

State Policy

Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL) Office of Employment and Training 550 South 16 th Street Lincoln, NE 68508 402.471.2022 ndol.wioa_policy@nebraska.gov	Policy category
	Governance
	Effective date
	June 2, 2017
	Supersedes
	Interim Policy on Designation of Local Areas (Rev. 11/23/2015)

Local Area Designation

REFERENCE

Workforce Innovation and Opportunity Act of 2014 (WIOA) Secs. 3, 106, 107, 116; 20 CFR §§ 675.300, 679.220, 679.230, 679.240, 679.250, 679.260; 679.270, 679.280, 683.640; TEGLs 27-14, 25-13; Combined State Plan for Nebraska's Workforce System, July 1, 2016 – June 30, 2020 (Combined State Plan)¹

BACKGROUND

The Governor must designate local areas in order for the state to receive Adult, Dislocated Worker, and Youth funding under WIOA Title IB.²

ACTION

Each local workforce development board (local board) and local area chief elected official (CEO)³ must complete and submit the appropriate request form according to the timelines established in [Section VII](#) of this policy.

This policy is final after a ten (10) day review period. Questions and comments must be submitted in writing to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

¹ The Combined State Plan is available online in PDF format at <http://dol.nebraska.gov/Admin/Uploads/GetFile/fd41e325-0391-4ba4-b489-8682ba9bf30d> and in accessible Word format at <http://dol.nebraska.gov/Admin/Uploads/GetFile/b2bd8ae4-a9b4-4c53-b830-e4fb6c6651b2>.

² 20 CFR § 679.220(b); TEGL 27-14

³ For purposes of this policy, CEO also refers to a “chief elected officials board” as described in the definition of [chief elected official \(CEO\)](#) in APPENDIX III.

POLICY

This policy:

- supersedes and replaces the NDOL Interim Policy on Designation of Local Areas (Rev. 11/23/2015); and
- establishes the requirements of and procedures for local area:
 - initial designation;
 - extension of initial designation;
 - subsequent designation; and
 - redesignation.

This policy is organized into seven (7) sections and three (3) appendices.

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Section I. Requirements for Designation of Local Areas

(a) General Requirements

The general procedural requirements for the Governor's initial and subsequent designation and redesignation of local areas include:⁴

- (1) consultation with the Nebraska Workforce Development Board (NWDB);
- (2) consultation with local boards and CEOs; and
- (3) consideration of comments received through a public comment process which must:
 - (A) offer adequate time for public comment prior to designation of a local area; and
 - (B) provide an opportunity for comment by representatives of local boards, CEOs, businesses, institutions of higher education, labor organizations, other primary local area stakeholders, and the public regarding the designation of the local area.

(b) Initial Designation of Local Areas

If a local board and CEO request initial designation for a local area, the Governor must approve the request if, for the two (2) program years preceding the date of enactment of WIOA, the local area:⁵

- was designated as a local area under the Workforce Investment Act of 1998 (WIA);
- performed successfully;⁶ and
- sustained fiscal integrity.⁷

The following local areas in Nebraska received initial designation for a two (2) year period, July 1, 2015 through June 30, 2017:

- Greater Lincoln Workforce Development Area;
- Greater Nebraska Workforce Development Area; and
- Greater Omaha Workforce Development Area.

⁴ 20 CFR § 679.230

⁵ WIOA Sec. 106(b)(2); 20 CFR § 679.250(a)

⁶ The standard of [performed successfully](#) for purposes of *initial* designation is defined in APPENDIX III.

⁷ Refer to APPENDIX III for the definition of [sustained fiscal integrity](#).

(c) Extension of Initial Designation of Local Areas

If a local board and CEO request an extension of initial designation for a local area, the Governor must approve the request if the local area meets the following criteria:⁸

- performed successfully during the last two (2) full program years and has not failed any individual measure for the two (2) preceding program years; and
- sustained fiscal integrity during the last two (2) full program years.

(d) Subsequent Designation of Local Areas

If a local board and CEO request subsequent designation for a local area, the Governor must approve the request if, for the two (2) most recent program years of initial designation (Program Years 2016 and 2017):⁹

- (1) the local area performed successfully;¹⁰
- (2) the local area sustained fiscal integrity; and
- (3) if the local area is part of a planning region, the local board and CEO participated in a regional planning process that resulted in all of the following activities:¹¹
 - (A) preparation of a regional plan;
 - (B) establishment of regional service strategies, including use of cooperative service delivery agreements;
 - (C) development and implementation of sector initiatives for in-demand industry sectors or occupations for the region;
 - (D) collection and analysis of regional labor market data (in conjunction with NDOL);
 - (E) establishment of administrative cost arrangements, for the region including the pooling of funds for administrative costs, as appropriate;
 - (F) coordination of transportation and other supportive services for the region, as appropriate;
 - (G) coordination of services with regional economic development services and providers; and

⁸ 20 CFR § 679.250(a)

⁹ 20 CFR § 679.250(b)

¹⁰ The standard of performed successfully for purposes of *subsequent* designation is defined in APPENDIX III.

¹¹ WIOA Sec. 106(c)(1)(A) – (H); 20 CFR § 679.250(b)(1) – (3)

- (H) establishment of an agreement concerning how the planning region will collectively negotiate and reach agreement with Governor on local levels of performance and report on the performance accountability measures described in WIOA Sec. 116(c) for the local areas or the planning region.

The local board and CEO are considered to have requested subsequent designation unless the local board and CEO notify the Governor in writing, according to the timelines established in [Section VII](#) of this policy, that they no longer seek designation for the local area.¹²

Determination of subsequent designation must not be made before the conclusion of Program Year 2017 (June 30, 2018).¹³

(e) Local Areas not designated under WIA

The Governor may designate a local area that was not designated as a local area under the Workforce Investment Act of 1998 (WIA), provided that the proposed local area:¹⁴

- (1) is consistent with local labor market areas;
- (2) has a common economic development area; and
- (3) has the necessary Federal and non-Federal resources, including appropriate education and training institutions, to administer WIOA Title IB Adult, Dislocated Worker and Youth activities.

The Governor may approve a request at any time for designation as a local area from any unit of general local government¹⁵ including a combination of such units, if the NWDB:¹⁶

- (4) determines that the proposed local area is consistent with local labor market areas; and
- (5) recommends designation.

Section II. Procedures for Designation of Local Areas

(a) Initial Designation

All local areas in Nebraska have received initial designation as of the effective date of this policy, as described in [Section I\(b\)](#) of this policy, in accordance with the requirements of WIOA Sec. 106(b)(2).

(b) Extension of Initial Designation

The procedures for requesting extension of initial designation as a local area are described below.

¹² 20 CFR § 679.250(e)

¹³ 20 CFR § 679.250(c)

¹⁴ 20 CFR § 679.240(a)

¹⁵ Refer to APPENDIX III for the definition of [unit of general local government](#).

¹⁶ 20 CFR § 679.240(b)

- (1) The CEO and local board complete and submit a *Request for Extension of Initial Designation through June 30, 2018* (form provided as [APPENDIX I](#) to this policy) according to the timelines established in [Section VII](#) of this policy and the instructions provided in APPENDIX I.
- (2) NDOL reviews the request to ensure the local area meets the requirements of 20 CFR § 679.250(a)(2) – (3).
- (3) Upon receipt of a recommendation from NDOL, the Governor:
 - (A) approves or denies the request; and
 - (B) provides written notification of the decision made regarding the request to:
 - (i) the NWDB;
 - (ii) all local boards and CEOs; and
 - (iii) all other entities requesting designation as a local area.

(c) Subsequent Designation

The procedures for requesting subsequent designation as a local area are described below.

- (1) The CEO and local board complete and submit a *Request for Subsequent Designation as a Local Area* (form provided as [APPENDIX II](#) to this policy) according to the timelines established in [Section VII](#) of this policy and the instructions provided in APPENDIX II.
- (2) NDOL reviews the request to ensure the local area meets the requirements of 20 CFR § 679.250(b).
- (3) NDOL forwards the request to the NWDB and all other local boards and CEOs for review and comment and makes the request available to the public for comment through the public comment process.
 - (A) NDOL posts each designation request on its website for public review a comment for a period of thirty (30) days and publishes a public notice of the availability of the request for public comment.
 - (B) NDOL publishes a public notice of the NWDB meeting during which the designation request will be discussed.
 - (C) The NWDB meeting is open to the public and comments about each designation request are allowed and heard.

(4) Upon receipt of a recommendation from the NWDB and following consideration of comments from CEOs, local boards, and the public, the Governor:

(A) approves or denies the request; and

(B) provides written notification of the decision made regarding the request to:

- (i) the NWDB;
- (ii) all local boards and CEOs; and
- (iii) all other entities requesting designation as a local area.

Section III. Requirements for Redesignation of Local Areas

If local boards and CEOs within a planning region make a joint written request to the Governor for redesignation of their respective local areas as a single local area and the Governor approves the request,¹⁷ the NWDB must authorize use of WIOA Title IB (Adult, Dislocated Worker, and Youth programs) statewide funds to facilitate redesignation activities.¹⁸

Redesignation activities that may be carried out by local areas making such a request include:¹⁹

- convening sessions and conferences on the topic of the redesignation;
- renegotiating contracts and agreements impacted by the redesignation; and
- other activities directly associated with the redesignation, as deemed appropriate by the NWDB.

When statewide funds are not available, funds for redesignation activities may be provided in the next available program year.²⁰

Section IV. Procedures for Requesting Redesignation of Local Areas

Procedures for requesting redesignation of local areas are described below.

- (1) The local boards and CEOs of the planning region submit a joint written request to NDOL requesting redesignation of their respective local areas as a single local area and provide written documentation that describes the reasonable projected costs for redesignation activities. The request and documentation must be submitted electronically to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

¹⁷ 20 CFR § 679.240(c)

¹⁸ 20 CFR § 679.280(a)

¹⁹ 20 CFR § 679.280(c)

²⁰ 20 CFR § 679.280(b)

- (2) NDOL reviews the request and documentation to ensure the request meets the requirements of 20 CFR § 679.280 and this policy and verifies the availability of WIOA Title IB (Adult, Dislocated Worker, and Youth programs) statewide funds for the current program year.
- (3) NDOL provides the request and documentation to the NWDB for review and consideration.
- (4) Following the NWDB's review and consideration of the request, NDOL forwards the request and documentation to the Governor with the NWDB's recommendation regarding redesignation of the local area.
- (5) The Governor reviews the request, documentation, and NWDB's recommendation and notifies the local boards and CEOs of the decision made on the request for redesignation.
- (6) If the Governor approves the request for redesignation, the NWDB authorizes use of WIOA Title IB statewide funds at its next regularly scheduled meeting, provided that:
 - (A) the projected costs for redesignation activities are reasonable and verifiable; and
 - (B) WIOA Title IB statewide funds are available for the current program year.
- (7) If WIOA Title IB statewide funds are not available for the current program year, funds from the next available program year may be provided.

Section V. Appealing a Designation Decision

(a) Appealing to the Nebraska Workforce Development Board

A local board or CEO may appeal the Governor's decision to deny a request for designation as a local area. The appeal must be made to the NWDB according to the procedures described in this subsection (a).

- (1) The local board and CEO must submit a written request for a hearing to the Chair of the NWDB within fifteen (15) calendar days of the notification of denial of the request for designation as a local area.
 - (A) The written request must include a description of the basis for the appeal.
 - (B) The written request must be submitted by certified mail, return receipt requested to: Chair, Nebraska Workforce Development Board, Office of Employment and Training, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508.
 - (C) An electronic copy of the appeal must be simultaneously provided to NDOL's Office of Employment and Training by email to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

- (2) Absent extenuating circumstances, the Chair of the NWDB will assign a hearing officer and a hearing will take place within fifteen (15) calendar days of the Chair's receipt of the written request for a hearing. The hearing will include:
 - (A) a statement of the reason(s) why the request for local area designation was denied; and
 - (B) an appeal by the local board and CEO describing why the decision should be reversed or a compromise established.
- (3) The Chair of the NWDB will render a decision within fifteen (15) calendar days of the date of the hearing.

(b) Appealing to the Secretary of Labor

If the appeal to the NWDB does not result in designation of the local area, the local board and CEO may appeal the denial of the NWDB to the Secretary of the U.S. Department Labor (the Secretary).²¹ The appeal to the Secretary must be made according to the procedures described in this subsection (b).

- (1) The local board and CEO must file the appeal to the Secretary no later than thirty (30) calendar days after receipt of written notification of the NWDB's denial of the request for designation as a local area.²²
 - (A) In its appeal to the Secretary, the local board and CEO must establish that it:²³
 - (i) was not afforded procedural rights under the appeal process set forth in this policy; or
 - (ii) meets the requirements for local area designation provided under WIOA Sec. 106(b)(2) or 106(b)(3) and 20 CFR § 679.250.
- (2) The appeal must be submitted by certified mail, return receipt requested, to: Secretary, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET²⁴ and a copy of the appeal must be simultaneously provided:
 - (A) by certified mail, return receipt requested, to: Chair, Nebraska Workforce Development Board, Office of Employment and Training, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508;²⁵ and

²¹ 20 CFR § 683.640(a)

²² 20 CFR § 683.640(b)

²³ 20 CFR § 683.640(c)

²⁴ 20 CFR § 683.640(b)

²⁵ Ibid.

(B) electronically to:

- (i) John H. Albin, Commissioner of Labor, Nebraska Department of Labor at John.Albin@nebraska.gov; and
- (ii) WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

(3) The Secretary may require that the proposed local area be designated as a local area if the Secretary determines that the appellant has met its burden of establishing that it:²⁶

(A) was not afforded procedural rights under the appeal process set forth in this policy;
or

(B) meets the requirements for designation in WIOA Sec. 106(b)(2) or 106(b)(3) and 20 CFR § 679.250.

In making this determination, the Secretary may consider any comments submitted by the NWDB in response to the appeal made under this subsection (b).²⁷

(4) The Secretary must issue a written decision to the Governor and the appellant.²⁸

Section VI. Review of Designated Local Areas

Following subsequent designation, the Governor:²⁹

- (1) may review a local area at any time to evaluate whether the local area continues to meet the requirements for subsequent designation; and
- (2) must review a local area before submitting a state plan during each four (4) year state planning cycle to evaluate whether the local area continues to meet the requirements for subsequent designation.

Section VII. Timelines

Timelines for extension of initial designation and subsequent designation are provided in Table 1. Timelines presented in Table 1 relating to the NWDB meeting and submission of the request to the Governor and are subject to change.

²⁶ 20 CFR § 683.640(d)

²⁷ Ibid.

²⁸ 20 CFR § 683.640(e)

²⁹ 20 CFR § 679.250(d)

Table 1. Timelines for Extension of Initial Designation and Subsequent Designation

Event	Deadline
Local Board and CEO – must submit to NDOL a <i>Request for Extension of Initial Designation through June 30, 2018</i>	Wednesday, May 31, 2017
NDOL – reviews the request for extension of initial designation through June 30, 2018 to ensure the local area meets WIOA requirements for extension	Thursday, June 1, 2017 – Thursday, June 8, 2017
NDOL – makes a recommendation to the Governor regarding the request for extension of initial designation through June 30, 2018	Friday, June 9, 2017 – Thursday, June 29, 2017
Governor – notifies the local board and CEO of the decision made on the request for extension of initial designation through June 30, 2018	Friday, June 30, 2017
Local Board and CEO – must submit a <i>Request for Subsequent Designation as a Local Area</i> or a letter stating that they no longer seek designation for the local area	Monday, March 26, 2018
NDOL - reviews the request for subsequent designation to ensure the local area meets WIOA requirements for subsequent designation	Tuesday, March 27, 2018 – Tuesday, April 10, 2018
NDOL - forwards the request for subsequent designation to the NWDB and all other local boards and CEOs for comment, issues a public notice announcing the request and seeking public comment on the request, and makes the request available to the public for a 30-day comment period	Wednesday, April 11, 2018
NDOL - publishes a public notice of the scheduled NWDB meeting at which the request for subsequent designation will be discussed	Tentative – Monday, May 14, 2018
NWDB - discusses the request for subsequent designation during the scheduled NWDB meeting	Tentative – Friday, June 8, 2018
NDOL - submits the request for subsequent designation and the NWDB recommendation on the request to the Governor for determination	Tentative – Monday, June 11, 2018
Governor - notifies the local board and CEO of the decision made on the request for subsequent designation	Friday, June 29, 2018

DISCLAIMER

This policy is based on NDOL's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

APPENDIX I. Request for Extension of Initial Designation through June 30, 2018

This request may be used by any entity requesting the extension of initial designation as a local workforce development area (local area) pursuant to Workforce Innovation and Opportunity Act of 2014 (WIOA).

Submit this form by email to John H. Albin, Commissioner of Labor, Nebraska Department of Labor at John.Albin@nebraska.gov, with a copy to the WIOA Policy mailbox at ndol.wioa_policy@nebraska.gov.

General Information

1. Extension of initial designation as a local area, through June 30, 2018, is requested for the following counties: _____
2. Identify the local area: _____
3. Identify the local workforce development board (local board): _____
4. Identify the Chief Elected Official (CEO) representing the local area: _____
5. Identify the Chair of the local board representing the local area: _____
6. Provide the name, title, mailing address, phone number, fax number, and email address of the primary contact person regarding this request:

Name: _____
Title: _____
Mailing Address: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

Criteria for Initial Designation as a Local Area

Criteria for initial designation as a local area requires that the local area:³⁰

1. was designated as a local area under the Workforce Investment Act of 1998 (WIA);
2. performed successfully during the last two (2) full program years and has not failed any individual measure for the two (2) preceding program years;³¹ and
3. sustained fiscal integrity during the last two (2) full program years.³²

³⁰ 20 CFR § 679.250(a)

³¹ 20 CFR § 679.260(a)

³² 20 CFR § 679.260(c)

1. Designation as a Local Area under WIA

Was the local designated as a local area under WIA? _____

2. WIOA Title IB Program Performance

Tables 1 and 2 below, provide the final WIOA program performance data for the local area for each of the two (2) preceding program years, Program Year (PY) 2014 and PY 2015.

Table 1. WIOA Title IB Program Performance for PY 2014 (July 1, 2014 – June 30, 2015)

Performance Measure	Goal	Actual	Percent of Goal
Youth Placement in Employment/Education			
Youth Attainment of Degree/Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			

Table 2. WIOA Title IB Program Performance for PY 2015 (July 1, 2015 – June 30, 2016)

Performance Measure	Goal	Actual	Percent of Goal
Youth Placement in Employment/Education			
Youth Attainment of Degree/Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			

For each of the performance measures identified in Tables 1 and 2, the U.S. Department of Labor defines performance as follows:³³

- Exceeded = actual performance is greater than 100% of the goal
- Met = actual performance is 80% to 100% of the goal
- Failed = actual performance is less than 80% of the goal

If any performance measure identified in Tables 1 and 2 was not met in either program year, address the reason(s) for failure to meet the established performance goal, describe the corrective action measures taken, and the status of performance (attach a separate sheet if necessary). _____

³³ TEGL 25-13

3. Sustained Fiscal Integrity

For the purposes of initial designation determinations, the term *sustained fiscal integrity* means the Secretary of the U.S. Department of Labor has not made a formal determination that the grant recipient or the administrative entity for the local area, for the two (2) year period preceding the date of this request for extension of initial designation as a local area, misexpended funds due to:³⁴

- willful disregard of the requirements of the provision involved (applicable law);
- gross negligence; or
- failure to comply with accepted standards of administration.

Has the Secretary made such a determination for the local area? _____

Assurances

The CEO making this request for extension of the initial designation of the local area assures that the CEO:

- is duly authorized to participate by and on behalf of the governing bodies of the counties specified in this request and documentation of this authorization can be provided;
- will comply with the requirements of WIOA, all Federal regulations implementing WIOA, and any and all applicable Federal, state, or local laws, rules, and regulations; and
- accepts liability for any misuse of grant funds.

I, on behalf of the local area identified herein, do hereby submit this formal request for an extension of the initial designation of such local area under the conditions described herein and with the assurances specified herein and with the agreement of the local board identified herein, which is demonstrated by the signature of the Chair of such local board.

Chief Elected Official: <insert name>

Date

Chair, Local Workforce Development Board: <insert name>

Date

³⁴ 20 CFR § 679.260(c)

APPENDIX II. Request for Subsequent Designation as a Local Area

INSTRUCTIONS

This form must be used by any entity requesting subsequent designation as a local workforce development area (local area).

1. Complete sections 1 through 4 of this form.
2. Sign and date this form.
3. Submit this completed and fully signed form electronically to:
 - a. John H. Albin, Commissioner of Labor, Nebraska Department of Labor at John.Albin@nebraska.gov; and
 - b. the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

This form must be submitted in accordance with the timelines established in the current Nebraska Department of Labor policy on local area designation.

Incomplete and/or unsigned forms will not be considered.

1. General Information

Subsequent designation as a local workforce development area (local area) is requested for the following counties (attach a separate sheet if necessary):_____

Specify the name of the local area:_____

Provide the names of the members of the local workforce development board (local board) representing the local area, indicating which member is the chair of the local board (attached a separate sheet if necessary):_____

Provide the name of the chief elected official (CEO) or the names of members of the chief elected officials board (CEOB) representing the local area, indicating which member is the chair of the CEOB (attached a separate sheet if necessary):_____

Provide the following information for the primary point of contact for this request:

Name:	_____
Title:	_____
Mailing address:	_____
Phone number:	_____
Email address:	_____

2. Levels of Performance

For the purposes of subsequent designation determinations made after the conclusion of Program Year 2017 but prior to the conclusion of Program Year 2018, the term “performed successfully” means that the local area *exceeded* or *met* the levels of performance negotiated among the Governor, local board, and CEO or CEOB for Program Years 2016 and 2017 for each of the following core indicators of performance listed in Table A.

Table A. Levels of Performance for Program Years 2016 and 2017

Indicator	PY16 Negotiated Level of Performance	PY16 Actual Performance	PY16 % of Negotiated Level Achieved	PY17 Negotiated Level of Performance	PY17 Actual Performance	PY17 % of Negotiated Level Achieved
1. Employment rate 2 nd quarter after program exit						
2. Median earnings 2 nd quarter after program exit						

Standards of *exceeded*, *met*, and *failed* are based on the following criteria:³⁵

- (1) *exceeded* means local area exceeded negotiated performance levels when actual performance on an individual performance measure is in excess of one hundred (100) percent of the negotiated level of performance;
- (2) *met* means local area met negotiated performance levels when actual performance on an individual performance measure falls within the eighty (80) percent to one hundred (100) percent range of the negotiated level of performance; and
- (3) *failed* means the local area failed to meet negotiated performance levels when actual performance on an individual performance measure is less than eighty (80) percent of the negotiated level of performance.

If the local area failed to meet either indicator of performance listed in Table A for either program year, provide the following information.

- (4) Describe the reasons the local area failed to meet negotiated levels of performance:

- (5) Describe the corrective actions taken: _____

- (6) Describe the status of local area performance on any such failed indicator of performance:

³⁵ TEGL 25-13

3. Fiscal integrity

For the purposes subsequent designation determinations, the term *sustained fiscal integrity* means that the Secretary of the U.S. Department of Labor has not made a formal determination that either the grant recipient or the administrative entity for the local area, for the two (2) year period preceding the date of this request, misexpended funds due to:³⁶

- (1) willful disregard of the requirements of the provision involved (applicable law);
- (2) gross negligence; or
- (3) failure to comply with accepted standards of administration.

Has the Secretary of Labor made a formal determination that either the grant recipient or the administrative entity for the local area, for the two (2) year period preceding the date of this request, misexpended WIOA Title IB (Adult, Dislocated Worker, and Youth programs) funds provided to the local area due to willful disregard of the requirements of the provision involved (applicable law), gross negligence, or failure to comply with accepted standards of administration?

Yes ☐ No ☐

4. Assurances

The CEO or chair of the CEOB, as applicable, and the local board making this request for subsequent designation of the local area assure that they:

- are duly authorized to participate by and on behalf of the governing bodies of the counties specified and documentation of this authorization can be provided;
- will comply with all provisions of WIOA, all Federal regulations implementing WIOA, and any and all applicable Federal, state, or local laws, rules and regulations; and
- accept liability for any misuse of grant funds.

These assurances are signed and submitted with the agreement of the CEO or chair of the CEOB, as applicable, and chair of the <enter name of local board>, on behalf of the <enter name of local board>.

<enter name of local board>	
CEO or Chair of CEOB	Date

On behalf of the <enter name of local board>	
Chair, <enter name of local board>	Date

³⁶ 20 CFR § 679.260(c)

APPENDIX III. Definitions

(a) chief elected official (CEO)

The term “chief elected official” means:³⁷

- the chief elected executive officer of a unit of general local government in a local area; and
- in the case of a local area that includes multiple units of general local government, the individuals designated under the agreement executed among the chief elected officials of the local area in accordance with WIOA Sec. 107(c)(1)(B).

For purposes of this policy, the term chief elected official also refers to a chief elected officials board (CEOB) established in accordance with WIOA Sec. 107(c)(1)(B).

(b) consultation

The term “consultation” means the process by which state and/or local stakeholders convene to discuss changes to the public workforce system and constitutes a robust conversation in which all parties are given an opportunity to express thoughts and opinions.³⁸

Written correspondence or other simple communication methods *do not* constitute consultation.³⁹

(c) exceeded

The standard of *exceeded*, in relation to local area performance, means the local area exceeded performance levels when actual performance on an individual performance measure is in excess of one hundred (100) percent of the negotiated level of performance.⁴⁰

(d) failed

The standard of *failed*, in relation to local area performance, means the local area failed to meet performance measures when actual performance on an individual performance measure is less than eighty (80) percent of the negotiated level of performance.⁴¹

(e) labor market area⁴²

The term *labor market area* means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. A labor market area will be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining labor market areas or similar criteria established by the Governor.

³⁷ WOA Sec. 3(9)

³⁸ 20 CFR § 675.300

³⁹ Preamble to 20 CFR § 679.230

⁴⁰ TEGL 25-13

⁴¹ Ibid.

⁴² WIOA Section 3(30)

(f) local board

The term *local board* means a local workforce development board established under WIOA Sec. 107.⁴³

(g) met

The standard of *met*, in relation to local area performance, means the local area met performance levels when actual performance on an individual performance measure falls within the eighty (80) percent to one hundred (100) percent range of the negotiated level of performance.⁴⁴

(h) performed successfully

The standard of *performed successfully* varies in meaning in relation to the applicable program year(s).

(1) For initial designation

For purposes of initial designation of local areas for Program Years 2016 and 2017, the term *performed successfully* means the local area:⁴⁵

- *met or exceeded* all performance levels negotiated among the Governor, local board, and CEO under WIA Sec. 136(c) for the two (2) full program years prior to the enactment of WIOA; and
- has not failed to meet any individual measure during the two (2) consecutive program years prior to the enactment of WIOA.

(2) For subsequent designation

For purposes of subsequent designation determinations made after the conclusion of Program Year 2017 (June 30, 2018) the term *performed successfully* means the local area *met* or *exceeded* the levels of performance negotiated among the Governor, local board, and CEO for Program Years 2016 and 2017 for each of the following core indicators of performance:⁴⁶

- employment rate second (2nd) quarter after program exit; and
- median earnings second (2nd) quarter after program exit.

⁴³ WIOA Section 3(33)

⁴⁴ TEGL 25-13

⁴⁵ 20 CFR § 679.260(a)

⁴⁶ 20 CFR § 679.260(b)(1)

(3) For subsequent designation after the conclusion of PY 2018 and later

For the purposes of subsequent designation determinations made after the conclusion of Program Year 2018 or any point thereafter, the term *performed successfully* means the local area *met* or *exceeded* the levels of performance negotiated among the Governor, local board, and CEO for the two (2) most recently completed program years for each of the following core indicators of performance:⁴⁷

- employment rate second (2nd) quarter after program exit;
- employment rate fourth (4th) quarter after program exit: and
- median earnings second (2nd) quarter after program exit;
- effectiveness in serving employers;
- credential attainment rate:
 - percentage of participants enrolled in an education or training program (excluding those in on-the-job training and customized training) who attained a recognized postsecondary credential or a secondary school diploma (or its recognized equivalent) during participation in or within one (1) year after exit from the program but only if the participant also is employed or is enrolled in an education or training program leading to a recognized postsecondary credential within one (1) year after exit from the program; and
- measurable skills attainment rate:
 - percentage of participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment.

NOTE: Depending upon the type of education or training program, documented progress is defined as one of the following:

- documented achievement of at least one (1) educational functioning level of a participant who is receiving instruction below the postsecondary education level;
- documented attainment of a secondary school diploma or its recognized equivalent;
- a secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the state unit's academic standards;

⁴⁷ 20 CFR § 679.260(b)(2)

- satisfactory or better progress report, towards established milestones, such as completion of OJT or completion of one (1) year of an apprenticeship program or similar milestones, from an employer or training provider who is providing training; or
- successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade related benchmarks such as knowledge-based exams.

(i) **sustained fiscal integrity**

For the purposes initial and subsequent designation determinations, the term *sustained fiscal integrity* means that the Secretary of the U.S. Department of Labor has not made a formal determination that either the grant recipient or the administrative entity for the local area, for the two (2) year period preceding the date of a request for designation as a local area, misexpended funds due to:⁴⁸

- (1) willful disregard of the requirements of the provision involved (applicable law);
- (2) gross negligence; or
- (3) failure to comply with accepted standards of administration.

(j) **unit of general local government**

The term “unit of general local government” means any general-purpose political subdivision of a state that has the power to levy taxes and spend funds and has general corporate and police powers.⁴⁹

⁴⁸ 20 CFR § 679.260(c)

⁴⁹ WIOA Sec. 3(62)