



**Division of Workforce Services
One Stop and Program Support
Final Guidance**

FG OSPS-79

TITLE:	Procedures for Requesting Re-Designation of Local Workforce Investment Areas by a Unit or Combination of Units of General Local Government
RESPONSIBLE OFFICE:	Division of Workforce Services, Bureau of One-Stop and Program Support
EFFECTIVE:	October 7, 2013

I. PURPOSE/SCOPE

The purpose of this issuance is to provide guidance to local chief elected officials (CEOs) and regional workforce boards regarding the process to be followed when a unit or a combination of units of general local government, such as county or group of counties, requests a change in the composition of designated local workforce investment areas.

II. SUMMARY/INTRODUCTION

As one of the requirements for the State of Florida to receive funding under Title I of the Workforce Investment Act of 1998 (WIA), the Governor must designate local workforce investment areas. As of the date of this issuance, Florida has 24 designated local workforce investment areas identified as Regions 1 through 24. Florida’s designated local areas are comprised of one or more counties. Each local area or region has a regional workforce board (RWB) which is responsible for the provision of workforce development services in each of the local areas. In this guidance paper, requests for changes to the composition of local areas will be referred to as “re-designations” of local areas and will include moving a county from inclusion in one local area to inclusion in another local area.

III. AUTHORITY

- Workforce Investment Act of 1998, as amended (Pub. L. 105-220)
- 20 CFR 661.250, “What are the requirements for designation of local workforce investment areas?”
- 20 CFR 661.260, “What are the requirements for automatic designation of local workforce investment areas relating to units of general local government with a population of 500,000 or more?”
- USDOL Training and Guidance Letter No. 37-10, Workforce Investment Act (WIA) and Appropriations Act Provisions on the Designation of Local Workforce Investment Areas

IV. PROCEDURES/POLICY

THE WIA PRESCRIBED PROCESS FOR DESIGNATION OF LOCAL AREAS

The provisions on designations of local workforce investment areas are in WIA section 116(a). See [Attachment](#). In Training and Guidance Letter No. 37-10 ([TEGL 37-10](#)), the United States Department of Labor issued guidance advising that state governors continue to have the authority to designate and re-designate local areas as needed in accordance with WIA section 116.

The WIA prescribed local area designation process is carried out by the Governor through consultation with WFI, as the State Workforce Investment Board, and with local Chief Elected Officials of the local areas which may be impacted, and after consideration of comments received through the public comment process as described in WIA section 112(b)(9). WIA Section 116 (a)(1)(A)). The following must also be considered:

- The geographic areas served by local educational agencies and intermediate educational agencies;
- The geographic areas served by postsecondary educational institutions and area vocational education schools;
- The extent that such local areas are consistent with labor market areas;
- The distance that individuals will need to travel to receive services provided in such local areas; and
- The resources of such local areas available to effectively administer activities carried out under WIA.

WIA section 116 (a)(1)(B). This is the process that must also be followed in re-designations of local areas. It is important to note that local chief elected officials can voluntarily agree to re-designations.

Automatic Designation: WIA requires the Governor to approve a request for designation as a local area from any unit of general local government with a population of 500,000 or more. WIA Section 116 (a)(2). The Governor has the authority to determine the source of population data to use in determining whether a local area qualifies for automatic designation as a local government with a population of 500,000 or more. 20 CFR 661.260.

Temporary and Subsequent Designation: WIA authorized a temporary authorization for areas with populations of 200,000 or more which met specified criteria. However, this provision is no longer available for designations of local areas in Florida. Requests for temporary designation must have been made prior to the submission of the initial state plan. WIA section 116(a)(3); TEGL 37-10.

State Authority to Re-Designate Local Areas:

States may designate and/or re-designate local areas:

- (1) When the chief elected official(s) of the local area(s) voluntarily agrees to the re-designation.

- (2) When a local area was not automatically designated under WIA section 116(a)(2) and the re-designations are made in accordance with the prescribed WIA process for designation of local areas. See TEGL 37-10 (attached).
- (3) When the Governor determines that a local area has substantially violated any provision of title I of WIA. See WIA section 184(b).

Requests Initiated by a Unit or Combination of Units of General Local Government for Re-Designation of Local Areas:

Any unit or combination of units of general local government (local government unit) may request the re-designation of local workforce investment areas. These requests normally would be made by the chief elected official on behalf of the local government unit.¹ Because Florida has completed the process of designating local areas and all units of local government are included in a designated local area, a request for the re-designation of one local area will necessarily impact more than one designated local area.

STEPS IN THE FLORIDA RE-DESIGNATION PROCESS:

WFI has provided the process outlined below to be followed by a unit or units of local government seeking re-designations that are not requests for automatic designation.

It is recommended that prior to initiating the steps below, the WIA section 116 (a)(1)(B) factors, set out above, be given careful consideration and that any necessary data and information be collected so as to make an initial determination on whether the request can be granted in accordance with WIA.

Step 1. The local government unit(s) seeking a re-designation of local areas should inquire of and consult with the chief elected officials of the local areas (county commission for a single county local area or the consortium for multi-county local areas) and the RWBs which would be impacted by the proposed re-designation to determine the positions of each including whether there is agreement to the requested re-designation or whether there are objections. These inquiries should be publicly noticed by placement on the agenda of a publicly noticed meeting and discussed during public meetings.

After this first step, the unit(s) of local government should make a decision as to whether to pursue the request re-designation in light of the positions of the chief elected officials and the RWBs.

Step 2. If a determination is made to proceed with the request, the local government unit(s) seeking a re-designation should formally request re-designation by writing the Governor. A copy of the request should also be sent to WFI. The written request should include sufficient information to enable the Governor, in consultation with WFI, to make a determination on the request. The request for re-designation must include information on the following:

- A. The current designations of the local areas which would be impacted by re-designation;
- B. The re-designations sought;

¹ WIA section 101(48) defines “unit of general local government” as any general purpose political subdivision of a state that has the power to levy taxes and spend funds, as well as general corporate and police powers.

- C. The positions of the chief elected officials of the impacted local areas on the request, supported by documentation such as copies of meeting minutes or resolutions;
- D. The positions of the regional workforce boards in the impacted local areas on the request, supported by documentation such as copies of meeting minutes or resolutions;
- E. Any comments received into the record at the public meetings in which the request for re-designation was discussed, supported by documentation such as copies of meeting minutes;
- F. For each of the re-designated local areas, include information on:
 - 1. Geographic areas served by local and intermediate educational agencies and why the re-designations will better serve the impacted local areas.
 - 2. Geographic areas served by postsecondary educational institutions and area vocational education schools and why the re-designations will better serve the impacted local areas.
 - 3. The extent to which such local areas are consistent with labor market areas and why the re-designation will better serve the impacted local areas.
 - 4. The distance that individuals will need to travel to receive services provided in the re-designated local areas and why the re-designations will better serve the impacted local areas.
 - 5. The resources of the re-designated local areas that are available to effectively administer the activities carried out under WIA and why the re-designations will better serve the impacted local areas.
 - 6. The name of the person to be contacted in reference to the request and the address where official notices are to be mailed.
- G. Any additional information which the requestor(s) wishes to submit in support of the request.

Step 3. Upon receipt of the request, the Governor, with the assistance of WFI, initiates the public comment process described in WIA section 112(b)(9) which should also include solicitation of comments from business and labor representatives for consideration. At the close of the public comment period, the Governor, with the assistance of WFI, considers the comments received.

Step 4. The Governor, with the assistance of WFI, consults with local chief elected officials of the affected local areas. The Governor may rely on the submissions from the requestor(s) with respect to the positions of the local chief elected officials, including the public records of meetings and any recorded votes or resolutions on the request to meet the WIA consultation requirement if such submissions are sufficient to constitute consultation with the local chief elected officials.

Step 5. WFI analyzes the consequences of the requested re-designations pursuant to WIA sections 111(d)(4) and 116(a)(1). The WFI Board shall approve a formal recommendation to

the Governor by majority vote at a formal board meeting at which public comment may be given.

Step 6. The Governor determines whether to grant the re-designation request and, with the assistance of WFI, provides written notice of the determination on the request for re-designation to the requestor(s) and the chief elected officials of the affected local areas or regions. Notice shall also be published in accordance with chapters 286 and 120, Florida Statutes.

Opportunity to Appeal: Pursuant to Final Guidance 00-005, adversely affected local areas, units of local government or grant recipients may appeal the Governor's determination by filing a petition for a hearing with WFI. The petition must be filed within 21 days after receipt of written notice of the Governor's determination. See Final Guidance 00-005 for appeal procedures.

Modification of the State Plan: A re-designation of local areas is considered a substantial change that requires a modification of the State Strategic Plan. The Planning Guidances, at 73 FR 72853 (Dec. 8, 2008) for the Stand-Alone Guidance and 73 FR 73730 (Dec. 3, 2008) for Unified Planning Guidance, provide the specific action items that the State Plan must address; the Plan must identify the state's re-designated local areas and provide a description of the process used to designate such areas. The WIA regulations at 29 CFR 661.230(d) specify that modifications are subject to the same public review and comment requirements that apply to the development of the original State Plan; the state must provide an opportunity for public comment on and input into the development of the modification before submitting it to Employment and Training Administration.

Pursuant to federal law, a State Plan submitted to the Secretary by the Governor is considered to be approved by the Secretary at the end of the 90-day period unless the Secretary makes a written determination during the 90-day period that the plan is not acceptable. Re-designations become effective upon USDOL's approval of the State Plan modification.

V. ATTACHMENT/HYPERLINK

WIA Section 116(a).

[TEGL 37-10](#)

ATTACHMENT

WIA Section 116(a)

CHAPTER 2--LOCAL PROVISIONS

SEC. 116. LOCAL WORKFORCE INVESTMENT AREAS.

(a) Designation of Areas.--

(1) In general.--

(A) Process.--Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 127 or 132, the Governor of the State shall designate local workforce investment areas within the State--

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 112(b)(9).

(B) Considerations.--In making the designation of local areas, the Governor shall take into consideration the following:

(i) Geographic areas served by local educational agencies and intermediate educational agencies.

(ii) Geographic areas served by postsecondary educational institutions and area vocational education schools.

(iii) The extent to which such local areas are consistent with labor market areas.

(iv) The distance that individuals will need to travel to receive services provided in such local areas.

(v) The resources of such local areas that are available to effectively administer the activities carried out under this subtitle.

(2) Automatic designation.--The Governor shall approve any request for designation as a local area--

(A) from any unit of general local government with a population of 500,000 or more;

(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

(3) Temporary and subsequent designation.--

(A) Criteria.--Notwithstanding paragraph (2)(A), the Governor shall approve any request, made not later than the date of submission of the initial State plan under this subtitle, for temporary designation as a local area from any

unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of this Act if the Governor determines that the area--

(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

(B) Duration and subsequent designation.--A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under this subtitle.

(C) Technical assistance.--The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

(D) Performed successfully.--In this paragraph, the term ``performed successfully'' means that the area involved met or exceeded the performance standards for activities administered in the area that--

(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic conditions, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

(ii) (I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act)--

(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); or

(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I) (aa); or

(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I) (bb).

(E) Sustained the fiscal integrity.--In this paragraph, the

term ``sustained the fiscal integrity'', used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.

(4) Designation on recommendation of state board.--The Governor may approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) Appeals.--A 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 under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.