when they're trying to make a decision about their future.

And then finally, chief elected officials and boards should put in clear lines of authority and clear separation of roles to ensure the fiscal integrity of the funds and to eliminate questions of conflict of interest. So we hope you enjoyed this presentation and can put some of these systems in place so that you can be successful in the future when you're trying to implement really the hard stuff in WIOA, which is the strategic part.

This final slide here summarizes kind of the citations where you can find some of this in both the law and the regulation. It's supposed to have a resources slide on here, but do look on the ION Network for a wide array of technical assistance items, including that strategic boards toolkit that we referred to earlier. That will have a lot of great materials for you, and then look for some future technical assistance for boards. In particular there's going to be a webinar in November on high-impact workforce boards.

So keep an eye out for that. I think with that we can open it up for your questions, and I'll turn it back to you, Frank.

MR. STLUKA: OK. Thank you, Heather. And sorry to tell you this, Heather, but I'm going to refer this first question to you. "Since WIOA procurements typically are run by staff of local workforce boards, how can a workforce board compete competitively if it wants to also be the One-Stop operator?"

MS. FLECK: Yes. Thank you, Frank. And that is a hard, hard question. Do look for some competition guidance coming out in the near future, but also the regulations in the joint rule in the One-Stop part of the regulation are the best place to look for that in terms of what are the parameters of a procurement where the local board wants to be the operator. In general, you have to follow your own state's procurement rules for that, but the situation where the staff is trying to write a procurement so the local board can compete is really not a kosher kind of thing to do.

So I would just advise you to steer clear of that unless you can figure out through our own procurement rules how to get a full source type of arrangement or have a different entity let the contract so the local board can compete. And I do believe this scenario is discussed more fully in both the regulation in the One-Stop part, which is in the joint rule, as well as in the preamble there's some discussion of that. And, Frank, you can add – certainly chime in with anything you'd like to add.

MR. STLUKA: No. I think you've addressed it. And we've got several other questions. So I'd like to move on here.

Someone asked, where can they learn more about these topics? I think they entered that question pretty early on, and Heather answered that on slide 13 with the local board toolkit and specific – and also various other things that are on our Innovation and Opportunity Network or ION.

Roseana, we have a question for you. "You mentioned that locals don't have to give choice of providers for a given career service. Could you expand on that?"

MS. SMITH: Absolutely. So the idea here is that boards really have done their due diligence in identifying what the needs are in their local community and that they are making a wide range of services available.

But, for example, one of the services, the career services that might be made available is case management, and it is to necessary for the local area to ensure that a participant can choose which case manager that they work with or which organization they might receive a case management service from.

So by and large the idea is that you have identified what the services are that are needed in your local area. You pay special attention to services for individuals with disabilities and literacy services and that there is an array of services to be made available.

MR. STLUKA: OK. Thank you, Roseana. And this next question I think, Heather or Roseana, either of you might have an answer for this. "The number of providers on our list of eligible training providers has shrunk significantly. Is there any other method to secure local providers that are not on the list of eligible training providers?"

MS. SMITH: Heather, you want to take that?

MS. FLECK: Sure. So I just want to remind you – I'll get – directly answer the question in a second, but there are a number of different ways to provide training aside from the – from individual training accounts, which are how – which is what we use the ETPL for and occupational skills training, on-the-job training, incumbent worker training. You can have a blended approach of workplace training and some classroom training.

There's a lot of different types of training that WIOA allows, and it really opens the door to that. So it's good to think more broadly about consumer choice I think in that way just to think about there's not – ITAs aren't the only game in town, I guess as it relates to training.

And then remember also that registered apprenticeships are automatically eligible to be on the ETP. So that's another place to offer more options to your customers. But also, in the situation where you are very limited, you've tried to get a robust list of providers on your ETP and just for whatever reason you can't, you should look at the regulation at 680.320, and that specifically says under what circumstances may a mechanism other than individual training accounts be used to provide training services.

And really the situation that when the local board determines there are an insufficient number of eligible training providers, it names things you can do there to get around the requirement. I shouldn't say get around it but to better serve your customers where there are limited providers.

And then also I want to emphasize that – and one thing that does come into play there is that you can use contracts for training. So that's an exception to the ETP is contracting for training. So hopefully that gives you some ideas, but I would definitely suggest you look at 680.320 for more information.

MR. STLUKA: Thank you, Heather. That contracting for training, is that like we were allowed to do under the Recovery Act?

MS. FLECK: Yes.

MR. STLUKA: OK. Thank you. Our next question I think I'll direct to Christina, if you can cover it. No workforce – the question is, "No workforce board webpage. Now what?"

MS. ECKENROTH: Uh-oh. No. So what the Sunshine Provision says is on a regular basis through electronic means and open meeting. So does that mean that the board has to host its own webpage? Does it mean that you have to have a webpage? Not specifically; right? It just says that you have to meet those requirements under the Sunshine Provision. So there's many other different platforms.

Perhaps you can meet it through social media. Maybe you can meet it by getting on a state – have the state host a webpage where the local board information is available. If you truly cannot find any way to be electronically available, have electronic presence, I think you need to have a conversation with your state about what the solution to that is because the Sunshine Provision does envision some kind of an electronic means so that folks don't actually literally have to go to the One-Stop center between 9:00 and 4:00 or the board office on Tuesdays and Thursdays; right?

We want to avoid that restriction. That can be very difficult for people in rural areas to do that. It can be very difficult for people with mobility issues or other disability or barrier issues to get basic information about your area, business owners, etc. So whole lots of things. So if you don't have a webpage right this second, I would start brainstorming about other options that you can use to meet that electronic means provision.

MR. STLUKA: OK. Thank you, Christina. And I think this next question is for you also. We're talking about Sunshine. "Is there any specific requirement that we actually have to solicit public comments, provide an opportunity for them, or pay attention to them when they come in?"

MS. ECKENROTH: In the Sunshine Provision, no. There's not – the Sunshine Provision doesn't say that you need to provide a mechanism for comments or public comments, but there are individual requirements for state plans and other instruments, and other processes have their own built-in requirements in local plans. So you need to follow those requirements. But in terms of the Sunshine Provision full staff, do you have to have a comment section on your website or collect comments, something like that?

Not for this particular section full staff, but there are requirements for other particular products and mechanisms that you need to be aware of. And your website or electronic means could be a way you could satisfy those requirements, but no. There's no requirement under the Sunshine Provision full staff that you have to have a mechanism right there to collect public comment.

MR. STLUKA: OK. Thank you, Christina. And I think I'll add another example. You mentioned the plans, but also very related to this is that local boards must have a procedure to take complaints or appeals of decisions that have been made and they have to include that or link that to their plans.

MS. ECKENROTH: Right. Absolutely. The Sunshine Provision is basically saying we don't offer – there's transparency. So there's no big secrets in our system, but if you're sitting with your webmaster right this second and you're starting to get panicked about whether you have the capacity to put on all these bells and whistles, I would say just start with the basic requirement.

MR. STLUKA: OK. And do you have any other comments or best practices to share about the regular updates of that information?

MS. ECKENROTH: So I'll give you what it's not. It's not the annual update on an annual basis to cover everything that happened in the past, and it's not, oh, my gosh. We have to get our webmaster to update this right this second because the monitors are coming out. Any time there is a change, you should in a reasonable period of time update that to your website.

So if it happens on a Friday, are you going to panic because it's not – the change in the plan or whatnot is not updated until Monday morning? As a monitor, I probably would think that's fine. But if a change in the plan or one of the other items listed happened on – or a procurement or a grant award, etc., happens in January and you just got around to posting it in May, that's really not available on a regular basis.

MR. STLUKA: OK. Thank you.

Heather, we've got a question for you here. "We're finding that most of the eligible training providers, especially community colleges and universities and sometimes our career techs, aren't eligible because they don't or cannot collect the performance criteria. Can the Department of Ed require that they report what's in the law?"

MS. FLECK: Thanks, Frank, and I'll also ask Christina to help with this one. But the – and I need our mayor moderator to put the question back up there, please. Specifically the relationship to Department of Education, can the Department of Ed require that? I don't know. The answer is I don't know. The Department of Education would have to look at that and what's within its authority to require of it – of the education providers.

As far as the difficulty in getting those educational entities to report the information, I know one big issue and roadblock has been FERPA as well as access to UI wage records. I know quite recently guidance was published about – a very technical guidance about how to get around those requirements or make them work for you so that you can get the data you need from the community colleges and other training providers.

And, Christina, I think you probably know a little bit more about that guidance than I do. So if you could –

MS. ECKENROTH: I believe it's TEGL 07-16, which talks about data matching to facilitate WIOA performance reporting. So the ETC stuff is multi-faceted because there are requirements to get on the list, and then once on the list there are – we're discussing requirements to stay on the list, which include some reporting stuff, and there may be some challenges with particular providers.

But those rules specific to the eligible training provider reports were broadly issued under an Information Collection Request that's available on our website, doleta.gov, and I think additional clarification will be coming in the future.

MS. FLECK: Yes. And there are things that states and local boards may be able to do to help facilitate the collection of data. There's certain elements – let's say they have access to the UI wage records themselves and don't necessary need to require the community college or training provider to do a particular match for them on their earnings and things like that.

MR. STLUKA: OK. Thank you, Christina and Heather. Christina, I think we've got a question here asking for clarification on your cloudy with a chance of violations line. The question is, "We post minutes of board, executive, and youth committee meetings on a calendar basis where we post calendar meeting dates. Then we say to contact us for prior years' meeting minutes. Is that OK?"

MS. ECKENROTH: Wow, that's a pretty specific question. I can get – when we go back to the Sunshine Policy specifically, it says that you need to have information available to the public on a regular basis through meetings and then has that list of six things to know. It doesn't have a timeframe on it. So I would say that historical information, no longer active from years that have gone by, if you are able to keep it in a linked mechanism where people can get ahold of it if they need to, fabulous. If you are just saying, listen. It is available. If you'd like it from 2002, please e-mail us. If I was monitoring that, I would think that was reasonable, if you had active years available.

MR. STLUKA: OK. Thank you, Christina.

Heather, here's a question for you. "Should the program or fiscal agent hire the staff?"

MS. FLECK: I'm not sure if this means staff to the board. The question's not exactly clear to me. If it's staff to the board, I think the board – I'm not – I would have to actually go back and look at the law and regulation to see if there's any restrictions on that, but I think it could be as long as the board's involved in some of the decision making. Who does the actual hiring may not matter, but again, I – that question's not totally clear to me as well as I would want to double check.

MR. STLUKA: So if you have not – if the person who posted that question wants to follow up, where would they e-mail that question to?

MS. FLECK: They could just clarify in the chat again what the question is.

MR. STLUKA: OK. Thank you.

MS. FLECK: But I do think one thing that's worth mentioning here is that 679.430 talks about the firewall that needs to be in place if you have an entity that is performing multiple functions. So if the fiscal agent – you just want to make sure you take a close look at that section and what kind of differences may apply there.

MR. STLUKA: OK. Thank you. And this brings up a bigger point that I think we need to remind people. If you're with the state workforce agency and you have questions that we don't get to on this that you don't think otherwise will be answered, you can always contact your regional office or, Heather, we still have an e-mail box for WIOA questions; is that correct?

MS. FLECK: Yes. We do.

MR. STLUKA: OK. And that's just WIOA@dol.gov; is that right?

MS. FLECK: I think. I'm not sure.

MR. STLUKA: OK.

MS. FLECK: That has left my mind for the moment.

MR. STLUKA: Right. Certainly, if you send questions to WIOA at dol.gov, if that's not the right one, we can arrange to have them forwarded. So thank you.

So, Roseana, we've got a question for you here about the pay rates that you were talking about. "Is that just for executives of a local board?"

MS. SMITH: No. It's actually not, Frank. It's actually a requirement that is applied to all staff. So everybody would want to make sure that they just take a close look at the Title V of the United States Code Section 5313 for what those dollar amounts are because it is applicable both to directors and to staff of the local board.

MR. STLUKA: Right. And someone asked, "What is that actual pay rate?" And I think they vary by local area, don't they, by economic factors?

MS. SMITH: Yeah. I just tried to look that up, and it doesn't give a specific dollar amount there. So I'll have to work with the fiscal team to better understand how that's applied, unless someone else – Heather, do you know how that works?

MS. FLECK: I was researching a separate question. So I wasn't listening. Sorry.

MS. SMITH: That's OK.

MR. STLUKA: So yeah. So people are asking, "What is the pay rate that is the cap for local board staff?" And we're saying that if you go to the resource that Roseana provided, it provides you that, but it's different for – we believe it's different, adjusted for cost of living in different local areas. We can get additional information out if there's anything – (inaudible).

MS. FLECK: Yeah. It may be based on the GS pay scale.

MR. STLUKA: OK. Which is adjusted for different cost of living.

MS. FLECK: So you'll basically kind of have to go from a link to a link to a link kind of a thing to get to what the actual dollar amounts are because they would be adjusted based on cost of living.

MR. STLUKA: OK. So, Christina, one of our states says that most of the boards are advisory in their state and they do not actually deliver services. "Do they have to complete the competition process?"

MS. ECKENROTH: Nope. You only have to participate in a competition if you would like to do something that is out of the norm for the board. So, as we said, the board's primarily advisory, strategic planning, has those lists of responsibilities Heather outlined. They're not generally viewed as direct service providers.

Now, in some cases the board may find themselves in a situation that warrants that, but if your board does not have an interest in being a direct service provider or a One-Stop operator, you're not – that's – you don't need to compete anything, I mean, for that – I don't want to say you don't ever need to compete anything, but you as a board are not needing to be involved in winning any kind of competition for services.

MR. STLUKA: OK. Thank you. And then we've got someone asking, "What if the service provider belongs to the chief elected official, not the local board?" And I – that's – honestly, we're a little bit confused by the question. I think what we – what the question means is what if the chief elected official owns a service – a company that could – a business that could provide services? What does that mean for the competition process?

MS. FLECK: Yeah. If the person who asked the question could clarify in the chat, we may not get to it, but at least if you could clarify the question in the chat, we may be able to get back to you.

MR. STLUKA: OK. Then while we're looking for that, we'll move on. Christina, we've got a question here about direct provider of service. "How does the board staff apply to this in the context of the One-Stop operator and provider of services?"

MS. ECKENROTH: So the slide that we talked about the restrictions on the board apply to the restrictions of a board staff. So if the board can't do it without winning a competition, neither can the staff to the board. So you can't use your awesome staff to pitch in and provide direct service unless you have won a competition for that.

MR. STLUKA: Good. Good. So I think that's fair.

Heather, we've got someone here saying they are concerned about a conflict of interest between being a board member and hiring services from a board member's organization. Do you have any comments on that?

MS. FLECK: If you are the board member that – if it's a competition and it's your – as a board member you're part of the decision making, you need to recuse yourself from that decision making so as to avoid conflict of interest. You also need to look at your state's conflict of interest policy, which may have additional requirements. But it would be inappropriate, even as a perception of conflict of interest, for a board member to make decisions on – that would affect their own organization's ability to get contracts.

MR. STLUKA: OK. Thank you, Heather. Shoot. We're going to scroll through here, see what other questions we have. Christina, I think this is a question about one of your slides. "Did you say that the state has oversight responsibility if a local board becomes a career services provider or One-Stop operator?" Can you clarify?

MS. ECKENROTH: Over – yeah. So if you become a One-Stop operator, you don't – you can't certify yourself. So that's really a firewall there. It's just letting you know that, if you're a board who becomes a One-Stop operator, then who's supposed to be part of that certification process to say that you are an awesome operator and an awesome One-Stop? That's not going to be you. That's going to be the state.

So hence, you've already gotten agreement from everybody, the governor. You see how this all weaves itself in there? That's why everybody has to be on board because some of that will be taken on by the state, but it's not – so that's the certification issue.

MR. STLUKA: OK. Thank you. And then we have a question, "Is there a reader friendly version of the regulations with bookmarks and an index besides the awkward Federal Register?"

The Federal Register version is the official version. We do have other format electronic files that did not necessarily go through the final minor edits that the Federal Register staff did for us. We can make those available, but we have to remind you those are not official. So I would ask you to submit a request, I think, to your regional office would probably be the best way of approaching that.

MS. FLECK: And I would add that it may be posted on the Department of Labor's WIOA webpage or it may about to be posted. But I think we are trying to develop at least some materials like an index that you can use in addition to the Federal Register. But probably nothing is user friendly as what we could all use. So yeah. But hopefully soon resources will be available.

MR. STLUKA: OK. Thank you, Heather. "So what is the most efficient way for a board to work with a contracted One-Stop operator on creating a workforce system to include all partners?"

Why, if we could answer that in the seven minutes that we have left, I think we'd all deserve raises. There are a lot of – we're collecting best practices on things like that and posting them on ION. We'll be addressing those kinds of issues in convenings that we'll be putting out announcements about in the future.

That is just a regular ongoing topic of discussion. There is no one most efficient way that I can tell you that that is done. I would also make sure, though, that you are familiar – make sure you're familiar with any state policies regarding that or, if you're a local unit of government, make sure you know what policies apply from your local area. Anything you would add to that, Heather or Christina?

MS. FLECK: No. I have nothing to add. Thank you.

MR. STLUKA: OK. Thank you. So then another question we got, "Since the chief elected official is liable for mis-expenditures, is the chief elected official precluded from OKing or prohibiting expenditures?" That seems to be a question for you, Heather. What would you say?

MS. FLECK: Well, the CEO should – is a member technically of the board. So the CEO doesn't only appoint board members. He or she sits on the board, so would be part of decision making. So is there a veto? There's nothing spelled out in the regulations or the law about a CEO veto of expenditures.

MR. STLUKA: OK. And then, Heather, we've got a question about, "Isn't ETA issuing a separate Training and Employment Guidance Letter on One-Stop operators?" I could take – I could think of a couple ways to answer that, but do you have anything to say, Heather?

MS. FLECK: Yes. There are actually a couple – at least a couple of TEGLs forthcoming on One-Stops, the One-Stop infrastructure costs, and One-Stop operations. So I don't have a date to promise you that, but hopefully within two or three months those will be available as well as additional technical assistance.

MR. STLUKA: OK. And I want to just acknowledge we've gotten some very specific questions that we're not going to answer in this venue because they're very specific and yet we would need more detail about that situation to be able to answer them. I would just make sure – keep referring people back to their local policies and state policies for procurement and for firewalls and of course to our – what we refer to as the super circular. What's the official name of that again, Heather or Roseana or Christina?

MS. FLECK: The uniform guidance.

MS. ECKENROTH: Uniform guidance.

MR. STLUKA: Thank you. I was blocking on that phrase. So we've got a question here, "What is the best resource to use when working with a state with only one workforce development board?"

There are a lot of different resources. I would again refer you back to the local board toolkit where Heather highlighted some resources there for single area states. I think that's what you're asking about.

We've been asked to please repeat and clarify that the fiscal agent should not make policy. I think that comes down to you, Heather, under the general umbrella of functions of a fiscal agent.

MS. FLECK: That is correct. Local boards have the authority to make policy. Fiscal agents can suggest a policy that a local board approves, but they on their own are not a – should not be ascribed the role of policy maker.

MR. STLUKA: Right. Thank you. And then we've been asked, the salary cap – we talked about that in terms of the executive director of the local board and local board staff. We've been asked if that applies also to service providers, particularly to the executives of service providers that are hired by the board. And again, I'd refer you to uniform guidance and to your state's policies. Heather, do you have anything more that you would say on that?

MS. FLECK: I do – I think it – this provision is specific to the board.

MR. STLUKA: Right. OK. And then our next question is, "Would a virtual One-Stop suffice over a physical One-Stop?"

I – yeah. That's kind of beyond the scope of this webinar about boards. I'll refer you to the One-Stop guidance that's been put out and what's coming out. I can tell you in broad terms that – in very broad terms the answer is no, but it's not quite – never quite that simple.

We've gotten a question, "What if the staff works for the CEO, the chief elected official, and not the board?" I think the question there is, do the salary caps then apply to chief elected official staff?

MS. FLECK: I mean, the law or the regulation talks about it applying to board staff. So I think that you have to take it that way. If they are performing the functions of the local board, they're staff to the board and therefore the cap would apply. One thing – and we know that there are lots of questions about how you have the right kind of firewalls and what does internal controls look like.

And we do expect that the One-Stop operator TEGL that we put out will address some of those things. And then we would just encourage you to work with your state agencies to make sure you ask those questions to them, and then they have direct access to the ETA regional offices to be able to ask very specific questions that they're unable to answer.

But we certainly want to make sure that you guys get the detailed answers that you need in trying to figure out what does this look like in your specific local area. And so if your state's not able to answer the question for you, they will send it up to us, and we'll work to get them an answer.

MR. STLUKA: OK. And we do have some additional questions about fiscal agents and administrative controls and things like that that unfortunately we do – are out of time now. So again, I'd just refer you to the forthcoming guidance and the uniform guidance and to your state and local governmental policies to make sure you're in compliance.

So I want to turn it back to our – I'm sorry – back to Laura to wrap us up. Anything you want to say, Laura, before we just say goodbye?

(END)