



New Jersey State Employment and Training Commission

Dennis M. Bone, *Chairman*

Chris Christie, *Governor*

POLICY RESOLUTION: SETC #2016-02

SUBJECT: New Jersey Subsequent Local Area Designation

Background

The Workforce Innovation and Opportunity Act (WIOA) of 2014 requires that the Governor designate local areas that are consistent with labor market areas in the State, are consistent with regional economic development areas in the State, and have available the Federal and non-Federal resources necessary to effectively administer activities under 29 U.S.C. 3151 through 3181 (Chapter 32, Subchapter I, Part B, of WIOA) and any other applicable provisions of WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools. This is to be done through consultation with the State workforce development board and after consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process as described within 29 U.S.C. 3112(b)(2)(E)(iii)(II).

Initial Designation and Timeframe

WIOA states that during the first 2 full program years following July 22, 2014, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 (WIA) for the 2-year period preceding July 22, 2014, performed successfully, and sustained fiscal integrity. The period of initial designation for local areas is from July 1, 2015 – June 30, 2017. This covers Program Years 2015 and 2016. Local areas must submit requests for initial designation using the process included in SETC Policy #2015-02.

Subsequent Designation and Timeframe

WIOA further states that after the initial designation period, the Governor shall approve a request for subsequent designation as a Local Workforce Development Area (LWDA) from such local area, if such area has performed successfully, sustained fiscal integrity and in the case of a local area in a planning region, met the requirements described in 29 U.S.C. 3121(c)(1). In addition, the SETC is requiring that the LWDA demonstrate its ability to coordinate planning with its regional partners, and fully support its WDB roles, through the Regional Coordination metric and WDB Certification metric, as defined in the Combined State Plan. **Requests from local areas for subsequent designation must be provided to the SETC by March 31, 2017. The subsequent Local Workforce Area designation will be effective July 1, 2017.**

Option 1: Existing Local Area, No Changes

The Local Workforce Development Area (LWDA) requests that its designation be continued under WIOA, with no changes to its current area configuration. The LWDA provides a letter of request to the SETC and NJLWD, and a signed Agreement with the Chief Elected Official, using the process, timelines and templates provided in this policy. The existing LWDA must demonstrate its ability to work effectively with its regional partners, as measured by the Regional Coordination metric outlined below. The existing LWDA must also demonstrate its ability to effectively carry out the WDB duties required under WIOA, as measured by the WDB Certification metric defined in the Combined State Plan.

Option 2: Modification of Local Area

If a local area, after consultation with all affected Local Workforce Development Board Directors and CEOs, opts to be subsequently designated as a different Local Workforce Development Area (LWDA) under WIOA, the Board Directors must contact the SETC and NJLWD **by December 31, 2016**. The SETC and NJLWD will then work with the Board Director and CEO(s) to plan the designation of the new LWDA, which will be held to the same criteria as other local areas seeking subsequent designation.

The new proposed LWDA must be consistent with labor market areas, align with regional economic development areas, must have available resources necessary to effectively administer activities under WIOA, must demonstrate performance success under the initial local area designation period, and must conform with New Jersey regional designation areas. The new LWDA must demonstrate how it will successfully achieve the Regional Coordination metric and WDB Certification metric, as defined in the Combined State Plan.

Examples of local area modification include: two existing local areas proposing to merge into a new combined single LWDA or various local areas that will be combined into a new single LWDA.

The new LWDA will then provide a letter of request to the SETC and NJLWD, and a signed Agreement with the Chief Elected Official, using the process, timelines and templates provided in this policy.

RESOLUTION:

As required under the Workforce Innovation and Opportunity Act (WIOA) of 2014, the State Employment and Training Commission hereby resolves that Local Workforce Development Area (LWDA) requests for subsequent Local Workforce Development Area (LWDA) designation be submitted, and approved or denied, as outlined in this document, for subsequent LWDA designation beginning on July 1, 2017.

Commission Approved: January 19, 2016

New Jersey Local Area Initial Designation Policy, Process and Definitions

Option 1 - Timeline/Process for Existing Local Area, No Changes

1. Letter of Request, signed by LWDB Chair, with Local Elected Official Approval of Request, and CEO Agreement for Single or Multi-Jurisdictional Local Area: **Submit to SETC by February 28, 2017.**
2. SETC and NJLWD verify local area performance and fiscal integrity by **March 31, 2017.**
3. SETC approves or denies local area requests for initial designation: **April 2017**
4. SETC provides notice of approval/denial of initial designation requests to local areas: **May 2017**

Option 2 - Timeline/Process for Option 1 (Modification of Local Area)

1. Local WDB Directors must contact the SETC and NJLWD to advise of the desired modification to the local area by **December 31, 2016.**
2. The SETC and NJLWD will then work with the affected local area(s) to determine if the required conditions are met to enable this modification.
3. Letter of Request, signed by LWDB Chair, with Local Elected Official Approval of Request, and CEO Agreement for Single or Multi-Jurisdictional Local Area: **Submit to SETC by February 28, 2017.**
4. SETC and NJLWD verify local area performance and fiscal integrity by **March 31, 2017.**
5. SETC approves or denies local area requests for initial designation: **April 2017**
6. SETC provides notice of approval/denial of initial designation requests to local areas: **May 2017**

Chief Elected Official(s) (CEOs) Memoranda of Understanding (MOU) Executed with the Local Workforce Development Board(s)

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 Jersey 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 boards should take steps to ensure that the MOUs with the Chief Elected Officials are kept current. The SETC will require the latest version to be submitted as part of the Local Workforce Development Board Certification process.

Performance Success

An area shall be determined to have performed successfully, for the purposes of subsequent designation, if:

- a) the local area has met any additional metrics, including the Regional Coordination metric and WDB Certification metric, as defined in the Combined State Plan

AND met either of the following criteria:

- b) the local area has met or exceeded all common measures under WIA in the two preceding program years, Program Years 2014 and 2015. To meet the measure, the local area must have achieved at least 80% of the performance target

OR

- c) the local area did not meet one or more of the common measures in either/both of these program years and subsequently created a performance improvement plan or corrective action plan, which was approved by the SETC. The area must have followed through on the planned improvements and subsequently met or exceeded that measure in the following program year.

With regard to the above definition of “performance success,” the State has provided local areas with a degree of flexibility in a manner consistent with pertinent State rules; specifically, N.J.A.C. 12:42-3.1 et seq.

Fiscal Integrity

An area shall be determined to have sustained fiscal integrity, if the Secretary of the United States Department of Labor has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds provided under 29 U.S.C. 3151 through 3181 (Chapter 32, Subchapter 1, Part B, of WIOA) (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such part B of this subchapter) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

Appeals

Any unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area may appeal that determination pursuant to the procedure set forth at N.J.A.C. 12:42-3.11 (Appeals). When utilizing the procedure at N.J.A.C. 12:42-3.11 for the purpose of challenging a denial of local area designation, one should substitute the phrase, “denial of local area designation” for the phrase, “corrective action and/or penalty determination;” and one should substitute the term “State Employment and Training Commission” for the term “Assistant Commissioner.”