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STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT SERVICES
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Jeanne S. Paquette
COMMISSIONER

Subject of Policy:	Initial Designation under WIOA	Policy No.	PY15-01
To:	<ul style="list-style-type: none"> Local Workforce Investment Boards Chief Elected Officials 	From:	Richard Freund, Acting Bureau Director and Deputy Commissioner of Labor
Issuance Date	<ul style="list-style-type: none"> May 29, 2015 	Status	Active
Reference/ Authority:	<ul style="list-style-type: none"> WIA Section 116 WIOA Section 106(b) TEGL 37-10; TEGL 27-14; TEGL 30-14 20 CFR 661.250 through 661.280 20 CFR 667.200 through 667.860 <i>proposed</i> 20 CFR 683.540 <i>proposed</i> 		
<p>Terms: WIA means the Workforce Investment Act of 1998 WIOA means the Workforce Innovation and Opportunity Act Local Area means a Local Workforce Investment Area (LWIA) as identified under WIA and referred to as a Local Workforce Development Area (LWDA) under WIOA Local Board means a Local Workforce Investment Board (LWIB) as identified under WIA and referred to as a Local Workforce Development Board (LWDB) under WIOA State Workforce Agency means the Maine Department of Labor, Bureau of Employment Services (MDOL) on behalf of the Governor CEO means Chief Elected Official under WIOA formerly referred to as Chief Local Elected Official under WIA CORE partners means the following programs: Wagner Peyser, Adult, Youth, Dislocated Worker, Adult Education, and Vocational Rehabilitation</p>			

Purpose:

This policy provides the procedures and requirements by which local areas designated under WIA may request initial designation under the Workforce Innovation and Opportunity Act (WIOA) and by which any new local government entity may request initial designation as a local area under WIOA.

Per WIOA Section 106(b) the Governor must designate local workforce development areas in order for the State to receive Adult, Dislocated Worker and Youth formula funding under Title I, subtitle B of WIOA. The purpose of a local workforce development area is to serve as a jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker and Youth formula funds allocated by the State and to coordinate efforts related to the other CORE programs at the local community level.

Policy:

The Maine Department of Labor (MDOL) - Bureau of Employment Services (BES), on behalf of the Governor, will consult with State and Local Workforce Investment Boards and Chief Elected Officials regarding this policy and will post this policy for public comment for a period of 15 work days.

As required under the WIA Section 116 and under WIOA Section 106 (b) and as iterated in each of the State Strategic Plans since 2000, the substantive requirements for initial designation of a local workforce development area are as follows:

- The local area is consistent with local labor market area;
- The local area has a common economic development area;
- The local area has the Federal and non-Federal resources, including appropriate education and training institutions, to administer activities under WIOA subtitle B.

A request for local area designation by any unit of general government may be approved at any time provided the State Board determines that the local area meets the above requirements.

If a local area initially designated under WIA submits a request for initial designation under WIOA, the MDOL, on behalf of the Governor, will accept and approve the request provided that during the two program years prior to enactment of WIOA (*July 22, 2014*), the following criteria have been met:

1. the local area was designated as a local area under WIA and met the substantive requirements listed above;
2. the local area performed successfully; and
3. the local area sustained fiscal integrity.

If the local area is approved for initial designation based on the above, the period of initial designation applies to program years 2015 and 2016 (PY15 and PY16).

The above terms are defined as follows:

Performed successfully – means that during the two program years prior to enactment of WIOA, the local area met or exceeded the common measures negotiated under WIA.

- The term **met performance criteria** means the local area attained at least 80% of the negotiated performance measure for each or any of the nine common measures categories under WIA
- The term **exceeded performance criteria** means the local area achieved more than 100% of the negotiated performance measure for each or any of the nine common measures categories under WIA.
- The term **failed performance criteria** means the local area did not achieve at least 80% of the negotiated performance measure for each or any of the nine common measures categories and continued to fail for each of the two years prior to enactment of WIOA.

Sustained Fiscal Integrity – means that during the two program years prior to enactment of WIOA, the local area administered WIA funds in a manner consistent with uniform administrative requirements as promulgated in rules of the Federal Office of Management and Budget and in accordance with criteria identified in the MDOL Financial Policy Manual. Sustained fiscal integrity is based on any of the following:

- a. **Misexpenditure of funds due to willful disregard of the requirements of the provision involved;** which may include expenditure of funds:
 - for wage and salary costs of individuals whose salaries and fringe exceed the total compensation threshold identified in 2 CFR §170.330 Appendix-A paragraph e.5,
 - on any cost deemed unallowable per 2 CFR 200.420 thru 200.520 ,
 - in excess of allowable thresholds per WIA and/or State and/or Local Policy,
 - for costs identified as unallowed per 20 CFR 683.250 (*proposed*),Willful disregard may also include Fraud, Nonfeasance, or Malfeasance, for an expanded definition of this component see to page 57 of the MDOL Financial Policy Manual.
- b. **Been deemed Grossly Negligent:** Gross negligence or gross mismanagement pertains to actions or situations arising out of management ineptitude or oversight and leading to a major violation of policy, process, regulations or contract/grant provisions. Such actions have the potential to: severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular project, including but not limited to un-auditable records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the IRS and lack of good internal control procedures, per the MDOL Financial Policy Manual.

- c. **Complied with Accepted Standards of Administration.**

Accepted standards of administration pertain to local area adherence to standards of financial administration as identified throughout 2 CFR 200 and as identified in the MDOL Financial Policy Manual, and which include:

1. Financial Reporting: Accurate, current, and complete disclosure of the financial activities of each grant awarded must be made as required by the terms of the grant. All allowable costs must be traceable to the accounting records. See Section B of the MDOL financial manual for additional reporting requirements.
2. Accounting Records: Records must be maintained that identify the source and expenditure of grant funds. The records must contain information pertaining to the award and authorization, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. The records must be maintained in accordance with Generally Accepted Accounting Principles.
3. Internal Control: Effective controls and accountability must be maintained for cash, real and personal property, and other assets. All such assets must be adequately safeguarded and used solely for authorized purposes.
4. Budget Control: To ensure that overspending does not occur, actual expenditures or outlays must be compared with budgeted amounts for each grant award. Financial information must be related to performance or productivity data, including the development of unit-cost information when specifically required in the grant.
5. Allowable Costs: The subrecipient must determine what costs are allowable in accordance with OMB cost principles; grant regulations, and the terms of the grant award. In addition, no grant may pay more than its fair share of the costs (allocability). See Section E of the MDOL Financial Manual for further information on cost principles and Section F for further information on allowable costs.
6. Source Documentation: Accounting records must be supported by source documentation such as cancelled checks, invoices, purchase orders, paid bills, payrolls, time and attendance records, and award documents. The source documentation must relate directly to the costs claimed on the drawdown requests and quarterly financial reports.
7. Cash Management: Procedures for minimizing cash-on-hand must be established by each subrecipient. See Section D of the MDOL Financial Manual for cash management requirements.
8. Adherence to Contract Requirements Subrecipients must adhere to all requirements delineated in the contract/grant including Federal and State requirements as laid out in each Rider of the contract/grant.

The State, at any time subsequent to an award, may review the administrative and financial management system of a subrecipient to ensure that the subrecipient has processes and procedures in place that clearly document adherence to the eight aforementioned standards.

MDOL Action:

On behalf of the Governor, MDOL Commissioner Jeanne Paquette, will receive and review requests for local area designation. Requests are to be submitted to MDOL prior to March 1, 2016. MDOL encourages local areas that were active under WIA to submit requests for designation under WIOA as soon as possible. Requests for local area designation will be reviewed once the consultation process has been completed and comments have been considered.

Consultation Process Timeline:

May 29, 2015 – Consultation with State Workforce Investment Board
June 1, 2015 –Submit policy to local boards and CEOs for review

June 1, 2015 - Publish policy for public comment for a period of 15 work days, closing on June 19, 2015
Between June 8 and June 26, 2015 conduct conference calls and/or meetings to consult with local area boards, board directors and CEOs on the requirements for initial local area designation under WIOA.

Procedure for submitting a request for local area designation:

Requests must be submitted via email to: Jeanne Paquette, Labor Commissioner: Jeanne.Paquette@maine.gov

The email subject line must read "2015 Local Area Request for Initial Designation."

The email must include:

- A statement requesting initial LWDA designation under WIOA; and
- A Statement from the LWIB Chair (on behalf of board members) and the CEO that they are in agreement with the request being submitted; and

Please cc the following individuals in the email request:

- ✓ Richard Freund, Acting Bureau Director Richard.Freund@maine.gov
- ✓ Garret Oswald, SWIB Director Garret.J.Oswald@maine.gov
- ✓ The Board Chair for the local area
- ✓ The CEO for the local area

Appeals:

Any local area that requests but is not granted initial designation, may, within thirty days of denial, submit a written request for appeal to the SWIB at swib.dol@maine.gov. Appellants must submit the appeal in writing and include a copy of the original request, a copy of the denial letter, and provide sufficient evidence to establish that it meets the requirements for local area designation under WIOA. Appeals must be submitted via certified mail to: Garret Oswald, SWIB Director, 120 State House Station, Augusta, Maine 04333-0120

Questions and comments may be directed via email to:

Ginny Carroll, Division Director Virginia.A.Carroll@maine.gov