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DEVELOPMENT

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To: Chief Elected Officials
WIB Chairs
WIB Directors

From: Craig E. Hartzer
Commissioner

Date: July 8, 2002

Subject: DWD Communications Policy: # 1998-57, Change 3
Establishment of Local Workforce Investment Boards (WIBs)

Re: Workforce Investment Act (WIA)

Purpose

The purpose of this communication document is to 1) provide updated requirements that local elected officials must use in establishing workforce investment boards, youth councils and incumbent worker councils, and 2) provide the requirements for recertification. For the "Content" portion of this Communication Policy updated information is <u>underlined</u> and deleted information is annotated with a ~~strike through~~.

Listed below are the most important changes contained in this policy:

1) Section I, Appointment of Board Members – Minor changes in information related to WIA partner members from Welfare to Work, Migrant and Seasonal Farm Worker Programs, and Native American Programs.
2) The Welfare to Work formula allocation program ends on June 30, 2003. As of July 1, 2003 Welfare to Work will not be a required WIB partner unless the workforce service area still has an operating competitive Welfare to Work program.
3) Section II, Certification of the Board - The federal citation for the required liability language has been corrected.
4) Section IV, Creation of the Incumbent Worker Council – The Incumbent Worker Council membership requirements have been modified. Some previously mandatory membership requirements have been changed to optional.
5) Section VI, Modification to the economic interest statement requirements have been adopted. The changes make the economic interest requirements less stringent. Economic interest statements developed under the change 2 version of this policy are still acceptable because they should be more stringent than the requirements currently in place.

Rescissions:

DWD Communication 98-57, Change 2, dated July 18, 2001 and entitled, "Establishment of Local Workforce Investment Boards."

Content:
This policy is divided into six sections:

Section I	Appointment of Board Members
Section II	Certification of the Board
Section III	Creation of the Youth Council
Section IV	Creation of the Incumbent Worker Council
Section V	Alternative Entity
Section VI	Conflict of Interest

Overview

"The Workforce Investment Act (WIA) of 1998 represents a national consensus on the need to restructure a multitude of workforce development programs into an integrated workforce investment system that can better respond to the employment needs of its customers – current workers, unemployed workers, workers laid-off due to restructuring or downsizing, and new entrants to the labor force, as well as employers."[1]

At the local level the focal point of the restructuring is the Workforce Investment Board. These local boards will set policy for the local areas. Therefore, the membership of these local boards is critically linked to the ability of the local systems to meet the needs of their customers.

SECTION I: Appointment of Board Members

1.1. General

1.1.1. Title I, Section 117 (b)(3) Authority of board members--Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

1.1.2. Title I, Section 117 (b)(4) Majority--A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i). – *representatives of business in the local area.*

1.1.3. Title I, Section 117 (b)(5) Chairperson.--The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i). -- *representatives of business in the local area.*

[1] Excerpt from the U.S. Department of Labor draft Planning Guidance and Instructions for Submission of the Strategic Five-Year Plan for Title I of the Workforce Investment Act of 1998.

1.1.4. If a partner entity does not have a service site in the Workforce ~~Development~~ Service Area, the local board does not have to include that entity as a partner board member.

1.1.5. For One-Stop partner WIB membership, the board member should be nominated from grant recipients and not sub-recipients, contractors of the grant recipient, service providers or other such entities. This is in keeping with the intent of the Act to have the highest policy level person possible on the WIB.

1.1.6. Title I of Section 117(b) uses the term "including" to present examples. The term "including" shall be interpreted to mean "for example" or "such as".

1.1.7. It is permissible for board members to represent more than one interest group and/or partner as long as appropriate nomination procedures and policies have been met.

1.1.8. The CEO may use any entity that meets the definition of "Alternative Entity" to perform functions of the WIB until the WIB is officially certified.

1.1.9. A partner entity that elects not to enter into a Memorandum of Understanding with the WIB or a partner entity that is unable to successfully negotiate a Memorandum of Understanding with the WIB after "good faith" efforts, forfeits its right to be a partner board member pending a fully executed Memorandum of Understanding.

1.1.10. For the purposes of this policy, the term 'board member' when used to denote minimum membership requirements such as percentage requirements means board members with voting rights. Non-voting members are not to be included in the calculations to determine that business has a majority of the membership or that labor has a minimum of 15% of the membership.

1.2. Business

1.2.1. Title I, Section 117 (b)(2)(A)(i) -- representatives of business in the local area, who -- (I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority; (II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and (III) are appointed

from among individuals nominated by local business organizations and business trade associations.

1.2.2. Nominations shall be solicited from local business organizations and business trade associations.

1.2.3. The business representatives on the Board shall include businesses where the employees are represented by a recognized labor organization. This requirement is a matter of State policy rather than Federal law.

1.2.4. The CEO should consider diverse business representatives from each county in the Workforce ~~Investment~~ Service Area. Such business shall represent businesses with employment opportunities that reflect the employment opportunities of the local area.

1.2.5. The CEO may consider whether the businesses being represented pay their workers a 'minimum living wage'. Assistance in determining the definition of 'minimum living wage' for the Workforce ~~Investment~~ Service Area and for specific employers may provide challenges especially in areas where this has not been addressed or where only specific cities or counties in the area have addressed it.

Note that the Fall 1999 publication "The Self-Sufficiency Standard for Indiana" published by the Indiana Coalition on Housing and Homeless Issues provides county-level data. The Coalition may be ~~accessed~~ reached by calling 317/636-8819. The report can also be accessed at http://www.iochhi.org/self_suff_std.htm.

1.3. Education

1.3.1. Title I, Section 117 (b)(2)(A)(ii) -- representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and post secondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities.

1.3.2. The board must have a minimum of two educational representatives.

1.3.3. The educational requirement may be satisfied by the two educational One-Stop partners: Adult Education and Literacy and Post secondary

Vocational Education. Please note the nomination requirements for educational representatives as stated in the Workforce Investment Act must be met even if a One-Stop partner is selected as an educational representative.

1.4. Labor

1.4.1. Title I, Section 117 (b)(2)(A)(iii) -- representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees. *(In Indiana these areas do not exist.)*

1.4.2. The representation from Labor shall make up a minimum of 15% of the Workforce Investment Board. This requirement is a matter of State ~~policy~~ law rather than Federal law.

1.4.3. The Workforce Investment Act uses the wording "nominated by local labor federations". In Indiana these local labor federations shall be referred to as central labor councils.

1.4.4. The Chief Elected Officials shall solicit nominations for labor representatives from the central labor councils that have jurisdiction in the area.

1.4.5. It is recommended that the Labor appointees have strong ties to the central labor councils.

1.5. Community Based Organizations

1.5.1. Title I, Section 117 (b)(2)(A)(iv) -- representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present).

1.5.2. Title I, Section 101 (7) defines Community-Based Organizations as follows: "The term 'community-based organization' means a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment."

1.5.3. The board must have a minimum of two community based organization representatives.

1.5.4. CEOs shall solicit nominations from a wide variety of community-based organizations that deal with workforce development or human services with emphasis on those that service targeted populations such as veterans and people with disabilities.

1.5.5. It is recommended that the community-based organizations have a strong tie to workforce development.

1.5.6. It is recommended that the community-based organizations serve a large portion of the Workforce ~~Investment~~ Service Area and that they represent the diverse aspects of the population.

1.6. Economic Development

1.6.1. Title I, Section 117 (b)(2)(A)(v) -- representatives of economic development agencies, including private sector economic development entities.

1.6.2. The board must have a minimum of two economic development representatives.

1.6.3. CEOs shall solicit nominations from local economic development entities both public and private. The CEOs are encouraged to use organizations such as Indiana Economic Development Association and the Department of Commerce to identify appropriate economic development entities in their area.

1.7. One-Stop Partners

1.7.1. Title I, Section 117 (b)(2)(A)(vi) -- representatives of each of the one-stop partners.

1.7.1.1. Each One-Stop partner may be limited to one representative on the local board.

1.7.2. Department of Workforce Development (One-Stop Partner)

1.7.2.1. The CEO shall solicit a nomination from the Commissioner of the Department of Workforce Development. Nominations from other entities will not be allowed.

1.7.3. Title V Older Worker (One-Stop Partner)

1.7.3.1. The CEO shall solicit nominations from the American Association of Retired Persons (AARP), National Council of Senior Citizens (NCSC), National Urban League (NUL), U.S. Forest Service (USFS), State Unit on Aging (SUA) and Green Thumb (GT) entities as appropriate to the local area to represent the interests of older workers on the local board.

1.7.3.2. In selecting board member(s), it is recommended that the Title V representatives have strong ties to workforce development in the local area.

1.7.4. Vocational Rehabilitation (One-Stop Partner)

1.7.4.1. The CEO shall solicit a nomination from the Secretary of Family and Social Services Administration.

1.7.4.2. The Client Assistance Program (CAP) ~~is~~ may be a mandatory partner on the WIB. However, the CEO decides whether the vocational rehabilitation representative is from FSSA or the CAP. The representative may be from both entities or one or the other as long as at least one of them is represented. Therefore, the CEO may solicit a nomination from the Director of the Client Assistance Program. The Client Assistance Program is an advocacy program for vocational rehabilitation clients. This program is funded directly from the national level from the same funding source as vocational rehabilitation. In Indiana, the agency that receives the funding is the "Indiana Protection and Advocacy Services."

1.7.5. Post Secondary Vocational Education (One-Stop Partner)

1.7.5.1. The CEO shall solicit nominations from the all local post secondary vocational education boards in the area to represent post secondary vocational education.

1.7.5.2. This representative may also serve as one of the educational representatives if all requirements for the educational representative and postsecondary vocational educational representative are met.

1.7.6. Adult Education and Literacy (One-Stop Partner)

1.7.6.1. The representative must be from a comprehensive adult basic education provider.

1.7.6.2. The CEO shall solicit ~~a~~ nominations from the Director of Division of Adult Education at the Department of Education. Nominations from other sources will not be permitted. ~~This nomination process is effective for all openings filled on or after December 6, 1999.~~

~~1.7.6.3. All Adult Education and Literacy board members must be nominated by the Department of Education effective July 1, 2000. If the Department of Education did not nominate the current Adult Education and Literacy board member, the CEO must solicit a nomination for a term effective July 1, 2000. At the discretion of the CEO, the current member may serve in another capacity for the WIB.~~

1.7.6.~~4~~3. This representative may also serve as one of the educational representatives if all requirements for the educational representative and Adult Education and Literacy representative are met.

1.7.7. Housing and Urban Development - HUD (One-Stop Partner)

1.7.7.1. The CEO shall solicit nominations from all HUD grantees in the local area that administer employment and training programs or activities.

1.7.7.2. In selecting board member(s), it is recommended that the Housing and Urban Development representative have strong ties to workforce development in the local area.

1.7.8. Community Service Block Grants (One-Stop Partner)

1.7.8.1. The CEO shall solicit nominations from all Community Service Block Grantees in the area that administer employment and training programs or activities. Community Action Program Agencies that administer employment and training programs/activities would be an example.

1.7.9. WIA Title I - Adult, Youth and Dislocated Worker (One-Stop Partner)

1.7.9.1. The CEO shall be the representative for the Title I Adult, Youth and Dislocated Worker Programs or may designate a representative(s). Additional guidance in designating a representative may be found in the Final WIA Rules at 20 CFR Part 662.220.

1.7.10. WIA Title I - Job Corps (One-Stop Partner)

1.7.10.1. The CEO shall solicit nominations from the Job Corps Center in their Workforce ~~Investment~~ Service Area. Effective with the date of this policy, Job Corps had two service centers in the state located in the following Indiana cities: Edinburgh and Indianapolis.

1.7.11. Welfare-to-Work (One-Stop Partner)

1.7.11.1. The CEO shall solicit nominations from the local grant recipient for the Welfare-to-Work program. If the grant recipient is already represented on the local Board, an additional representative will not be necessary.

1.7.11.2. WtW competitive grantees are also mandatory One-Stop partners under WIA (if there is such a grantee in the workforce service area). The competitive grantees must make their program's core services available through the One-Stop delivery system in their local area and must be party to a memorandum of understanding with the WIB.

1.7.11.3. The WtW formula program is scheduled to end on June 30, 2003. As of July 1, 2003 WtW is no longer a required One-Stop partner unless the workforce service area still has an operational competitive WtW program.

1.7.12. Migrant and Seasonal Farm Worker Programs (One-Stop Partner)

1.7.12.1. The CEO shall solicit nominations from the State Director for Transition Resources Corporation (TRC) [a federally procured provider for services to migrant seasonal farm workers] to represent Migrant and Seasonal Farm Worker Programs on the local Workforce Investment Board. Nominations from other entities will not be allowed.

1.7.12.2. A board member representing Migrant and Seasonal Farm Worker Programs will be required when TRC has a service site in the Workforce ~~Investment~~ Service Area. Effective with the date of this policy, TRC had service offices in the following Indiana cities: Kokomo, South Bend, Marion, Madison, Indianapolis, Logansport, New Albany, Peru and Wabash ~~Vincennes~~. For more current information visit the Transition Resources web site at www.transitionresources.org/ContactUs//h2ByOffice.asp?state=in

1.7.13. Native American Programs (One-Stop Partner)

1.7.13.1. The CEO shall solicit nominations from the State Executive Director for the Indiana American Indian Manpower Council (IAIMC) to represent Native American Programs on the local Workforce Investment Board. Nominations from other entities will not be allowed.

1.7.13.2. A board member representing Native American Programs will be required when IAICM has a service site in the Workforce ~~Investment~~ Service Area. Effective with the date of this policy, IAICM had service offices in the following Indiana cities: ~~Fort Wayne,~~ Indianapolis and Peru. IAICM should be contacted for a current listing of service sites in Indiana. They are listed in the yellow pages under American Indian Center of Indiana. The Indianapolis telephone number is 317-347-5160. The Peru telephone number is 765-473-3010.

1.7.14. Other One-Stop Partners

1.7.14.1. Additional One-Stop partners must also be represented on the local Board if the One-Stop partner and the local Workforce Investment Board have negotiated and signed a Memorandum of Understanding.

1.8. Other Board Members

1.8.1. Title I, Section 117 (b)(2) (B) indicates the CEO "may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate."

1.8.1.1. The rationale for how these other board members are appropriate additions to the board must be included in the request for board certification.

SECTION II: Certification of the Board

Legal Reference

Workforce Investment Act of 1998

Title I, Section 117 (c)(2) Certification --(A) In general--The Governor shall, once every 2 years, certify 1 local board for each local area in the State. (B) Criteria—Such certification shall be based on criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures. (C) Failure to achieve certification--Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph. (3) Decertification-- (A) Fraud, abuse, failure to carry out functions – Notwithstanding paragraph (2), the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for--(i) fraud or abuse; or (ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d). (B) Nonperformance--Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)). (C) Plan -- If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established under subsection (b).

Definitions for Chief Elected Officials

Workforce Investment Act of 1998

Title I, Section 101, the Act defines a Chief Elected Official as:
"A) the chief elected executive officer of a unit of general local government in a local area; and

B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 117(c)(1)(B)."

Section 117(c)(1)(B) ~~says~~ states:
"In cases in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials."

A unit of general local government is defined in Section 101 as:
"…any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers."

For Workforce Investment Act purposes, DWD further defines the CEO as:

a) One County Commissioner (chosen by the Board of County Commissioners) from each county within the affected service delivery area and

b) the mayor from any city of the 2nd or 3rd class within the service delivery area with a population of more than 5,000.

Policy for the Certification of the Local Workforce Investment Board

1. The Governor shall certify the Workforce Investment Board if the Governor determines that its composition and appointments are consistent with law and State policy. Such certification will be for a period not to exceed two years.

2. It is the intent of the Workforce Investment Act and State policies that the Workforce Investment Boards have staff independent from service delivery staff. DWD Communication 99-43 issued April 25, 2000 indicated that "effective July 1, 2001 a Workforce Investment Board may not deliver any one-stop services unless acceptable justification is provided." Also, the policy states: "The entity or organization that employs staff who provide staff services to the board may not also employ staff who provide any one-stop services."

3. The Governor shall re-certify the WIB every two years if the Governor determines that its composition and appointments are consistent with law and State policy. For second and subsequent recertification, the governor must determine that the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local WIA performance measures. To ensure local areas meet the local WIA performance measures, Section 136(h) of WIA will be implemented if necessary. Section 136(h) ~~says~~ states:

   (1) Technical Assistance. If a local area fails to meet levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Governor, or upon request by the Governor, the Secretary, shall provide technical assistance, which may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

   (2) Corrective Actions.

   (A) In General. If such failure continues for a second consecutive year, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may –

(i) require the appointment and certification of a new local board (consistent with the criteria established under section 117(b));

(ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(iii) take such other actions as the Governor determines are appropriate."

4. Each local Workforce Investment Board shall submit a written request for certification to the Department of Workforce Development thirty (30) calendar days before the beginning date for which certification is being requested. Such request must include the following information.

4.1. Membership Information: (WIBs are to use the template provided for the requested membership information. It will be issued under separate cover.)

4.1.1. Name of Workforce Investment Board member, title, business address, and phone number.

4.1.2. A brief description of the Workforce Investment Board member's functional employment responsibilities and the qualifications ~~of the~~ to serve as Workforce Investment Board member.

4.1.3. A statement indicating that the WIB has a signed and dated Statement of Economic Interests for each Workforce Investment Board member on file.

4.1.4. Agency and/or sector affiliation (business, education, labor, community based organization, economic development and/or One-Stop partner). Note: It is possible for one individual to represent multiple sectors/partners.

4.1.5. The Workforce Investment Board member's term of appointment (including beginning and ending dates).

4.1.6. If the member is a Workforce Investment Board officer, indicate the position held.

4.1.7. When a position is vacant, provide the date of vacancy and the date filled.

4.2. Workforce Investment Board Nomination Process

4.2.1. The ~~Local~~ Chief Elected Official shall develop a process for soliciting WIB nominations and for selecting WIB members. The ~~Local~~ Chief Elected Official (or WIB) shall keep on file a record of the processes followed for soliciting nominations and the names of all candidates nominated including their qualifications. Each Workforce Investment Board shall submit with ~~their~~ its request for certification, a statement indicating that a documented process was adopted and that records on the nomination/selection process are on file.

4.3. Youth Council

4.3.1. Each Workforce Investment Board shall have a Youth Council established in compliance with the provisions of this policy. A statement confirming that a Youth Council will be established in compliance with the Workforce Investment Act and State policy must be included with the request for board certification and acknowledge that certification may be terminated if the council is not established by October 1, 2001.

4.4. Incumbent Worker Council

4.4.1. Each Workforce Investment Board shall have an Incumbent Worker Council established in compliance with the provisions of this policy. A statement confirming that an Incumbent Worker Council will be established in compliance with the Workforce Investment Act and State policy must be included with the request for board certification and acknowledge that certification may be terminated if the council is not established by October 1, 2001.

4.5. Chief Elected Official Agreement

4.5.1. A fully executed copy of the CEO Agreement pursuant to Title I, Section 117 (c)(1)(B) must be included with the request for certification. This agreement should describe how the CEOs of units of local government in an area shall carry out their respective roles.

4.5.2. The CEO Board Agreement at a minimum must include:

4.5.2.1 Procedures for the selection process of the One-Stop Operator in cooperation with the WIB.

4.5.2.2 Procedures for the designation or certification of the One-Stop Operator consistent with Section 121(d) and in agreement with the WIB.

4.5.2.3. The One-Stop Operator name(s), business address(es) and telephone number(s).

4.5.2.4. The specific responsibilities of the Chief Elected Officials, which shall include the roles of the individual local elected officials, in the appointment of the members of the local board and in carrying out any other responsibilities assigned the Chief Elected Official under Title I Section 117 of the Workforce Investment Act.

4.5.2.5. The specific responsibilities of the Workforce Investment Board pursuant to Section 117(d).

4.5.2.6. Acknowledgment of financial responsibility by the Chief Elected Official including distribution of potential financial liability among the Chief Elected Officials for Workforce Investment Act and Welfare to Work funding granted by DWD ~~through the WIB or its fiscal agent for the workforce service area~~. The agreement will include ~~assurance to~~ the following statements:

For Workforce Investment Act (WIA) Grants:
In accordance with 29 USC 2832 ~~(B)(I)(1)~~ Sec 117(d)(3)(B)(i) and IC 22-4.5-6, the chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of Workforce Investment Act funds allocated to the local area. While the chief elected official may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent, such designation shall not relieve the chief elected official of the liability for any misuse of grant funds.

For Welfare-to-Work (WtW) Grants:
The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of grant funds allocated to the local area. While the chief elected official may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent such designation shall not relieve the chief elected official of the liability for any misuse of grant funds.

4.5.2.7. The joint Chief Elected Official responsibilities in conducting oversight in the Workforce ~~Investment~~ Service Area in cooperation with the WIB for:

4.5.2.7.1. Youth activities *(WIA, Section 129*).

4.5.2.7.2. Incumbent Worker activities.

4.5.2.7.3. Employment and Training activities *(WIA, Section 134*).

4.5.2.7.4. One-Stop delivery system.

4.5.2.8. The specific time period for the CEO Agreement.

4.6. Workforce Investment Board Bylaws

4.6.1. Each Workforce Investment Board must adopt bylaws for its governance. A statement indicating that such bylaws have been adopted and that the WIB has a copy of such bylaws on file must be submitted with the request for certification.

4.6.2. The bylaws must include a "Conflict of Interest" clause that is in compliance with this policy.

4.6.3. The bylaws must establish quorum guidelines for the WIB and all permanent councils.

4.7. Independent Workforce Investment Board

4.7.1. Each Workforce Investment Board shall include a statement in its application that clearly indicates the option ~~they have~~ it has selected for meeting the independent staff requirement. *(See Policy for Certification of the Local Workforce Investment Board, Item 2.)*

5. Membership Vacancies

5.1.1. All section membership vacancies must be filled within 90 calendar days.

5.1.2. All One-Stop partnership vacancies must be filled within 90 calendar days.

5.1.3. Upon a showing of good cause, written requests for extensions will be considered.

5.1.4. An updated membership list (as outlined in 4.2 above) must be provided at the start of every calendar quarter (July 1, October 1, January 1, and April 1.) These quarterly reports shall be submitted beginning January 1, 2002. If vacancies exist, they must be shown and marked as vacant. Any existing vacancies must be detailed on an attached page. The page must detail each vacancy by providing the person's name who vacated the position, when ~~they~~ vacated ~~it~~, ~~what~~ the sector and category ~~they~~ represented, and what actions have been taken to find a replacement for the position. If the position is not to be filled, a statement detailing the efforts on the WIB composition (business majority, 15% labor, etc.) needs to be provided. Vacancies must be filled in accordance with 4.2 above. Information on the new board members must be submitted as outlined in 4.1 above.

5.1.5 If the Chief Elected Official elects not to fill a vacancy, the ~~State~~ DWD must be informed of this decision within the 90 calendar day period. The name of the individual last filling the vacancy must be provided to the ~~State~~ DWD. Board composition requirements must still be met.

SECTION III: Creation of a Youth Council

Legal Reference

Workforce Investment Act of 1998

Title I, Section 117 (h) Youth Council--Establishment--There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area. Membership--The membership of each youth council-- shall include--members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;(iii) representatives of local public housing authorities;(iv) parents of eligible youth seeking assistance under this subtitle; (v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and(vi) representatives of the Job Corps, as appropriate; and may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate. Relationship to local board--Members of the youth council who are not members of the local board described in subparagraphs and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board. Duties--The duties of the youth council include--developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board; subject to the approval of the local board and consistent with section 123--recommending eligible providers of youth activities, to be awarded grants or contracts

on a competitive basis by the local board to carry out the youth activities; and conducting oversight with respect to the eligible providers of youth activities, in the local area; coordinating youth activities authorized under section 129 in the local area; and other duties determined to be appropriate by the chairperson of the local board.

Policy for Establishing Local Youth Councils

1. Each local Workforce Investment Board in cooperation with the Chief Elected Official shall establish a Youth Council, which will be a subgroup of the Workforce Investment Board.

2. The Youth Council shall include at least two members from each of the following categories, except as noted in 2.3 and 2.6 of this section:

    2.1. Local board members with special interest or expertise in youth policies.

    2.2. Representatives of youth service agencies. Representatives from juvenile justice and local law enforcement agencies may meet the requirements under this category.

    2.3. Representatives from local public housing authorities. In areas where there is only one housing authority that provides employment and training services, one representative will meet the requirement under this category.

    2.4. Parents of eligible youth seeking assistance under this subtitle.

    2.5. Individuals that have experience related to youth activities. Former participants and representatives of organizations that have experience related to youth activities may meet the requirements under this category.

    2.6. Representatives of the Job Corps (if located in the Workforce Service Area). One representative will meet the membership requirement for each affected Workforce Investment Board under this category. Effective with the date of this policy, Job Corps had two service centers in the state located in the following cities: Edinburgh and Indianapolis.

    2.7. Other such individuals as the Workforce Investment Board Chair ~~and~~ <u>or</u> Chief Elected Official determine to be appropriate.

    2.8. Youth Council membership will meet these requirements no later than October 1, 2001.

3. The Chair for the Youth Council shall be a voting member of the WIB.

4. Youth Council members who are not Workforce Investment Board members will be voting members of the Youth Council and nonvoting members of the Workforce Investment Board.

5. Duties of the Youth Council include:

   5.1. Developing the portion of the local plan that relates to eligible youth.

   5.2. Recommending eligible providers of youth activities.

   5.3. Conducting oversight with respect to eligible providers of youth activities.

   5.4. Coordinating youth activities under section 129.

   5.5. Other duties as determined to be appropriate by the WIB Chair ~~chair of the local board~~.

   5.6. It is also strongly recommended that the Youth Council establish processes to obtain input from youth in the area.

6. Each Workforce Investment Board shall appoint a Youth Council on or before October 1, 2001,

7. A statement indicating that the Youth Council has a signed and dated Statement of Economic Interest for each Youth Council member on file.

8. Use of an Existing Entity

   8.1. The Youth Council may be established by grandfathering in an existing entity, such as the School to Work Partnership, or a Youth Council may also be formed from individuals who serve on a variety of existing youth councils.

   8.2. If the Youth Council is formed by the grandfathering of an existing entity, that entity must meet all membership requirements of the Workforce Investment Act and State policies or new members may be added to an entity to bring it into compliance. Youth Councils formed under this section must meet all criteria by October 1, 2001.

9. Submission of Youth Council Information

   9.1. The WIB shall submit a list of Youth Council members and their sector affiliation to DWD by October 1, 2001. DWD will confirm or disapprove the list within 30 days.

9.2. Mandated Youth Council vacancies must be filled within 90 calendar days. An updated Youth Council membership listing must be provided to the Department of Workforce Development (Policy & Planning Unit) at the start of every calendar quarter (July 1, October 1, January 1, and April 1.) These quarterly reports shall be submitted beginning January 1, 2002. If vacancies exist, they must be shown and marked as vacant. Any existing vacancies must be detailed on an attached page. The page must detail each vacancy by providing the person's name who vacated the position, when ~~they~~ vacated ~~it~~, ~~what~~ the sector ~~they~~ represented, and what actions have been taken to find a replacement for the position. If the position is not to be filled, a statement detailing the effect on the Youth Council composition needs to be provided.

SECTION IV: Creation of an Incumbent Worker Council

Legal Reference
Indiana Code 22-4.5-3-4 **Incumbent worker council** --(a) Each regional board [2]shall establish an incumbent worker council as an advisory committee to the regional board. (b) The regional board, with the cooperation of the chief elected official, shall appoint members of the incumbent worker council under criteria established by the department. At least thirty-three percent (33%) of the members of the incumbent worker council must be representatives of labor. (c) A member of the incumbent worker council who is not a member of the regional board at the time the member is appointed to the incumbent worker council is: (1) a voting member of the incumbent worker council; and (2) a nonvoting member of the regional board.

Policy for Establishing Local Incumbent Worker Councils

1. Each local Workforce Investment Board in cooperation with the Chief Elected Official shall establish an Incumbent Worker Council, which will be an advisory group to the Workforce Investment Board.

2. The Local Workforce Investment Board in cooperation with the Chief Elected Official shall appoint the Incumbent Worker Council members.

3. The Incumbent Worker Council:

   3.1. Shall include local board members with special interest or expertise in incumbent worker policies.

   3.2. Shall include representatives from labor.

[2] The 'Regional Board' referred to in IC 22-4.5-3-4 is to be interpreted as the local Workforce Investment Board.

3.2.1. A minimum of 33% of the council must be comprised of representatives of labor.

3.3. ~~Shall~~ May include ~~at least one~~ representatives from the Department of Workforce Development.

3.3.1. ~~At least o~~ One of these representatives ~~shall~~ may be the ~~Program~~ Regional Development Specialist for the Planning ~~Area~~ Region

3.4. ~~Shall~~ May include ~~at least one~~ representatives from the Department of Commerce.

3.4.1. ~~At least o~~ One of these representatives ~~shall~~ may be the Business Development ~~Specialist~~ Representatives for the local area.

3.5. ~~Shall~~ May include ~~a~~ representatives~~(s)~~ from economic development entities.

3.6. Shall include representatives from businesses.

3.6.1. A minimum of 33% of the council must be comprised of representatives from business.

3.6.2. Business representatives on the council shall include representatives from businesses where the employees are represented by a recognized labor organization.

3.7. Other such individuals as the Workforce Investment Board Chair and Chief Elected Official determine to be appropriate.

4. The Chair for the Incumbent Worker Council shall be a voting member of the WIB.

5. Incumbent Worker Council members who are not already Workforce Investment Board members will be nonvoting members of the Workforce Investment Board.

6. ~~A statement indicating that~~ The WIB must have ~~Incumbent Worker Council has~~ a signed and dated Statement of Economic Interest for each Incumbent Worker Council member ~~on file~~.

7. The primary duty of the Incumbent Worker Council is to develop and recommend a plan to the Local Workforce Investment Board for the development of the incumbent workforce of the Workforce ~~Investment~~ Service Area.

7.1. The Incumbent Worker plan adopted by the Local Workforce Investment Board will be incorporated into the local Workforce Investment Plan.

8. The Incumbent Worker Council will be appointed on or before October 1, 2001.

9. Submission of Incumbent Worker Council Information.

9.1. The WIB shall submit a list of Incumbent Worker Council members and their sector affiliation to DWD by October 1, 2001. DWD will confirm the list within 30 days of receipt or within 30 days will contact the WIB regarding issues or concerns with membership_

9.2. Mandated Incumbent Worker Council vacancies must be filled within 90 calendar days.

9.3. An updated Incumbent Worker Council membership listing must be provided to the Department of Workforce Development (Policy & Planning Unit) at the start of every calendar quarter (July 1, October 1, January 1, and April 1.) These quarterly reports shall be submitted beginning January 1, 2002. If vacancies exist, they must be shown and marked as vacant. Any existing vacancies must be detailed on an attached page. The page must detail each vacancy by providing the person's name who vacated the position, when ~~they~~ vacated ~~it~~, ~~what~~ sector ~~they~~ represented and what actions have been taken to find a replacement for the position. If the position is not be filled, a statement detailing the effect on the Incumbent Worker Council composition needs to be provided.

SECTION V: Alternative Entity

Legal Reference

Workforce Investment Act of 1998

Title I, Section 117(i)(I) -- Alternative Entity--In general--For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h) of the Act, a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area); (B) is in existence on December 31, 1997; (C)(i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or (ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h); and (D) includes—(i) representatives of business in the local area; and (ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor

federations; or (II) (for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.

The CEO may ~~s~~elect to use an alternate entity and does not need to re-nominate existing members ~~n~~or ~~does the CEO~~ have to have these existing members resign Conflict of Interest statements. However, new members must be added to meet the requirements of the Workforce Investment Act and State policy. All new members will need to be nominated in compliance with law and policy and will need to sign Conflict of Interest statements. All the Workforce Investment Board appointments must be made no later than October 1, 2001. The alternative entity may function as the WIB until such time as the full WIB is certified.

SECTION VI: Conflict of Interest

Legal Reference

Workforce Investment Act of 1998

Title I, Section 117. (g) Conflict of Interest —A member of a local board may not—vote on a matter under consideration by the local board—regarding the provision of services by such member (or by an entity that such member represents); or that would provide direct financial benefit to such member or the immediate family of such member; or engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

Conflict of Interest Policy

1. Every Workforce Investment Board shall adopt in its bylaws conflict of interest standards meeting the minimum standards set forth in this policy. These conflict of interest standards shall apply to all board members (voting and non-voting).

2. A Workforce Investment Board member with a conflict of interest regarding any matter is prohibited from discussion and voting in connection with that matter.

3. Any Workforce Investment Board member (or specific entity represented by that member) who significantly participates in the development of contract specifications or standards is prohibited from receiving any direct financial benefit from any resulting contract.

    3.1. Any Workforce Investment Board member who significantly participates in a board discussion or decision relating to specific terms of a contract, the determination of specific standards for performance or a contract, the development of Invitations for Bid (IFB) or Requests for Proposals (RFP) or other such bid processes leading to a contract, or any similar discussions or decisions is prohibited from receiving any direct financial benefit from any

resulting contract. In addition, no corporation, partnership, firm, association, or other entity shall receive the contract if it would create a conflict of interest for the Workforce Investment Board member who significantly participated in the manner described above.

3.2. Any Workforce Investment Board member, including One-Stop partner, who significantly participates in the development of contract specifications, is prohibited from bidding on those contracts or supervising staff who are paid from funding awarded under such contracts.

4. Each Workforce Investment Board member shall file a statement of economic interest *(sample statement attached)* with the Workforce Investment Board at the time ~~they~~ the member becomes a board member and every year thereafter. Such statements must include, at a minimum, the member's:

4.1 Current position(s) of employment.

4.2 Current position(s) as a paid director, officer, or agent of a corporation or similar entity.

4.3 A question asking if ~~they~~ the member, ~~their~~ his/her spouse or immediate family members have a potential sources of conflict of interest concerning the~~ir~~ duties as WIB member~~s~~ or council member~~s~~. If they answer "yes," additional information related to the conflict of interest must be documented to include:

~~4.3~~. 4.3.1 Financial interests that are defined in the bylaws as potential sources of conflict of interest, ~~and~~

~~4.4.~~ 4.3.2 Similar information concerning the WIB member's spouse and immediate family members if the economic interests of such spouse and/or immediate family could present a potential conflict of interest issue, and

4.3.3 A full description of the potential conflict of interest, that resulted in the "yes" answer in 4.3 above.

5. Any Workforce Investment Board member with a potential or actual conflict of interest must disclose that fact to the Workforce Investment Board as soon as the potential conflict is discovered and, to the extent possible, before the agenda for a meeting involving the matter at issue is prepared. If it should be determined during a meeting that a conflict of interest exists, the member must verbally declare such conflict of interest, such declaration must be clearly noted in the minutes, and such member must excuse him/herself from the remainder of the discussion and the voting. *(A sample conflict of interest disclosure letter is attached.)*

5.1. Each board member is responsible for determining whether any potential or actual conflict of interest exists or arise during his/her service on the board. Board members are also responsible for reporting such potential or actual conflict of interest as soon as it is discovered that such a condition exists.

6. If a contract or purchase is made by the Workforce Investment Board involving its own member with a conflict of interest, the Workforce Investment Board shall justify the terms and conditions of the contract or purchase.

6.1. When a contract or purchase is made by the board involving its own member or an entity with which the board member is associated, the board must establish and document to the reasonable satisfaction of the Department of Workforce Development that the contract or purchase was adequately bid or negotiated and that the terms of the contract or price of the purchase are fair and reasonable to the Workforce Investment Board.

7. The Workforce Investment Board shall adopt procedures that serve to minimize the appearance of conflicts of interest.

7.1. Workforce Investment Board members who are also One-Stop partners should not serve on any committees that deal with oversight of the One-Stop system or allocation of resources that would potentially be allocated to that member's program.

8. The Department of Workforce Development will provide technical assistance to coordinate compliance with the conflict of interest standards and assist in answering questions and avoiding potential problems.

8.1. The Department of Workforce Development staff will provide technical assistance upon request from local boards concerning the conflict of interest standards. The Department's intent is to assist the board to avoid compliance violations or the appearance of violations.

Certification information is to be submitted to the Policy & Planning Section; Department of Workforce Development; 10 N. Senate Avenue; Indianapolis, IN 46204 no later than ~~October 1, 2001~~ May 23, 2003.

Questions regarding this policy may also be directed to William Miller at 317/233-4010. His email address is wmiller@dwd.state.in.us.

Effective Date
Materials needed for WIB recertification must be submitted to DWD no later than May 23, 2003.

Ending Date
June 30, 2004

Action
Please review this policy for establishing local Workforce Investment Boards. Chief Elected Officials, WIB Chairs and WIB Directors should insure that all appropriate people in their respective areas have copies of this policy and use the guidance provided in the policy for the establishment and maintenance of their local Workforce Investment Board, Youth Council and Incumbent Worker Council.

Attachment 1

SAMPLE

reference Section 117(g) of the Workforce Investment Act

STATEMENT OF ECONOMIC INTERESTS

Name : _____

☐ **WIB Member** ☐ **Youth Council Member** ☐ **Incumbent Worker Council Member**

I currently hold (or held in the last twelve months) the following position of employment:

1. _____
2. _____
3. _____

I currently serve (or served in the last twelve months) as a member, director, officer or agent of or for the following corporations, partnerships, firms, associations, or other entities, for which compensation other than per diem and expenses is paid:

1. _____
2. _____
3. _____

I, my spouse or my immediate family members have a potential sources of conflict of interest concerning my duties as WIB members or council members.

☐ **NO** **Stop here and sign/date the form if you answer NO.**

☐ **YES** **Continue completing the form if you answer YES**

I have (or had in the last twelve months) a "financial interest" in the following corporations, partnerships, firms, associations, or other entities, as that term is defined in the bylaws of the _____ Workforce Investment Board:

1. _____
2. _____
3. _____

For each entity listed in response to item I, II, III above, the following describes any benefits or services that such entity has provided to the Workforce Investment Board for any of its programs for a fee or any benefits or services that the board has provided to such entity for a fee, within the last five (5) program years:

1. _____
2. _____
3. _____

My spouse/immediate family member, _____ , currently holds (or held in the last twelve months) the following position of employment which might present a conflict of interest for me as a WIB member:
1. _____
2. _____
3. _____

My spouse/immediate family member, _____ , currently serves (or served in the last twelve months) as a member, director, officer or agent of or for the following corporations, partnerships, firms, associations, or other entities, for which compensation other than per diem and expenses is paid that might present a conflict of interest for me as a WIB member:
1. _____
2. _____
3. _____

My spouse/immediate family member, _____ , has (or had in the last twelve months) a "financial interest" in the following corporations, partnerships, firms, associations, or other entities, as that term is defined in the bylaws of the _____ Workforce Investment Board that might present a conflict of interest for me as a WIB member:
1. _____
2. _____
3. _____

For each entity listed in response to item I, II, III above, the following describes any benefits or services that such entity has provided to the Workforce Investment Board for any of its programs for a fee or any benefits or services that the board has provided to such entity for a fee, within the last five (5) program years:
1. _____
2. _____
3. _____

These statements are true and complete to the best of my knowledge.

Date: _____ Signed: _____

Title: _____

_____ Workforce Investment Board Member
(WIB Name)

Attachment 2

SAMPLE

reference Section 117(g) of the Workforce Investment Act

DISCLOSURE LETTER OF (POTENTIAL) CONFLICT OF INTEREST

Workforce Investment Board Name
Address Line #1
Address Line #2
City/State/Zip

Dear Workforce Investment Board Chair:

This letter serves to notify you of a (potential) conflict of interest that I have with regard to a matter that will or may come before the council for consideration. The matter at issue is … *(Briefly describe the potential conflict in detail making sure to fully describe the (potential) conflict.* This information is provided in order to inform you of a (potential) conflict of interest, as is required by the bylaws of the Workforce Investment Board.

I will keep all persons informed as to any changes in circumstances by written notification.

I will comply with all applicable by laws and other requirements of this Workforce Investment Board and all applicable laws with regard to this situation.

Please contact me at your earliest convenience in order to discuss this situation.

Sincerely,

Board Member Name, Board Member