

Workforce Arizona Council

Local Workforce Development Board Recertification Requirements Policy

POLICY NAME: Local Workforce Development Board Recertification Requirements Policy

POLICY NUMBER: 12

EFFECTIVE DATE: September 7, 2023

ISSUING AGENCY: Workforce Arizona Council

SCOPE: Workforce Arizona Council (Council), Arizona Department of Economic Security (DES) Staff, Local Workforce Development Boards (LWDBs).

REFERENCES: Workforce Innovation and Opportunity Act (WIOA) of 2014 (P.L. 113-128), 20 CFR § 679 Subpart C (679.300-430), 20 CFR § 679.350, and Training and Employment Guidance Letter (TEGL)16-16. Workforce Arizona Council Local Governance Policy, Workforce Arizona Council ARIZONA@WORK Job Center One Stop Operator and Service Provider Selection Policy, Workforce Arizona Council Conflict of Interest Policy.

OBJECTIVE: This policy provides requirements for the Local Workforce Development Boards (LWDBs) and Chief Elected Officials (CEOs) for the submission of LWDB recertification materials. The Workforce Innovation and Opportunity Act (WIOA) requires the state to review LWDBs for recertification every two years.

TABLE OF CONTENTS:

- I. Submission of Recertification Materials
- II. LWDB Membership Roster
- III. List of Standing Committees and Committee Members
- IV. Bylaws
- V. Consortia Agreement
- VI. Shared Governance Agreement
- VII. Service Provider Agreements
- VIII. Local Plan
- IX. One-Stop Operator Procurement
- X. Memorandum of Understanding and Infrastructure Funding Agreements
- XI. Policy Development
- XII. LWDB Oversight
- XIII. LWDB Management of Funds
- XIV. Submission Packets
- XV. Compliance Review of LWDB Recertification Material
- XVI. Recommendation of LWDB Recertification

I. Submission of Recertification Materials

LWDBs will receive instructions before each recertification cycle (which occurs every two years) providing details of the items listed below in Sections II-XIII to be submitted for the specific cycle to be considered for recertification.

II. LWDB Membership Roster

- A. The LWDB must provide a roster that shows all current LWDB members. The roster must show that at least 51 percent of members represent private and for-profit businesses. The roster must be compliant with the Workforce Arizona Council Local Governance Policy Section VIII, in accordance with WIOA 107 b(2)(A). The roster must clearly identify:
1. The Chair of the LWDB and the business the chair is representing;
 2. Members that represent businesses; at a minimum, two members must represent small business as defined by the U.S. Small Business Administration. The roster must indicate which two business representatives represent small businesses.
 3. Information for business representatives including the following:
 - a) The name of the business;
 - b) Size of business;
 - c) Their position at the business and a description of the business members hiring authority or optimum policy making authority;
 - d) Name of nominating business organization; and
 - e) The in-demand industry sectors or occupation that each business member represents
- B. The roster must show that no less than 20 percent of the members of each LWDB are workforce representatives.
1. The roster must identify:
 - a) Two or more representatives of labor organizations who have been nominated by local labor federations, or other representatives of employees (for areas where labor organizations do not exist); and
 - b) One or more representatives (must be a training director or member of a labor organization) of a joint labor-management, or union affiliated, registered apprenticeship program within the area.

2. The roster must include the:
 - a) Names of the LWDB members representing workforce;
 - b) Titles is the LWDB members representing workforce;
 - c) Name of nominating local labor federation, if applicable; and
 - d) Name of joint labor-management, or union affiliated registered apprenticeship, if applicable.

3. The roster must also include:
 - a) At least one eligible training provider administering adult education and literacy activities under WIOA Title II;
 - b) At least one representative from an institution of higher education providing WIOA activities including community colleges; and
 - c) At least one representative from each of the following governmental and economic and community development entities:
 - (1) Economic and community development entities;
 - (2) Employment Services under Wagner-Peyser Act (29 U.S. C. 49 et seq.) serving the local area; and
 - (3) The programs were carried out under WIOA Title I of Rehabilitation Act of 1973.

4. The LWDB member's names, titles, and the name of the governmental, economic, or community development entity they represent.

5. The names, titles, and organization of members who represent optional entities that may be LWDB members as listed in the Workforce Arizona Council Local Governance Policy Section X. D, including:
 - a) Entities administering education and training activities who represent local educational agencies or community-based organizations with demonstrated expertise in addressing the education or training needs for individuals with barriers to employment;
 - b) Governmental and economic and community development entities who represent transportation, housing, and public assistance programs;
 - c) Philanthropic organizations serving the LWDA; and
 - d) Other appropriate individuals as determined by the CEO, provided the individuals meet all other board member eligibility requirements established in this policy.

6. The roster must not include members who are staff to the LWDB, the one-stop operator, and/or WIOA Title IB adult, dislocated worker, and youth providers, or staff of the grant recipient/administrative entity or fiscal agent.
7. The roster must note any vacancies on the LWDB:
 - a) The roster must include the date the position became vacant.
 - b) If the position has been vacant for more than 120 days, the roster must indicate if a waiver has been approved by the Workforce Arizona Council, pursuant to Section IV.A.1(g) of the Local Governance Policy, and the expiration date of the waiver.

III. List of Standing Committees and Committee Members

- A. The LWDB may establish and direct the activities of standing committees to provide information and assist the LWDB in carrying out its responsibilities (20 § CFR 679.360).
- B. If applicable, LWDBs must submit a list of standing committees, that identifies the following:
 1. Type and purpose of each standing committee;
 2. Chair each committee;
 3. Names of committee members; and
 4. Entity represented by each committee member.
- C. The list of standing committees and committee members will be reviewed for the following requirements listed in the Workforce Arizona Council Local Governance Policy, Section XI. H, including:
 1. The chair of each committee must be a member of the LWDB; and
 2. The standing committee must include individuals who are not LWDB members, but appointed by the LWDB, and who the LWDB determines to have appropriate experience and expertise.

IV. Bylaws

- A. The LWDB must submit a copy or website link to the LWDB's Bylaws for review that include:
 1. A statement that the LWDB is established in accordance with WIOA Section 107;

2. The name of the LWDB;
3. The vision and purpose for the establishment of the LWDB, consistent with 20 CFR § 679.300 (a) and (b);
4. Acknowledgement of the duties and responsibilities as outlined in WIOA 107 (d), 20 CFR § 679.370, the Workforce Arizona Council Local Governance Policy, and in the shared governance agreement between the CEO and the LWDB.
5. A description of the process to ensure LWDB members actively participate in convening the workforce development system's stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities (20 CFR § 679.310(g)(6)).
6. A description of membership as outlined in WIOA 107(b) and in the Shared Governance Agreement (SGA) between the CEOs and the LWDB. The description must also include:
 - a) The term limitations and how the term appointments will be staggered to ensure only a portion of the membership expires in a given year (20 CFR § 679.310(g)(2).
 - b) The process to notify the CEO of a LWDB member vacancy to ensure a prompt replacement nominee (20 CFR § 679.310(g)(3)).
7. A description of the process used to elect a LWDB Chair, including term details.
8. A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.
9. Information on meetings, including:
 - a) How often LWDB and committee meetings will be held;
 - b) Acknowledgement of open meeting requirements and compliance;
 - c) A description of the process of announcing regular and special meetings;
 - d) Acknowledgement that a quorum must consist of at least a simple majority of the currently appointed membership; and
 - e) Clarification as to whether phone and web-based meetings will be permitted.

10. Acknowledgement that LWDB members will not be permitted to delegate any LWDB duties to proxies or alternates.
11. A list of standing committees including the descriptions for each and composition, and description of the process for creating ad hoc committees.
12. Acknowledgement that LWDB members must adhere to the following rules regarding conflict of interest:
 - a) A LWDB member may not vote on any matter that would provide direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member or the entity the member represents.
 - b) A LWDB member must avoid even the appearance of a conflict of interest. Prior to taking office, LWDB members must provide to the LWDB Chair a written declaration of all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the LWDB.
 - (1) Such declarations must be updated annually or within 30 days to reflect any changes in such business interests or relationships.
 - (2) The LWDB must appoint an individual to review the disclosure information in a timely manner and advise the LWDB chair and appropriate members of potential conflicts.
 - c) Prior to a discussion, vote, or decision on any matter before a LWDB, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be affected by any official LWDB action, the member must:
 - (1) Disclose the nature and extent of the interest or relationship; and
 - (2) Abstain from discussion and voting on or in any other way participating in the decision on the matter.
 - d) Statement of responsibility of the LWDB members to monitor potential conflict of interest and bring it to the LWDBs attention in the event a member does not make a self declaration.

- e) Assurance that the LWDB's workforce service providers for WIOA Title I-B Adult, Dislocated Worker, and Youth Programs must not employ or otherwise compensate a current LWDB member or LWDB employee who is employed or compensated by the LWDB or its administrative entity, fiscal agent, or grant recipient to support the LWDB in carrying out its duties.
13. A detailed procedure for the LWDB to follow in regards to conflict that may arise among, but not limited to:
- a) LWDB members;
 - b) Service delivery partners; and
 - c) Consortium partners.
14. A description of the policy on compensating LWDB members and reimbursing expenses.
15. A description of the process for amending the Bylaws.
16. Acknowledgement stating, in execution of its business, the LWDB must comply with the WIOA and regulations as well as policies and directives from the Arizona Department of Economic Security and the Workforce Arizona Council.

V. Consortia Agreement

- A. Pursuant to WIOA 107 (c)(1)(B)(i and ii), if the LWDA includes more than one unit of general local government, the CEOs of such units must execute a written consortia agreement that specifies the respective roles of the individual CEOs in the appointment of the members of the local workforce development board (LWDB) from the individuals nominated or recommended to be such members in accordance with eligible criteria, and in carrying out any other responsibilities assigned to CEOs under WIOA. The LWDB must provide a copy or link of the signed Consortia Agreement that is compliant with the Workforce Arizona Council Local Governance Policy, Section III. The consortium agreement must:
- 1. Identify that the CEOs are the grant recipient for the grant funds allocated to the LWDA under youth workforce investment activities (WIOA section 128) and adult and dislocated worker employment and training activities (WIOA section 133) or designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent (WIOA 107(d)(12)(B)(i)(II));
 - 2. Outline the process the CEOs will use to sign contracts and enter

into agreements related to the WIOA, if the CEOs will serve as the Fiscal Agent;

3. Acknowledge financial liability for any misuse of WIOA funds and outline the process for determining each CEOs' share of responsibility;
4. Clearly define roles and responsibilities of the fiscal agent;
5. Describe the process for reviewing and recommending the annual budget;
6. Outline the process that will be used for amendments or changes to the consortia agreement including a description of how an election may or may not impact an existing agreement;
7. Outline how CEOs will ensure LWDB representation is fair and equitable across the LWDA;
8. Contain the name, title, area represented, contact information, and signature of the participating CEOs in the LWDA as defined in the LWDA; and
9. Describe how CEOs will communicate with each other regarding LWDA activities and how many times the CEOs will meet each year.

VI. Shared Governance Agreement

- A. The LWDB and the CEO must enter into a written standalone agreement that describes how the parties will carry out requirements as outlined in the State Workforce Board's Local Governance Policy. The LWDB must submit a copy or link of the Shared Governance Agreement (SGA) for compliance review that includes:
 1. Roles and responsibilities of the LWDB and CEO, as described in sections IV.A (2) and VI of the Workforce Arizona Council Local Governance Policy and descriptions of how each role will be performed.
 2. Description of required firewalls, as described in the State Workforce Council Conflict of Interest Policy:
 - a) Required firewalls must be identified in the SGA to address any conflict of interest when one entity is responsible for performing two or more of the following roles to ensure the

entity's role in performing one role does not impede or supersede its ability to fulfill its responsibilities in performing other required functions:

- (1) LWDB Staff;
- (2) Service Provider staff;
- (3) Fiscal agent;
- (4) Administrative Entity;
- (5) Procurement;
- (6) Program Oversight;
- (7) Fiscal Oversight; and
- (8) One-Stop Operator.

3. Organizational charts to document reporting structures which reflect the following firewalls:
 - a) Between the CEO and LWDB;
 - b) Between the fiscal agent and service provider staff;
 - c) Between LWDB staff and service provider staff; and
 - d) Between LWDB staff and the One-Stop Operator.

VII. Service Provider Agreements

- A. The LWDB must submit all service provider agreement(s) that are compliant with Section VI,12 of the Workforce Arizona Council One Stop Operator and Service Provider Selection Policy. The service provider agreements, at minimum, must contain the following:
 1. Scope of Work;
 2. Period of Performance;
 3. Details regarding mechanism and conditions of payment; and
 4. Signature and date of all applicable (or required) signatories.

VIII. Local Plan

The local plan must meet requirements listed in Workforce Arizona Council Local Plan Submission Policy and Local Plan Submission Guidance Document during the local plan review and must be approved by the Workforce Arizona Council.

IX. One-Stop Operator Procurement

Provide copies of a fully executed One-Stop Operator contract that meet the requirements listed in the Workforce Arizona Council One-Stop Operator and Service Provider Selection Policy.

X. Memorandum of Understanding and Infrastructure Funding Agreements

Memorandum of Understanding and Infrastructure Funding Agreements must meet requirements in Department of Economic Security Fiscal Broadcast 20-001 and the Workforce Arizona Council ARIZONA@WORK Job Center MOU and Infrastructure Costs Policy.

XI. Policy Development

A. Provide copies of the following LWDB policies consistent with Workforce Arizona Council and Department of Economic Security policy requirements:

1. Conflict of Interest; and
2. Training Services, including requirements for work-based training.

XII. LWDB Oversight

A. WIOA assigns responsibility and decision-making authority to the LWDB for numerous duties that create an actual or perceived conflict of interest when the LWDB or fiscal agent are part of an entity that serves multiple roles. Therefore, firewalls are needed to ensure that their role performing one function does not impact its ability to perform other required functions.

B. The LWDB must provide items used to provide a description of the monitoring process in the SGA and examples of the tools used to monitor, including latest report findings, dates of last monitor, and any findings, for the following:

1. WIOA Title I-B Adult Program;
2. Title I-B Dislocated Worker Program;
3. WIOA Title I-B Youth Program; and
4. The One-stop Operator.

C. The tools may be an addendum to the SGA.

D. When the LWDB is the OSO, the monitoring of the One-Stop must be conducted by an entity other than the LWDB or LWDB staff and report the monitoring to the CEO.

XIII. LWDB Management of Funds

A. The LWDB must provide a copy of the most recent budget(s), including:

1. WIOA Title I-B Adult Program;
2. WIOA Title I-B Dislocated Worker;
3. WIOA Title I-B Youth Program;
4. Administrative budget (defined in 20 CFR 683.215); and

5. Minutes from the most recent LWDB meeting where budgets were approved.
6. Documentation showing that the LWDB has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the corresponding performance accountability measures and achieve sustained fiscal integrity, as defined in section 106(e)(2).

XIV. Submission Packets

- A. Each LWDB must provide required documents listed in Sections II - XIII and complete the following self assessment checklists to ensure they meet requirements prior to submitting the required documents and checklists to the Council for review.
- B. Self-Assessment Checklists:
 1. The checklists must identify page numbers where requirements language is included in the required documents.
 2. Local Workforce Development Board Certification Checklists include:
 - a) LWDB Membership Checklist
 - b) Standing Committee Checklist
 - c) Bylaws Checklist
 - d) Shared Governance Checklist which includes the Conflict of Interest and Firewall Checklist
 - e) Consortia Agreement Checklist
 - f) Service Provider Agreement
 3. LWDB Recertification submission packets must be submitted every two years. Packages may be submitted on or before December 1 and must be submitted by January 2. If January 2nd falls on the weekend, the submission packets are due the following business day. Extension requests will be considered on a case-by-case basis.
 4. All required documents and checklists must be submitted via electronic submission in a single correspondence. Documents must not be sent in for review until all required documents are available, and meet requirements in the self-assessments checklist.
 5. Incomplete submission packets will not be reviewed.
 6. Failure to submit a recertification package in accordance with the

instructions outlined in this policy will be considered a sanctionable act, and the LWDB may be subject to a determination of a substantial violation, as provided in Workforce Arizona Council Substantial Violation, Sanctions, Decertification, and Reorganization Policy.

XV. Compliance Review of LWDB Recertification Material

- A. Upon receipt of the complete submission packet, Workforce Arizona Council staff will review and provide written feedback to LWDBs, to include any deficiencies that must be resolved prior to determination and recommendation for recertification.
- B. The same checklists will be used to review required documents, as those used by LWDBs in the self-assessment.

XVI. Recommendation of LWDB Recertification

- A. Once it has been determined that the LWDB meets all requirements for LWDB recertification, Workforce Arizona Council staff will recommend approval to the Workforce Arizona Council Executive Committee and Full Council.
- B. Workforce Arizona Council staff will not review submission packets or recommend LWDB recertification until receipt of all fully executed Shared Governance Agreements, Consortium agreement, MOU/IFA and the One-Stop operator contract.
- C. Workforce Arizona Council staff will provide regular updates on LWDBs recertification status at the Workforce Arizona Council Executive and Full Council meetings.
- D. Failure to meet recertification may result in a finding of a substantial violation with required corrective action, pursuant to Workforce Arizona Council Substantial Violation, Sanctions, Decertification, and Reorganization Policy.

CONTACT ENTITY: Inquiries regarding this policy should be directed to the Workforce Arizona Council staff at Workforce.Council@oeo.az.gov.