I. **REFERENCE(S):**

Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, WIOA Section 106.

II. **PURPOSE:**

To provide guidance and process for the designation and re-designation of Workforce Development Areas in New Mexico, along with the process for appealing designation decisions.

III. **BACKGROUND:**

The Workforce Innovation and Opportunity Act (WIOA) mandates that the State Workforce Development Board shall assist the Governor in designation of Workforce Areas, as required in section 106, and that an appeals process is in place.

The Governor of the State shall designate local workforce development 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 102(b)(2)(E)(iii)(II).

WIOA further states that the considerations should include the following:

(i) The extent to which the areas are consistent with the labor market areas in the State
(ii) The extent to which the areas are consistent with regional economic development areas in the State; and
(iii) The extent to which the areas have available the Federal and non-Federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

WIOA states that 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, may submit an appeal to the State under an appeal process established in the State plan.
IV. DEFINITIONS

PERFORMED SUCCESSFULLY.—The term “performed successfully”, used with respect to a local area, means the local area met or exceeded the levels of performance for primary indicators of performance described in section 116(b)(2)(A) (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of the Workforce Investment Act of 1998, as in effect the day before the date of enactment of this Act) for each of the last 2 consecutive years for which data are available preceding the determination of performance under this paragraph.

SUSTAINED FISCAL INTEGRITY.—The term “sustained fiscal integrity”, used with respect to a local area, means that the Secretary or the State in place of the Secretary has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds provided under subtitle B (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such subtitle B) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

BUSINESS LEADER: A business member of the Local Workforce Investment Board or representative of other business organization, such as a chamber of commerce.

COMMUNITY LEADER: An officer or director of an association, community or civic organization whose focus or activities are related to the services provided by the one-stop delivery system.

V. DESIGNATION AND RE-DESIGNATION POLICY:

WIOA requires that existing federally recognized workforce areas are designated during the first two program years, which is referred to as Initial Designation, and again after the first two program years, which is referred to as Subsequent Designation. Units of local government that desire to become a new local workforce area should follow the New Area designation requirements in section C.

A. INITIAL WIOA DESIGNATION FOR EXISTING REGIONS: Existing workforce regions operating in accordance with the Workforce Investment Act of 1998 may request initial designation as a Local Workforce Development Area if they have performed successfully and sustained fiscal integrity. A request for initial designation must be submitted to the State by May 1, 2015 for consideration for the next program year (July 1 – June 30). An area seeking initial designation must address the following:

1. Submit the request in writing to the State
2. Provide evidence that the area, in program years 2012 and 2013, met or exceeded the agreed upon adjusted levels of performance for the common measures, as defined by existing performance agreements, and was not subject to the sanctions process resulting from missing the same measure two years in a row.
3. During program years 2012 or 2013, the U.S. Secretary of Labor or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misexpended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration.
4. In program years 2012 and 2013, was committed to providing quality service through continuous improvement efforts and implemented plans that supported sector partnerships or career pathways; or enhanced services to employers or outreach efforts
to the local community.

The State will recommend approval to the Governor of a local area’s request that satisfies these requirements in accordance with WIOA section 106(b)(2). Initial designation as a local area will remain valid until June 30, 2017.

B. SUBSEQUENT WIOA DESIGNATION: Local areas that receive initial designation may request subsequent designation as a Local Workforce Development Area if they have performed successfully, sustained fiscal integrity, and met the requirements for involvement in regional planning. A request for subsequent designation for those receiving initial designation for July 1, 2015 must be submitted to the State by the date to be designated by the State but no later than May 30, 2017 for consideration for the next program year (July 1 – June 30).

An area seeking subsequent designation must address the following:

1. Submit the request in writing to the State
2. Evidence that the area, in program years 2014 and 2015, met or exceeded the negotiated levels of performance for primary indicators of performance and was not subject to the sanctions process resulting from missing the same measure two years in a row.
3. Assurance that during program years 2014 or 2015, the U.S. Secretary of Labor, or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misexpended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration.
4. Evidence that the area, if a part of a planning region, has fulfilled its obligations to engage in regional planning efforts during program years 2015 and 2016.
5. Provide evidence that the area, in program years 2014 and 2015, was committed to providing quality service through continuous improvement efforts and implemented plans that supported sector partnerships or career pathways; or enhanced services to employers or outreach efforts to the local community.

The State will recommend approval to the Governor of a local area’s request that satisfies these requirements in accordance with WIOA section 106(b)(2).

C. WIOA DESIGNATION FOR NEW AREAS: Any unit of general local government may request designation as a Local Workforce Development Area under WIOA. New local area designations will only become effective on July 1 of the next program year. In order for designation to be approved for the start of the next program year, the following steps and timeline must be met.

A statement of intent to request designation must be submitted to the State. The full request for designation as a Local Workforce Development Area (“local area”) must include the following components and steps.

1. Submit the request in writing to the State
2. This request must clearly state the circumstances for the request of designation.
3. The request must also address and explain how the following criteria are met:
   a. Consistency with natural labor market areas
b. Consistency with regional economic development areas

c. Existence of education and training providers, such as institutions of higher
education and career and technical education schools in the area

d. Submission of a service delivery plan that includes a description of resources that
would be available to the area to provide services

e. Coordination of multiple resources within areas that are based on labor
markets and natural travel patterns of local residents

f. Local support of the implementation strategies to provide quality services to
employers and individuals by county commissioners, municipal elected
officials including mayors and/or city council members where appropriate, and
business or community leaders within the area as demonstrated by letters of
support or a vote of support by a city council or other applicable board.

g. Local ownership, exhibited by strong involvement of local elected officials and
community leaders on the Local Workforce Development Board,

h. Local capacity to manage funds, provide oversight of programs, and provide for
the proper stewardship of public funds

i. Evidence that the area, in the two program years for which data is available
prior to the request, met or exceeded the adjusted levels of performance for
primary indicators of performance and was not subject to the sanctions process
resulting from missing the same measure two years in a row, if applicable.

j. Assurance that during the two program years prior to the request, the U.S.
Secretary of Labor, or the State in place of the Secretary, has not made a formal
determination that the grant recipient or administrative entity for the local area has
misexpended funds due to willful disregard, gross negligence, or failure to comply
with accepted standards of administration, if applicable.

4. The request must address how the proposed new area designation will impact those
other workforce areas from which it is withdrawing. It should be understood by any
county, city or combination of such seeking designation, that the new area will only
secure the formula allocated funds for each WIOA funding stream based on the
formula factors as defined by WIOA.

5. If opposition to the request is voiced by municipalities or counties within the area
seeking designation, then the requesting county, city or combination of such will
address their request at a public hearing. If a hearing is necessary, it will be held
within 45 days of receipt of the request. Time and place is to be determined by the State.

6. The State will take the request and comments from the public hearing and make a
recommendation to the full State Workforce Development Board within 25 days of the
public hearing.

7. The State Workforce Development Board will submit its recommendation to the
Governor within five (5) business days of the State board vote.

8. The final decision rests with the Governor and shall be made prior to May 29th,
four weeks prior to the beginning of the fiscal and program year (July 1st).

V. APPEALS PROCESS POLICY:

An area or areas seeking to be designated or re-designated, as a Local Workforce
Development Area, which has requested but has been denied its request for designation or re-
designation as a Local Area, may appeal the decision to the State Workforce Development
Board.
1. An appeal must be in writing and filed with the State within fourteen (14) days after notification of the decision.
2. The appeal must contain a specific statement of the grounds upon which the appeal is sought.
3. The State Workforce Development Board will have 60 days to review the appeal and make a recommendation to the Governor.
4. The final decision rests with the Governor.
5. If the decision of the appeal reverses the decision it will become effective July 1st of the following year.
6. If a decision on the appeal is not rendered in a timely manner or if the appeal does not result in designation, the entity may request review by the Secretary of Labor, under the procedures set forth at 20 CFR 667.640(a).

Definition: Where the term “days” appears, it shall be defined as calendar days, not working days.

VI. IMPLEMENTATION DATE:

Effective July 1, 2015

VII. INQUIRIES:

Please direct all inquiries to the State Administrative Entity