



Richland County Council Special Called Meeting
AGENDA
April 25, 2023 – 6:45 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

- | | |
|--|--------------------------------------|
| 1. <u>Call to Order</u> | The Honorable Overture Walker, Chair |
| 2. <u>Adoption of Agenda</u> | The Honorable Overture Walker |
| 3. <u>Items for Action:</u> | The Honorable Overture Walker |
| a. Midlands Workforce Development Area
Interlocal Consortium Agreement
[PAGES 2-23] | The Honorable Overture Walker |
| 4. <u>Adjournment</u> | |

Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.

State of South Carolina
Workforce Innovation and Opportunity Act

Local Workforce Development Area Subsequent Designation Petition

This Petition must be used by any entity requesting subsequent designation as a Local Workforce Development Area pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA).

Section I. Petitioning Jurisdiction(s)

A. Designation as a Workforce Development Area is requested for the following county(ies).

- Richland _____
- Lexington _____
- Fairfield _____
- _____
- _____
- _____
- _____
- _____

B. Specify the name of the proposed Workforce Development Area.

Midlands _____

C. List the names of the chief elected officials (CEOs) representing the units of general local government on whose behalf this petition is being submitted.

<u>County</u>	<u>Name</u>
Richland	Overture Walker
Lexington	Beth Carrigg
Fairfield	Douglas Pauley

D. List the name, title, mailing address, telephone number, fax number and e-mail address of the primary contact person regarding this petition.

Name:	Tammy Beagen
Title:	Interim Director
Mailing Address:	100 Executive Center Drive
	Suite 218
	Columbia, SC 29210
Telephone Number:	(803) 744-1670 x303
Fax Number:	n/a
E-Mail Address:	tbeagen@midlandsworkforce.org

Section II. Consortium Agreement

If the local area includes more than one unit of general local government, the chief elected officials must negotiate a consortium agreement in order to establish a workforce development area to deliver WIOA funded services. Such agreement must be included as an attachment to this subsequent designation petition.

Section III. Existing Workforce Area

A. In the tables below, provide the final WIOA performance data for each of the last two (2) consecutive years.

Program Year 2021 (July 1, 2021 – June 30, 2022)							
Performance Measure		Employment Rate Q2	Employment Rate Q4	Median Earnings	Credential Rate	Measurable Skill Gains	Overall Program Score
Title I Adult	Goal	77.5%	72.6%	\$5705	50.5%	54.7%	109.6%
	Actual	75.1%	73.2%	\$6764	57.8%	64.1%	
	% of Goal	96.9%	100.8%	118.6%	114.5%	117.2%	
Title I DW	Goal	82.8%	81.3%	\$8300	64.4%	51.6%	102.2%
	Actual	81.7%	84.8%	\$8315	62.5%	57.1%	
	% of Goal	98.7%	104.3%	100.2%	97.0%	110.7%	
Title I Youth	Goal	74.5%	80.1%	\$4325	62.4%	41.9%	107.1%
	Actual	87.2%	76.5%	\$4287	52.9%	58.3%	
	% of Goal	117.0%	95.5%	99.1%	84.8%	139.1%	
Overall Indicator Score		104.2%	100.2%	106.0%	98.8%	122.3%	

Program Year 2020 (July 1, 2020 – June 30, 2021)							
Performance Measure		Employment Rate Q2	Employment Rate Q4	Median Earnings	Credential Rate	Measurable Skill Gains	Overall Program Score
Title I Adult	Goal	77.0%	72.1%	\$5656	49.5%	53.9%	103.9%
	Actual	71.9%	67.3%	\$6398	53.4%	60.2%	
	% of Goal	93.4%	93.3%	53.4%	107.9%	111.7%	
Title I DW	Goal	82.3%	80.8%	\$8300	63.9%	51.3%	109%
	Actual	82.6%	78.6%	\$8496	66.1%	72.7%	
	% of Goal	100.4%	97.3%	102.4%	103.4%	141.7%	
Title I Youth	Goal	74.0	79.5%	\$4325	61.9%	41.1%	99.9%
	Actual	75.5%	72.8%	\$4087	57.1%	49.0%	
	% of Goal	102.0%	91.6%	94.5%	92.2%	119.2%	
Overall Indicator Score		98.6%	94.1%	103.3%	101.2%	124.2%	

For each measure, the US Department of Labor defines performance as follows:

- Meets performance =
 - Individual Indicator Score—50% of goal for each individual measure
 - Overall Indicator Score—90% of goal for overall individual measure
 - Overall Program Score—90% of goal for overall program performance
- Does not meet performance =
 - Individual Indicator Score—less than 50% of goal for an individual measure
 - Overall Indicator Score—less than 90% of overall individual measure
 - Overall Program Score—less than 90% of overall program performance

If any measure was not met in either program year, address the reasons, corrective action measures taken, and current status.

N/A

B. Address fiscal integrity regarding funds provided under WIOA.

Has the Secretary made a formal determination, during either of the last 2 consecutive years, that WIOA funds provided to the area were misexpended due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration?

No

Section IV. Local Board Information

Using Attachment A, provide a list of local board members, to include composition categories and contact information.

Section V. Grant Recipient/Fiscal Agent

Using Attachment B, designate the grant recipient/fiscal agent for the area. Signature of the lead official is required. Signatures of each chief elected official are also required. The use of electronic signatures is permissible.

Section VI. Public Comment

Attach documentation that public input was solicited and provide all comments received.

Section VII. Assurances and Signatures

A. Assurances

The chief elected officials (CEOs) making this designation request assure the following:

- That they have been duly authorized to participate by and on behalf of the governing bodies of the counties specified and documentation of this authorization can be provided;
- Compliance with the requirements of the Act, all federal regulations implementing the Act, any revisions or amendments thereto, state issued instructions, and any and all applicable federal, state or local rules and regulations; and,
- Acceptance of the liability for any misuse of grant funds.

B. Signatures—The use of electronic signatures is permissible.

I/We, the undersigned chief elected official(s) of the petitioning county(ies), do hereby submit this formal designation petition under the conditions delineated herein and with the assurances specified herein.

<u>County</u>	<u>Signature</u>	<u>Date</u>
Richland	_____	_____
Lexington	_____	_____
Fairfield	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submit Petition to WorkforceSupport@dew.sc.gov by 5:00 p.m., April 30, 2023.

Attachment A

WIOA Local Workforce Development Board Membership

Total Seats 24

Seats Occupied

23

Seats Vacant

1

Business (per Section 107(b)(2)(A))					
No.	Name	Affiliation and Title	Contact Phone and Email	Address	
1	Bonnie Austin	Private Healthcare, Consultant	(803) 269-8267 baustin@att.net	3907 MacGregor Drive Columbia, SC 29205	
2	George "Smokey" Davis	Lexington County Development Corp, President	(803) 513-5333 smokeydavis@outlook.com	1006 12 th Avenue Cayce, SC 29033	
3	Carl Kennedy	Element TV Company, LP, Vice President Human Resources	(803) 815-1400 Carl.K@elementtv.com	PO Box 581 Winnsboro, SC 29180	
4	Adam Korycki	Ridge Manufacturing, Inc., President	(803) 532-4166 adamk@clipracks.com	109 Aiken Street Batesburg, SC 29006	
5	Cecilia Kusnirak	Wabtec Corporation, Human Resources Manager	(803) 256-1612 Cecilia.kusnirak@wabtec.com	949 Rosewood Dr Columbia, SC 29201	
6	Kate Lang	TRC Staffing, Director Professional & Commercial Recruiting	(803) 255-7267 Kate.lang@trcstaffing.com	1218 Henderson Street Columbia, SC 29203	
7	Donna Lax	Harsco Rail, HR Manager	(803) 822-7440 Dlax@harsco.com	2401 Edmund Road West Columbia, SC 29171	
8	Ritchie Monteith	Blanchard Machinery, Training and Development Manager	(803) 718-2403 jmonteith@blanchardmachinery.com	3151 Charleston Hwy West Columbia, SC 29172	
9	Reggie Murphy	Keller Williams Realty, Broker in Charge	(803) 348-1699 regmurph@bellsouth.net	701 Cornhill Rd Columbia, SC 29210	
10	Harry Plexico, Jr	Intertape Polymer Group, Plant Management	(803) 348-7404 hplexico@hotmail.com	PO Box 654 White Rock, SC 29177	
11	Michael Ray	Training Concepts, Sr Account Manager	(803) 765-9070 Michael@trainingconcepts.com	250 Berryhill Rd Ste 502 Columbia, SC 29210	
12	Sheena Thompson	Mark Anthony Brewing, People Operations Business Partner	(803) 917-9184 sthompson@markanthony.com	3160 Shop Road Columbia, SC 29209	
13	Maranta White	Trane Columbia, Human Resources Generalist	(980) 258-4412 Maranta.white@tranetechnologies.com	400 Killian Road Columbia, SC 29203	

Not Less Than 20% (per Section 107(b)(2)(B))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Brian Strickland	Federal Aviation Administration (Labor)	(803) 822-4421 strickbk@windstream.net	2823-B Airport Blvd West Columbia, SC 29170
2	Jimmy Burroughs	Christ Central/Good Samaritan, Director	(803) 936-3870 ccwinnsboro@truvista.net	3531 US Hwy 321 N Winnsboro, SC 29180
3	Chip Fallaw	Our Refuge: Ninety-One Co-Founder	(803) 603-0791 Clyde.fallaw@outlook.com	245 Woodwinds West Dr Columbia, SC 29212
4	Tim Miller	Walker White, Program Director (Apprenticeship)	(803) 691-0918 tmiller@walker-white.com	7402 Fairfield Road Columbia, SC 29203
5	David Prigge	Lexington/Richland School District Five Career & Technical Education Director	(803) 735-3332 dprigge@lexrich5.org	6671 St Andrews Rd Columbia, SC 29212
6	Vacant	Organized Labor		

Education & Training (per Section 107(b)(2)(C))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Bobby Cunningham	Richland County School District Two Adult Education Director	(803) 736-8787 bcunningham@richland2.org	750 Old Clemson Rd Columbia, SC 29229
2	Amy Scully	Midlands Technical College, Vice Provost for Corp & Cont. Education	(803) 691-3880 Scullya@midlandstech.edu	PO Box 2408 Columbia, SC 29202

Governmental, Economic, and Community Development (per Section 107(b)(2)(D))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Donna Earley	SC Commission for the Blind, Administrative Coordinator	(803) 898-1049 Donna.earley@sccb.sc.gov	1430 Confederate Avenue Columbia, SC 29201
2	Jeff Ruble	Richland County Director, Economic Development	(803) 576-1368 Ruble.jeffrey@richlandcountysc.gov	1201 Main St Ste 910 Columbia, SC 29201
3	Mike Wuest	SC Dept of Employment & Workforce Area Manager	(803) 737-4365 mwuest@dew.sc.gov	PO Box 995 Columbia SC 29202

Others as Chief-Elected Officials Determine Appropriate (per Section 107(b)(2)(E))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				

Denote multiple representation with an asterisk (*).

Total Number of Seats Filled	23
Number of Seats Filled Representing Business	13
Percentage of Seats Filled Representing Business	56.5%
Number of Seats Filled Representing Not Less than 20%	5
Percentage of Seats Filled Representing Not Less than 20%	21.7%
Number of Seats Filled Representing Education & Training	2
Number of Seats Filled Representing Gov't, Economic & Comm. Dev.	3
Number of Seats Filled Representing Others by Chief Elected Officials	0

Attachment B

Midlands Local Workforce Development Area

Designation of Grant Recipient/Fiscal Agent

The Chief Elected Officials of the Midlands Local Workforce Development Area hereby designate Central Midlands Council of Governments as the grant recipient and fiscal agent pursuant to the Workforce Innovation and Opportunity Act (WIOA).

While WIOA permits the local Chief Elected Officials (CEOs) to designate an entity to serve on their behalf as grant recipient and fiscal agent, the CEOs understand that this designation does not relieve them of their liability for any misuse of grant funds. The use of electronic signatures is permissible.

<u>County</u>	<u>Authorized Signature</u>	<u>Date</u>
Richland		
Lexington		
Fairfield		

As the authorized signatory official of Central Midlands Council of Governments, I accept the responsibilities as WIOA grant recipient and fiscal agent for the Midlands Workforce Development Area.

Rebecca Vance, Acting Executive Director		
Name and Title	Signature	Date

MIDLANDS WORKFORCE DEVELOPMENT AREA INTERLOCAL CONSORTIUM AGREEMENT

This Agreement is mutually reached among the following parties: Elected Officials of Fairfield, Lexington and Richland Counties; Midlands Workforce Development Board; and Central Midlands Council of Governments.

WHEREAS, the State of South Carolina Workforce Development Board, pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA), has designated the Midlands Workforce Development Area (MWDA) to include Fairfield, Lexington and Richland Counties; and

WHEREAS, the Midlands Workforce Development Area has a local Workforce Development Board, the Midlands Workforce Development Board (hereinafter, MWDB) established in accordance with WIOA criteria at section 107 (b) (1) (2) (3) (4) (5) (6) of the Workforce Innovation and Opportunity Act of 2014;

Now, therefore, the respective county councils, the MWDB and the Central Midlands Council of Governments (hereinafter, CMCOG) enter into the following agreement for the provision of programs and services authorized by WIOA;

1. Purpose. MWDB, a workforce development planning entity, will implement and carry out the provisions of the Workforce Innovation and Opportunity Act for Fairfield, Lexington and Richland counties and such other workforce initiatives as may result from cooperative and collaborative relationships fostered by MWDB in carrying out its responsibilities for workforce development in the Midlands Workforce Development Area.

2. Consortium Structure. The parties to this agreement concur to an equitable delineation of responsibility, duty and partnership with regard to the implementation and execution of WIOA. This partnership includes selection of the fiscal agent and administrative entity for the purposes of oversight, management and operation of Adult, Dislocated Worker and Youth activities, as well as the One-Stop delivery system.

3. Designation of Chief Local Elected Official (CLEO). The CLEO is the Chief Local Elected Official selected among the consortium of Local Elected Officials and representing the Local Elected Officials in the Workforce Development Area. The CLEO shall be a rotating position, serving a term of one (1) year, to be filled by a consortium member County Council Chair on a rotating basis. The service order for CLEO shall be by alphabetical order of the county name. To avoid any conflict of interest (actual or perceived), the CLEO shall not serve as the highest ranking officer on any Board or other entity that governs the fiscal agent or service delivery provider(s). The CLEO shall be the designated authority to execute documents, agreements, transactions, make decisions and execute time sensitive issues.

4. Fiscal Agent. All funds allocated by the Governor to any of the MWDA counties, under the Workforce Innovation and Opportunity Act shall be received by CMCOG as the fiscal agent of the grant recipient and disbursed as provided in Attachment A to this agreement and in accordance with state and federal WIOA requirements and conditions.
5. Administrative Entity. CMCOG will serve as Administrative Entity and carry out the functions described in Attachment A to the agreement.
6. Liability. In accordance with WIOA the Local Elected Officials of the Consortium counties retain financial liability for the MWDA even when designating the Administrative Entity as the fiscal agent for WIOA funds. Fiscal responsibilities will be allocated among the Consortium counties based on the ratio of funds received each year through the Act.
7. Board Appointment. The parties to this agreement shall establish and maintain a Local Workforce Development Board in accordance with federal and state guidelines. The WDB shall be comprised of the mandatory partners and maintain a majority of membership by business representatives from the private sector, as identified in WIOA. Appointments to the board will be conducted by the respective counties in accordance with the accepted processes and guidelines generally followed for board, commission or other service positions. To maintain consistency and effectiveness of leadership, the service term of seats on the board shall expire on a staggered or alternating basis.
8. Amendments. This interlocal consortium agreement is dynamic in nature, and can be modified or amended, if the need arises and the respective signatories agree.
9. Duration. Subject to its execution by all parties, the agreement shall become effective and continue indefinitely; unless it is amended or terminated under the terms of this document.
10. Termination. Any County that is part of this agreement may withdraw from it rendering it null and void by giving 180 calendar days written notice prior to the end of the then existing program year. The same conditions for termination of the agreement shall apply to CMCOG and the MWDB.

Signed for and on behalf of:

FAIRFIELD COUNTY

By: _____
Its: Chairman

Date: _____

LEXINGTON COUNTY

By: _____
Its: Chairman

Date: _____

RICHLAND COUNTY

By: _____
Its: Chairman

Date: _____

MIDLANDS WORKFORCE DEVELOPMENT BOARD

By: _____
Its: Chairman

Date: _____

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS

By: _____
Its: Executive Director

Date: _____

ATTACHMENT A

ROLES AND RESPONSIBILITIES

CHIEF LOCAL ELECTED OFFICIALS (CLEO), MWDB, FISCAL AGENT AND ADMINISTRATIVE ENTITY

I. Role of Midlands Workforce Area Chief Elected Officials (CLEOs)

CLEOs shall be responsible for:

- A. **Fiscal Liability:** In accordance with WIOA, the Local Elected Officials of the Consortium counties retain financial liability for the MWDA (even when designating the Administrative Entity as the fiscal agent for) WIOA funds. Fiscal responsibilities will be allocated among the Consortium counties based on the ratio of funds received each year through the Act **(Ref. Item 6)**.
- B. **Local Grant Recipient/Fiscal Agent Selection:** All funds allocated by the Governor to any of the MWDA counties, under the Workforce Innovation and Opportunity Act shall be received by CMCOG as the fiscal agent of the grant recipient and disbursed as provided in Attachment A to this agreement and in accordance with state and federal WIOA requirements and conditions **(Ref Items 4, 5)**.
- C. **Appointment of MWDB members:** The MWDB will be comprised of membership in Accordance with WIOA Sec. 107, and compliance with criteria established by the Governor, and State Workforce Development Board (SWDB).

Appointments to the board will be conducted by the respective counties in accordance with the accepted processes and guidelines generally followed for board, commission or other service positions. To maintain consistency and effectiveness of leadership, the service term of seats on the board shall expire on a staggered or alternating basis **(Ref Item 7)**.

- D. **Designation of Chief Elected Official (CLEO).** The CLEO is the Chief Local Elected Official selected among the consortium of Local Elected Officials and representing the Local Elected Officials in the Workforce Development Area. The CLEO shall be a rotating position, serving a term of one (1) year, to be filled by a consortium member County Council Chair on a rotating basis. The service order for CLEO shall be by alphabetical order of the county name. To avoid any conflict of interest (actual or perceived), the CLEO shall not serve as the highest ranking officer on any Board or other entity that governs the fiscal agent or service delivery provider(s). The CLEO shall be the designated authority to execute documents, agreements, transactions, make decisions and execute time sensitive issues **(Ref. Item 3)**.

II. Role of the MWDB

MWDB (in partnership with CLEO) shall be responsible for:

- A. Approving policies and providing oversight of WIOA funded and other workforce-funded activities in the three-county workforce development area;
- B. Providing oversight of the day-to-day operation of the Workforce Development system and ensure that all activities comply with the provisions of the Act, MWDB policies and directives, federal state and county regulations to include:
 - 1. Implementing Board workforce system policies and directives;
 - 2. Maintaining a management information system;
 - 3. Providing monthly programmatic and financial reports;
 - 4. Implementing customer grievance procedures as established by MWDB and CMCOG;
 - 5. Implementing Board approved procedures to ensure appropriate conduct and performance of programs and services;
 - 6. Conducting monitoring and providing technical assistance to promote and enhance optimal performance; and
 - 7. Providing technical assistance to service providers as required.
- C. Developing and modifying the five-year local workforce development plan and conducting oversight of the One-Stop system, WIOA funded Adult, Dislocated Worker and Youth employment and training activities;
- D. Selecting of Director and staff to serve the MWDB in compliance with the Administrative Entities policies and applicable available to work criteria, as well as within the means of MWDB budget. Additionally, this shall include determination of staff location, movement, replacement and/or termination of the staff that serve under the periphery of the MWDB Staff within the policies and criteria of the Administrative Entity;
- E. Coordinating workforce development activities with economic development strategies and cultivating employer linkages by promoting private sector involvement in the workforce development system through effective connecting, brokering, leveraging and partnership-building activities;
- F. Selecting operators and providers of WIOA services in the MWDA in accordance with the provisions of WIOA sections inclusive of One-Stop Operators, Youth providers, eligible providers of training services and eligible providers of career services;
- G. Developing a budget for the purpose of carrying out Board activities including an annual budget and any required modifications thereto for the Administrative Entity's

MWDB staff, in accordance with WIOA section 107(d)(12) (A); and forwarding this budget to the CMCOG Board for adoption;

- H. Ensuring that all contracts with service providers establish clear goals and obligations in unambiguous terms;
- I. Negotiating and reaching agreement on local performance measures with the chief elected officials and the Governor;
- J. Designate and maintain standing committees for planning, operation, management, etc., in accordance with WIOA that include:
 - 1. Operation and management of the One-Stop delivery system;
 - 2. Youth services;
 - 3. Services to individuals with disabilities.
- K. Scheduling and staffing all board and committee meetings; and
- L. Attending federal, state and local meetings, conferences and training as needed.

III. Role of the Administrative Entity and Fiscal Agent: Central Midlands Council of Governments

- A. Support activities of the MWDB and carry out WIOA grant requirements and policy directives, including:
 - 1. Staying abreast of and keeping MWDB apprised of federal and state policy directives and pending changes;
 - 2. Providing information regarding anticipated and pending legislation;
 - 3. Ensuring compliance with federal, state and local directives, as required by WIOA; and
 - 4. Attending federal, state and local meetings, conferences and training as needed
- B. Utilization of contracting system which includes:
 - 1. Employing an MWDB-approved system for the award and monitoring of contracts with eligible service providers, said contracts containing acceptable standards for ensuring accountability and ensuring the CMCOG Executive Director's approval, by signature, as designated agent for MWDB, of each MWDB contract;
 - 2. Acting with due diligence to monitor the implementation of the contracts, including carrying out appropriate fiscal monitoring activities (including audits) at regular intervals;
 - 3. Taking prompt and appropriate corrective action upon notice of violations of the Act or the implementing of regulations with all contracts;

4. Ensuring that all contracts for services approved by MWDB are competitively procured in accordance with CMCOG requirements; and
 5. Implementing contract type, terms, and specifications as approved by MWDB.
-
- C. Ensure the appropriate use and management of the funds provided under WIOA subtitle B for the activities and system and for workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under section 116 (ref: WIOA sec 107 (d))
 - D. Receipt and accountability for all Workforce Innovation & Opportunity Act funds;
 - E. Establishment and maintenance of a financial management system;
 - F. Providing monthly financial reports;
 - G. Establishment and maintenance of procurement and contracting system;
 - H. Processing payment and reimbursements authorized by duly enacted board approved policies;
 - I. Monitoring and reporting as required to the MWDB, local elected officials, state, CMCOG and US Department of Labor; and
 - J. Engaging and selecting an auditor to audit all funds as required by the Act.

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

William Floyd
Acting Executive Director

STATE INSTRUCTION NUMBER 20-01, Change 1

To: Chief Elected Officials
Local Workforce Area Signatory Officials
Local Workforce Area Board Chairs
Local Workforce Area Administrators

Subject: **LWDA Subsequent Designation and LWDB Subsequent Certification**

Issuance Date: March 16, 2023

Effective Date: Immediately

Purpose: This state instruction provides the requirements and procedures for requesting subsequent designation as a Local Workforce Development Area (LWDA) and subsequent certification as a Local Workforce Development Board (LWDB).

Change 1 Revision: This revision provides submission dates for Program Year 2022 and highlights the language from 20 CFR § 683.710(b)(3), requiring LWDB's to inform new chief elected official(s) of their responsibilities and liabilities in a timely manner. This revision also clarifies the performance metrics required by the US Department of Labor (DOL) when considering LWDA subsequent designation.

References:

- Workforce Innovation and Opportunity Act, Public Law 113-128, §§ 106-107
- 20 CFR Part 679, Subpart B and Subpart C
- 20 CFR §§ 683.630-683.640, 683.710(b)
- State Instruction 14-03, Change 1

Background:

LWDA Designation

Under the Workforce Innovation and Opportunity Act (WIOA), the Governor must designate LWDAs within the state in order to receive adult, dislocated worker, and youth funding under Title I of WIOA. LWDAs administer workforce development activities and execute adult, dislocated worker, and youth funds allocated by the state. The Governor must designate and redesignate LWDAs within the state through consultation with the State Workforce Development

Board (SWDB), Chief Elected Officials (CEOs), and LWDBs, and after consideration of comments received through a public comment process.

For initial LWDA designation, the Governor must consider the following factors when designating LWDA:

- Alignment with labor market areas in the state
- Common economic development areas
- Availability of the federal and non-federal resources necessary to effectively administer activities and provisions required by WIOA, including appropriate education and training providers, such as institutions of higher education and area career and technical education schools

LWDA Subsequent Designation

After the period of initial designation and if requested by the CEO(s) and LWDB in a local area, the Governor must approve the request if all of the following criteria are met for the two most recent program years:

- The local area performed successfully.

Per 20 CFR § 679.260(b)(2), “performed successfully” means the LWDA met each of the following performance measures related to the WIOA indicators of performance described at 20 CFR § 677.155(a)(1) for the two most recently completed program years:

- Individual Indicator Score of 50% or higher
- Overall Program Score of 90% or higher
- Overall Indicator Score of 90% or higher

Nonperformance occurs if one or more of the outcomes listed above are not reached.

- The local area sustained fiscal integrity.

Per 20 CFR § 679.260(c), “sustained fiscal integrity” means the Secretary 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.

- The local area met the regional planning requirements described in WIOA § 106(c)(1).

LWDB Subsequent Certification

The CEO(s) in a LWDA is authorized to appoint the members of the LWDB for such area, in accordance with the state criteria established under WIOA § 107(b). Once every two years, the Governor must certify one LWDB for each LWDA in the state.

Subsequent certification is based on the following factors:

- LWDB membership requirements defined in WIOA § 107(b)
- Extent to which the LWDB has ensured that the workforce investment activities carried out in the LWDA have enabled the LWDA:
 - To meet the corresponding performance accountability measures
 - To achieve sustained fiscal integrity, as defined above

If a LWDB is not certified, the CEO(s) will appoint and certify a new LWDB in accordance with State Instruction 14-03, Change 1, *State Criteria for WIOA Local Workforce Development Boards*.

NOTE: After providing notice and an opportunity for comment, the Governor must decertify a LWDB, at any time, for fraud, abuse, or failure to carry out the LWDB's functions specified in WIOA § 107(d).

Policy: The following procedures will be used in requesting subsequent designation as a LWDA and in requesting subsequent certification as a LWDB.

Formal Designation Petition

The **LWDA Subsequent Designation Petition**, attached to this document, must be used to request LWDA subsequent designation. The petition will include:

- Consortium agreement (if applicable)
- Certification that the area performed successfully and sustained fiscal integrity for the preceding two-year period (for existing LWDAs)
- List of LWDB members, including composition categories and contact information
- Identification of grant recipient/fiscal agent and signature of the lead official
- Signatures of CEOs from petitioning counties
- Documentation that public input was solicited and of any comments received

NOTE: The use of electronic signatures within the petition and related documents is acceptable.

Consortium Agreement

In cases where a local area includes more than one unit of general local government, the chief elected officials (county council chairs) must negotiate a consortium agreement in order to establish a LWDA to deliver WIOA funded services. Such agreement will, at a minimum:

- Determine the distribution of fiscal liability among the CEOs
- Delineate relationships among the CEOs for the purpose of implementing provisions of WIOA
- Address the appointment of individuals to the LWDB
- Designate an entity to serve as the local grant recipient and fiscal agent for the area

NOTE: Designation of a fiscal agent does not relieve the CEOs of the liability for any misuse of grant funds.

LWDB Certification Criteria

In appointing members to the LWDB, the CEO(s) must comply with State Instruction 14-03, Change 1, *State Criteria for WIOA Local Workforce Development Boards*. The Governor will certify local boards based on the state criteria contained in State Instruction 14-03, Change 1.

NOTE: When there is a change in the chief elected official(s), the LWDB is required to inform the new chief elected official(s), in a timely manner, of their responsibilities and liabilities as well as the need to review and update any written agreements among the chief elected official(s).

Timeline

- All formal LWDA Subsequent Designation Petitions must be submitted to workforcesupport@dew.sc.gov by April 30, 2023.
- A review of the petitions will be presented to the executive committee of the SWDB and voted on by the full board. LWDA recommendations will be made to the Governor.
- Final subsequent designation of LWDA's for the program years 2022 and 2023 will be made by June 30, 2023.

Appeals

Appeal to the SWDB

A unit of local government (or combination of units) or a local area which has requested but has been denied its request for subsequent designation as a LWDA under 20 CFR § 679.250 may appeal the decision to the SWDB, in accordance with the State Plan, WIOA § 106(b)(5), and 20 CFR § 683.630(a). The appealing entity must explain why it believes the denial is contrary to the provisions of WIOA § 106(b)(2) or WIOA § 106(b)(3) and 20 CFR § 679.250. No other cause for appeal will be considered under this section.

Such a unit or local area may submit a written appeal to the SC Department of Employment and Workforce (DEW) within thirty calendar days of the local area's being denied subsequent designation. If the thirtieth day falls on a weekend or holiday, the deadline will be extended to the next business day. Appeals must be submitted by registered mail, clearly identified as "Dated Material," and addressed to:

State Workforce Development Board
C/O: SC Department of Employment and Workforce
Attn: Workforce Support—Appeal of Denial of LWDA Designation, Suite 515
P.O. Box 995
Columbia, SC 29202

The following procedures will apply:

- The Chair will designate the Executive Committee or an Ad Hoc Committee of at least three SWDB members to hear the appeal.
- The designated SWDB representatives will hear the appeal and issue a written decision within sixty business days.

Appeal to the Secretary of Labor

A unit of general local government (including a combination of such units) or grant recipient whose appeal of the denial of a request for subsequent designation as a LWDA to the SWDB has not resulted in such designation, may appeal the SWDB's denial to the Secretary of Labor. Appeals must be filed no later than thirty days after receipt of written notification of the denial from the SWDB, and must be submitted by certified mail, return receipt requested, to the Secretary:

U.S. Department of Labor
Attn: ASET
200 Constitution Ave. NW
Washington, DC 20210

The appellant must establish that the petitioning LWDA was not accorded procedural rights under the state appeal process described in the State Plan or establish that the entity meets the requirements of WIOA § 106(b)(2) or WIOA § 106(b)(3) and 20 CFR § 679.250. If the Secretary determines that the appellant has met its burden of establishing one of these allegations, the Secretary may require that the area be designated as a LWDA. In making this determination, the Secretary may consider any comments submitted by the SWDB in response to the appeal. The Secretary will issue a written decision to the Governor and the appellant.

Action: Please ensure that local chief elected officials, board members, and appropriate staff receive and understand this policy.

Inquiries: Questions may be directed to PolnPro@dew.sc.gov.

Nina Stagers

Nina Stagers, Assistant Executive Director
Workforce Development Division

Attachments and Links:

Local Workforce Development Area Subsequent Designation Petition

- Attachment A: Local Workforce Development Board Membership Form
- Attachment B: Designation of Grant Recipient/Fiscal Agent

[State Instruction 14-03, Change 1, State Criteria for Local Workforce Development Boards](#)