

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT AND TRAINING
ADMINISTRATOR'S MEMO SERIES

ACTION 15-04
 NOTICE

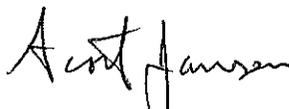
ISSUE DATE: 06/30/15
DISPOSAL DATE: Ongoing

*PROGRAM CATEGORIES:

AS FM LM TC
 CR IT ML TR
 FL JC TA WIA
 WIOA YA

TO: Workforce Development Board Directors
Chief Local Elected Officials
Workforce Development Board Chairs

FROM: Scott Jansen, Division Administrator



PURPOSE: This Administrator's Memo communicates policy and procedures regarding the designation of local workforce development areas (WDAs).

CITATIONS

- Public Law HR 803, July 22, 2014, Workforce Innovation and Opportunity Act (WIOA): Sec. 106.
- Public Law S. 1124, May 22, 2015, WIOA Technical Amendments Act: Sec. 2(b).
- 20 CFR 679 et al., April 16, 2015, Workforce Innovation and Opportunity Act Proposed Rules.
- United States Department of Labor Training and Employment Guidance Letter (TEGL) WIOA No. 27-14, April 2015, Operating Guidance for the WIOA.

BACKGROUND

The purpose of a local workforce development area (WDA) is to serve as a jurisdiction for the administration of workforce development activities and execution of adult, dislocated worker, and youth funds allocated by the State. Such areas may be aligned with a region or may be components of a planning region, each with its own Local Workforce Development Board (WDB). TEGL 27-14 requires that the State develop a policy for designation of local workforce development areas by July 1, 2015. This policy discusses the procedures for designation of workforce development areas.

*PROGRAM CATEGORIES:

AS--Apprenticeship Standards
CR--Civil Rights
FL--Foreign Labor Certification

FM--Financial Management Requirements
IT--IT Systems
JC--Job Center

LM--Labor Market Information
ML--Migrant Labor
TA--Trade Assistance
TC--Tax Credit Programs
TR--Transportation

WIA--Workforce Investment Act
WIOA--Workforce Innovation and Opportunity Act
YA--Youth Apprenticeship

POLICY

I. DESIGNATION OF LOCAL WORKFORCE DEVELOPMENT AREAS UNDER WIOA

Section 106(b) of the WIOA establishes that the Governor must designate local WDAs (local areas) in order for the State to receive Adult, Dislocated Worker, and Youth Funding under Title I, subtitle B.

TEGL 27-14 distinguishes between areas that were and were not designated as areas under the Workforce Investment Act (WIA). Requirements for designation under WIOA differ, depending on which category the area falls under. If an area is approved for initial designation under WIOA, the period of initial designation applies to Program Years 2015 and 2016.

A. AREAS THAT WERE DESIGNATED AS LOCAL AREAS UNDER THE WORKFORCE INVESTMENT ACT OF 1998

Section 106(b)(2) of the WIOA states that "[d]uring the first 2 full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was (1) designated as a local area for purposes of the Workforce Investment Act, (2) performed successfully, and (3) sustained fiscal integrity."

Note: Though the Proposed Rules and Regulations state that a Concentrated Employment Program (CEP) may not apply for initial and subsequent designation, TEGL 27-14, Change 1, eliminates this determination and allows CEPs to apply for designation under this subsection. The WIOA Technical Amendments Act further amends WIOA to allow an area served by a rural CEP to request designation as a local area.

"Performed Successfully" means that the local area met or exceeded the levels of performance the Governor negotiated with the Local Board and Chief Elected Official (CEO) and the local area has not failed any individual measure for the last two consecutive program years before the enactment of WIOA. "Met" is defined as a performance number that is greater than or equal to 80% of the negotiated goal and less than or equal to the actual negotiated goal. "Exceed" is defined as a performance number that is above the negotiated goal. "Failed" is defined as a performance number that falls below 80% of the negotiated goal.

Performance for initial and subsequent designation is judged according to standards agreed to between the State and local area at the time of enactment rather than under subsequently imposed performance standards. Therefore, performance is judged according to achievement of the performance goals negotiated between WDBs and the Department of Workforce Development (DWD) for Program Years 2012 and 2013.

"Sustained Fiscal Integrity" means that the Secretary [of Labor] has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination.

If a local area that was designated under WIA requests initial designation under WIOA but does not meet all of the requirements above, the Governor has the discretion to approve the

initial designation under WIOA or to redesignate the local area pursuant to the procedures described in section 106(b)(4) of WIOA.

CEOs of local areas wishing to request initial designation as a WDA for WIOA must submit the attached request form (Attachment A) to the DWD. The application will be reviewed, using the above requirements.

B. AREAS THAT WERE NOT DESIGNATED AS LOCAL AREAS UNDER THE WORKFORCE INVESTMENT ACT OF 1998

The CEO and Local Board from any unit of general local government or combination of units may submit a request for designation as a workforce development area. CEOs requesting the above are required to submit documentation substantiating how the proposed WDA:

1. Is consistent with local labor market areas;
2. Has a common economic development area; and
3. Has the Federal and non-Federal resources, including appropriate education and training institutions, to administer activities under WIOA subtitle B.

II. SUBSEQUENT DESIGNATION OF LOCAL AREAS UNDER WIOA

Section 106(b)(3) states that, "after the period for which a local area is initially designated, the Governor shall approve a request for subsequent designation as a local area from such a local area, if such area – (1) performed successfully, (2) sustained fiscal integrity, and in the case of a local area in a planning region, met the requirements of regional planning, during the 2-year period of initial designation."

"Performed Successfully" and "Sustained Fiscal Integrity" are deemed to be defined the same as they were defined during the review period for initial designation.

Local areas that are able to demonstrate successful performance and fiscal integrity must be permitted to continue to operate and may not be re-designated without the consent of the Local Board and CEO in the local area.

It is presumed that local areas will be considered to have requested continued designation unless the CEO and the Local Board directly notify the Governor that they no longer wish to operate as a local area.

III. PROCEDURES FOR ENSURING STAKEHOLDER AND PUBLIC COMMENT

Prior to the development of this policy, DWD Secretary Reggie Newson consulted with the Governor's Council on Workforce Investment (CWI) about local area designations and local board requirements at the CWI meeting on March 23, 2015. Plans to implement local governance requirements under WIOA, including local area designations, were discussed at the March 12, 2015, monthly WIOA state call between the DWD-Division of Employment and Training (DET) and the local WDBs. A draft of this policy was shared with the WIOA Review Committee for a one week review and comment period. The WIOA Review Committee is comprised of leadership from all state plan program partners. This policy was routed in draft form for review and comment to the local WDBs and Wisconsin Workforce Development Association (WWDA) in June of 2015, prior to a discussion about the policies and comments during the monthly DET-WDB WIOA call on June 13, 2015. Comments from

the above stakeholders were considered during the development of and prior to final issuance of this policy.

WIOA requires that the state make the public aware of requests for initial designation through a public review and comment period. All requests will be posted for a public review and comment period. After the conclusion of public review periods, the DWD will conduct an analysis of the request, taking into consideration comments received and the below specifics.

- A. For those requests from current WDAs, the DWD will determine whether the WDA meets automatic designation requirements. If a WDA does not meet automatic designation requirements, the DWD will conduct an analysis of the Area's actions to rectify issues pertaining to the requirements of performing successfully and sustaining fiscal integrity and whether those actions improved the issues cited.
- B. For those requests from areas that were not designated as WDAs under WIA, the DWD will conduct an analysis of the proposal and documentation provided by the requestor as required by I.B. of this policy.

Within 120 days of receipt of the requests, the DWD will present its analyses to local WDBs and CEOs, utilizing the WWDA as a means to convening those entities and parties. The DWD will also present its analyses to the CWI, which shall make a recommendation for the Governor's consideration.

The Governor shall review the local request, the DWD's analysis and the CWI's recommendation while considering all requests for initial designation. The law allows the Governor until June 30, 2017, to approve all requests for initial designation.

IV. APPEALS

A unit of general local government or grant recipient that requests but is not granted designation of an area as a local area under either the initial or subsequent designation clause may submit an appeal to the CWI. If a decision by the CWI is not rendered in a timely manner, 60 days after the submission of the appeal, or if the appeal does not result in designation, the entity may request review by the Secretary of Labor. Appeals must be filed no later than 30 days after receipt of written notification of the denial from the State Board, and must be submitted by certified mail, return receipt requested, to the Secretary of Labor.

The appellant must establish that it was not accorded procedural rights under the appeal process set for in the State Plan, or establish that it meets the requirements for designation in WIOA sections 106(b)(2) or 106(b)(3) and 20 CFR 679.250. The Secretary of Labor may require that the area be designated as a workforce development area, if the Secretary determines that the entity was not accorded procedural rights under the State appeals process or if the area meets the initial designation requirements at WIOA section 106(b)(2).

ACTION REQUIRED

Areas that are designated as an area under WIA should submit the attached request form for initial designation or redesignation in compliance with WIOA, the Proposed Rules and Regulations, and this policy. To expedite the process of designations, the DWD requests that the form be submitted by December 31, 2015.

SPECIAL NOTE

This policy is based on the DWD's initial analysis of WIOA statute and proposed regulations without detailed interpretative guidance from the United States Department of Labor. This policy is subject to change as additional federal guidance is released that is contrary to or otherwise different from the DWD's interpretation of WIOA. This policy should be considered a placeholder until final federal regulations and guidelines are established.

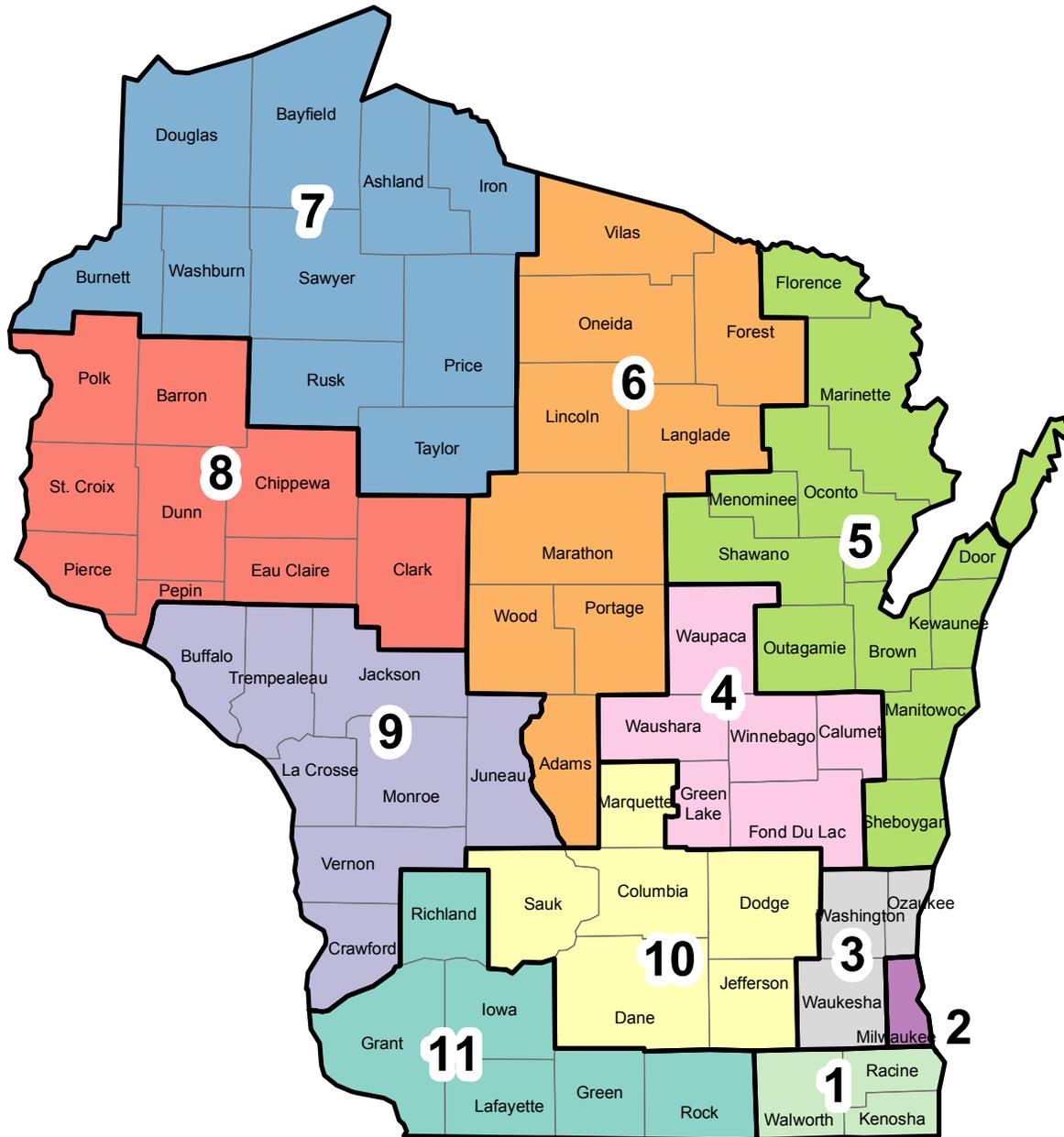
CONTACT

Questions about this policy should be directed to Phil Koenig (at Phil.Koenig@dwd.wi.gov or 608-266-0988) or to your Local Program Liaison.

ATTACHMENTS

Attachment A: Request Form for Initial Designation as a WDA for Current WDAs
Attachment B: Current Workforce Development Area Map

Wisconsin's Workforce Development Areas



 WDA 1 - Southeast	 WDA 5 - Bay Area	 WDA 9 - Western
 WDA 2 - Milwaukee	 WDA 6 - North Central	 WDA 10 - South Central
 WDA 3 - WOW	 WDA 7 - Northwest	 WDA 11 - Southwest
 WDA 4 - Fox Valley	 WDA 8 - West Central	