

**Workforce Development System
Technical Advisory #15-5
April 14, 2015**

To: Workforce Development Community

Subject: Initial Designation of Local Areas under the Workforce Innovation and Opportunity Act (WIOA).

Purpose

This technical advisory is to establish policy and procedure necessary for the initial designation of Local Workforce Development Areas as required by WIOA.

Note – WIOA renames two local entities established under the Workforce Investment Act (WIA), and relevant to this technical advisory, as follows:

- Local Workforce Investment Area is renamed Local Workforce Development Area (LWDA); and
- Local Workforce Investment Board (LWIB) is renamed Local Workforce Development Board (LWDB).

The new nomenclature for these entities is used in this technical advisory, and must be used in WIOA implementation and administration documents related to this technical advisory. However, it is not necessary to change the name of an entity legally established under WIA to coincide with this nomenclature.

Action

The New York State Department of Labor (NYSDOL), on behalf of the Governor, will receive requests from current LWIB Directors, with an attestation that their LWIB Chair and all impacted Chief Elected Officials (CEOs) have been made aware of and are in agreement with the request for initial designation of a LWDA under WIOA. In preparing the requests, the current LWIB Chair and LWIB Director must consult with: the current LWIB; and local CEO for a single jurisdiction LWDA, or local CEOs for a multi-jurisdiction LWDA.

Requests for initial designation of a LWDA under WIOA must meet the criteria set forth in this technical advisory and be submitted to NYSDOL no later than May 15, 2015. On behalf of the Governor, NYSDOL will approve requests for initial designation of a LWDA under WIOA, following consultation with the State Workforce Investment Board (SWIB), and a review of comments provided during the 15 day public comment period. NYSDOL

will notify local areas of their designation status once the approval process has been completed.

Policy

WIOA requires LWDA to be designated by the Governor in order to receive federal funding allotments.

On behalf of the Governor, NYSDOL will accept requests from current LWIB Directors for LWDA initial designation for local areas that meet three criteria: Successful Performance; Sustained Fiscal Integrity; and local Chief Elected Official(s) (CEOs) Agreement Executed for WIOA. NYSDOL will approve such requests in consultation with the State Workforce Investment Board (SWIB). Each of the approval criteria is described below.

Successful Performance – Will be assessed for the two years prior to WIOA enactment in a manner consistent with procedures under WIA. With regards to common measures, local areas that passed their annual performance review or are operating under approved performance improvement plan will be eligible for approval.

Sustained Fiscal Integrity – Will be assessed for the two years prior to WIOA enactment in a manner consistent with uniform administrative requirements as promulgated in circulars or rules of the Federal Office of Management and Budget and monitored by NYSDOL. Criteria, as reflected in the annual Financial Management Review, include the following.

- Amounts reported as cash expenditures, accruals, obligations, stand-in costs and program/interest income are accurate, allowable and properly supported by documentation.
- Cost allocation methodologies used by the local area are OMB compliant, costs are properly and equitably distributed to the benefiting cost objectives and documentation is maintained in support of the allocations.
- Local area is consistent in developing, using, and maintaining budgets for grant funding, and costs are being tracked against budget parameters.
- Internal controls of the financial management system are adequate and reliable.

Chief Elected Official(s) (CEOs) Agreement Executed for WIOA – This agreement ensures the local CEO of a single jurisdiction LWDA, or all local CEOs in a multi-jurisdiction LWDA understand and agree to the following items.

- Identification of counties and/or cities comprising the LWDA.
- Compliance with statutory and regulatory requirements In accordance with WIOA (P.L. 113-128), and organize and implement activities pursuant to WIOA and in accordance with requirements established by the Governor of the State of New York for purposes of implementing programs and services under WIOA.

- Identification of the Chief Elected Official(s) in the LWDA who are parties to the agreement.
- Designation of the Grant recipient – Identification of the CEO who will serve as the local Grant Recipient responsible for the WIOA funds allocated to the LWDA.
- Designation of the Fiscal Agent – Designation by the Grant Recipient CEO of:
 - A local governmental grant sub-recipient or fiscal agent to assist the CEO in the administration of the grant funds; or
 - Acknowledgement that a Fiscal Agent will be designated, and that the entity will have reliable internal controls for financial management and disbursement of funds.
- Membership of the LWDB – Recognition to appoint a LWDB. If the LWDA is multi-jurisdictional, then identification of each local CEO’s role in appointing the LWDB.

Local areas should take steps to ensure that CEO agreements are kept current, and NYSDOL will require the latest version to be submitted as part of the biannual local board certification process detailed in a subsequent technical advisory.

Attachment A presents a sample of a multi-jurisdiction LWDA CEO agreement.

Attachment B presents a template for a single jurisdiction LWDA CEO agreement.

Procedures

Local areas that do not meet the performance and/or fiscal sustainability criteria will be notified by NYSDOL no later than April 15, 2015. Any local area that does not meet the performance criteria and/or sustained fiscal integrity must submit a Corrective Action Plan as prescribed by NYSDOL for approval prior to requesting local area designation. NYSDOL will provide technical assistance to such local area(s).

For local areas that do meet these criteria, NYSDOL will accept designation requests on the Governor’s behalf, and will administratively review requests for completeness, including Local CEO agreements. Requests which meet the approval criteria will be advanced to the SWIB for comment, and will be approved by NYSDOL on behalf of the Governor after any public comments are reviewed and evaluated.

Requests must be submitted by the current LWIB Director via email at LWDB@labor.ny.gov with copy to the current LWIB Chair and associated local CEOs. The subject line should state “2015 LWDA Initial Designation.” In addition, the body of the email must include:

- A statement requesting initial LWDA designation;
- An attestation that the LWIB Chair and all local CEOs are aware of and in agreement with the request; and
- An attached Local CEO Agreement.

Requests must be received by no later than May 15, 2015.

Local Area Redesignation:

If a local area, after consultation with all effected Board Directors and CEOs, opts to be designated as a different area under WIOA, Board Directors should contact NYSDOL via email at LWDB@labor.ny.gov or through the State Program Representative. NYSDOL will then work with the Board Director and CEO to plan the designation of the new area, which will be held to the same criteria as other local areas seeking designation as LWDA's. The new proposed LWDA must be consistent with labor market areas, align with regional economic development areas, and must have available resources necessary to effectively administer activities under WIOA.

Appeals

Any local area that requests but is not granted designation may, within thirty days of the date of denial, submit a written request for appeal to the SWIB at SWIB@labor.ny.gov. Please attach the original email request for local area designation as an attachment.

Background

WIOA includes the processes by which LWDA's will be initially and subsequently designated by the Governor and promulgates requirements for such processes.

References

WIOA, Section 106.

Inquiries

Questions regarding LWDA designations may be directed to: State Program Representative

Attachments

Attachment A: [Sample multi-jurisdictional CEO agreement](#)

Attachment B: [Template for use by single CEO local areas](#)