

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT AND TRAINING
ADMINISTRATOR'S MEMO SERIES

ACTION 13-01
 NOTICE

ISSUE DATE: 07/09/2013
DISPOSAL DATE: ONGOING

*PROGRAM CATEGORIES:

AS FM LM TC
 CR IT ML TR
 FL JC TA WIA
 YA

TO: Workforce Development Board Directors
Job Service District Directors

FROM: Lisa Boyd
Division Administrator



PURPOSE

This Administrator's memo details the requirements and provides guidance on the Workforce Investment Act Biennial Workforce Development Board Re-Certification.

CITATIONS

Public Law 105-220, August 7, 1998 Workforce Investment Act: Sec. 117.
20 CFR 652 et al., August 11, 2000 Workforce Investment Act Final Rules: Preamble,
§ 661.203, § 661.315 et. al., § 662.220, § 662.230, § 662.420, § 668.360.
Local Elected Officials Guide (LEO), May 1999.

BACKGROUND

The Workforce Investment Act (WIA) requires that each Workforce Development Area (WDA) have a certified local workforce investment board. Once every two years, the Governor must certify one local board for each WDA in the State. Previous biennial Workforce Development Board (WDB) re-certifications have been based on the law, the 1999 LEO Guide and additional instructions. This is the directive detailing the requirements for the Department of Workforce Development (DWD) review and re-certification of the WDBs every two years.

*PROGRAM CATEGORIES:

AS--Apprenticeship
Standards
CR--Civil Rights
FL--Foreign Labor
Certification

FM--Financial Management
Requirements
IT--IT Systems
JC--Job Center

LM--Labor Market
Information
ML--Migrant Labor
TA--Trade Assistance

TC--Tax Credit Programs
TR--Transportation
WIA--Workforce
Investment Act
YA--Youth Apprenticeship

GUIDANCE AND REQUIREMENTS

WIA requires the chief elected official in a local area to appoint the members of the WDB. In areas where there is more than one general local government, the chief local elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials including the appointees of the WDB.

Certification shall be based on:

- (a) Having met the composition, nomination and other requirements detailed below,
- (b) Submitting completed and current conflict of interest statements, and
- (c) Ensuring that “workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.” *Sec. 117 (2)(B)*

Composition and Nomination Process

I. Business Representatives

- I.A. The majority of the board, 51%, must be represented by individuals from businesses in the local area. Business representatives must meet the WIA-required criteria and the DWD policy on industry mix:

Represent businesses in the local area, and who are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority and represent businesses with employment opportunities that reflect the employment opportunities of the local area.

The WDB must elect their Chairperson from the business representatives.

- I.B. Nomination Process for Business Representatives

Members must be appointed from among individuals nominated by local business organizations and business trade associations. Only one nomination per board seat is needed for verification of the nomination process.

- I.C. Industry Sector Mix

To ensure that business members are those with employment opportunities in the area, the following industry mix shall be followed:

Industries that make up more than 10% of the industries in an area shall have members equal to at least one per every 10%. For example, 33% manufacturing would mean at least three business representatives from the manufacturing industry; 25% service sector would require at least two service industry representatives. Overall, industry sector representation should reflect the local area’s business demographics.

If an area chooses not to follow the above sector percentages, an explanation must be provided as to why a different industry mix is being used, e.g. focusing on particular industries to deal with short-term needs in the area.

DWD will issue the labor market data on WDA industry mix at the commencement of the biennial certification process.

II. Non-Business Representatives

The non-business representative categories are listed in II.A. – II. G.

Non-business members must be in a position of substantive authority with expertise in their respective programs. WIA specifies that the individuals have:

- (a) "optimum policy making authority is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action" and
- (b) "expertise relating to [a] program, service or activities includes a person who is an official with a One-stop partner program and a person with documented expertise relating to the One-stop partner program." § 661.203

WIA also requires some of the non-business categories to follow a nomination process. The nomination details are provided in the categories for the local education entities and the labor representatives below.

II.A. WIA requires representation of the mandatory one-stop partners:

- WIA activities for Adults, Youth and Dislocated Workers (WIA Title I)
- Adult Education and Family Literacy (WIA Title II)
- Job Service (Wagner-Peyser WIA Title III) *
- Vocational Rehabilitation (WIA Title IV) *
- Temporary Assistance for Needy Families (TANF)/Wisconsin Works (W-2) (Added by Governor)
- Food Stamp Employment and Training (FSET) and Food Stamp Workfare (renamed as Food Share)
- Senior Community Service Employment Program - Older Americans Act
- Carl D. Perkins Vocational and Applied Technology Education (Renamed as Carl D. Perkins Career and Technical Education Act of 2006)
- Trade Adjustment Assistance (and NAFTA-TAA No longer a program) *
- Veterans Employment and Training Services *
- Community Services Block Grant
- Housing and Urban Development Employment and Training Activities
- Unemployment Insurance *
- Welfare-to-Work (No longer a program)

Note that as of January 2013, there are new W-2 service providers who must be reflected in the WDB representation for that mandatory partner seat.

Where a representative from an organization funded by a mandatory program is not feasible, as may be the case, for example, of Housing and Urban Development Employment and Training, efforts should be made to have a representative as close as possible to the programs' activities in the area.

* DWD will issue the appointments for Wagner-Peyser/Job Service, Vocational Rehabilitation and Unemployment Insurance at the commencement of the biennial certification process. The Job Service appointee may represent Veterans Employment and Training Services and Trade Adjustment Assistance. [The WDB is

responsible for garnering signatures for their conflict of interest statements and any future memoranda of understanding.]

II. B. Two representatives from local education entities:

"Representatives of local education entities, including representatives of local educational agencies, local school boards entities providing adult and literacy activities, and postsecondary education institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organization representing such local educational entities." *Sec. 117(b)(2)(A)(ii)*

II.C. Two representatives from labor organizations:

"Representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees." *Sec. 117(b)(2)(A)(iii)*

II.D. Two representatives from community-based organizations:

"Representatives of community-based organizations including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present." *Sec. 117(b)(2)(A)(iv)*

II.E. Two representatives from economic development agencies:

"Representatives of economic development agencies, including private sector economic development entities." *Sec. 117(b)(2)(A)(v)*

Most economic development entities fall into the "non-business" representation such as County or consulting organizations providing labor market and economic development activities. However, in some situations, large companies meeting the "business" representation criteria have an economic development unit. In this case, a person from this economic development unit could serve in both the "business" and "non-business" capacities. [See other "multiple hat" issues below]. Second, even though some economic development entities represent a group of businesses, and likely have some staff to serve those businesses, such entities typically do not meet the WIA "business" criteria as in the case of local Chambers of Commerce or a regional economic development or industry alliance/sector consortium.

II.F. Under WIA, each of these national programs are considered One-Stop partners and require representation on the WDB if there is funding with an operational presence in the WDA § 662.220(3):

- Native American Program - If a WDA has one or more programs funded under WIA part 668, Section 166 Indian and Native American Programs § 668.360.
- Migrant and Seasonal Farm Workers Program - The DWD Job Service appointee may serve in this capacity as a "multiple entity" representative.
- Job Corps - Blackwell Job Corps Center and Milwaukee Job Corps Center.
- Veterans' Workforce Investment Program.

II.G. Optional

"May include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate." *Sec. 117(B)*

In Wisconsin, other entities traditionally considered workforce partners include:

- National and Community Services
- Wisconsin Conservation Corps
- Literacy Councils
- Child Care agencies

III. Additional WDB Criteria and Requirements

III.A. To ensure demographic diversity, the WDB:

1. Must be comprised of at least 20% female members,
2. Minority groups that make up at least 3% of the WDA's population must be represented on the WDB. This may entail more than one minority population representative on the WDB. For example, an area may have at least a 3% Native American/American Indian population and at least 3% Asian population, in which case each minority population would be represented on the WDB, and
3. Should reflect the area's demographic populations including Tribal/Nation representation, persons with disabilities, etc.

DWD will issue the labor market data and the WDA population demographics at the commencement of the biennial certification process.

III.B. Conflict of Interest Statements

Submittal of the WDB membership must be accompanied by a copy of each member's current, completed and signed conflict of interest statement. These statements will be reviewed as part of the biennial re-certification process. The WDB will be responsible for garnering completed conflict of interest statements and retaining the originals in compliance with WIA and open record requirements.

III.C. Documents

Attachment A is a Summary of the WDB nomination and membership requirements.
Attachment B is the WDB membership chart to be completed and submitted to DWD.
Attachment C is a sample Conflict of Interest Statement to be completed and signed by each of the WDB members with copies submitted to DWD. [The WDB is responsible for retaining the signed originals.]
Attachment D is a Check-off tool to ensure completion of all of the above requirements. [This must be completed and accompany the membership chart (Attachment B)]

Additional Clarification and One-Stop Operator Review

IV. Other Guidance

"Multiple Entity"

In the spirit of having the size of a WDB be manageable and optimally effective, it is an acceptable practice to have one person represent several seats as long as s/he meets the WIA criteria for each position. The WIA regulation preamble states that "while such 'multiple entity' representation may not be appropriate in all cases, we believe that there may be instances when such representation may be an effective tool for reducing Board size while still ensuring that all parties entitled to representation receive effective representation."

For example, a board member may represent both business and non-business categories: An individual meets the WIA business seat requirements as an employer and also serves on the area's Board of Education, thereby also representing the non-business local education entity seat.

"When there is more than one grant recipient, administrative entity, or organization responsible for administration of funds of a particular one-stop partner program in the local area, the chief elected official may appoint one or more members to represent all of those particular partner program entities. In making such appointments, the local elected official may solicit nominations from the partner program entities." § 661.317

Additional guidance based on past WDB situations:

- A business entity, such as a health care facility can meet the "business" representative category even if it has a public ownership and employees are considered county/public.
- Self-nominations are acceptable for the labor and educational entity nomination process.
- Non-business representatives do not have to reside in the WDA. For example, Vocational Rehabilitation District Directors have served on several boards.
- There is no minimum required number of board members.
- A chief local elected official may be a member of the board as a separate seat not meeting any of the required categories, or, a required category if s/he meets the WIA definition.
- WDBs must have by-laws in place and followed.

Attachment E lists the WIA required WDB responsibilities.

V. One-Stop Operator Review

If a WDB has been designated as the One-Stop Operator by the Governor, WIA requires that "the designation or certification must be reviewed whenever the biennial certification of the Local Board is made" § 662.420. DWD will review the previous request and documentation based on DWD WIA policy 02-01. If necessary, additional information may be requested for this review.

Failure to Comply and Future Actions

VI. Failure to Achieve Certification

If the local elected officials cannot agree on the nominations of the board members, the Governor may appoint the members of the board from individuals that have been nominated via the local process. If the WDB does not meet all of the elements for a two-year re-certification the following will occur:

- If upon review of the WDB's required submitted materials, it has been determined that the submission does not satisfy this Administrator's Memo for re-certification, the Division of Employment and Training Administrator will discuss the outstanding items with the WDB Director and Chief Local Elected Official and concur on a satisfactory resolution within 30 days.
- From the date of this concurrence, the WDB will have 30 days to submit the information.
- If this process is not completed within 60 days, and the WDB is not in compliance, DWD may initiate other actions.

Failure of a WDB "to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process" described in WIA. The WDB may be decertified "at any time after providing notice and an opportunity for comment for fraud or abuse; or failure to carry out the functions specified" in WIA. In addition, "the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years." If the Governor decertifies a local board, "the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official of the local area." *Sec. 117(c)(2)(C)*

VII. Continual Updates

The WDB Directors should notify the WDA-assigned Local Program Liaison when there is a new Board Chair, her/his name and contact information. The WDB Directors and CLEOs are responsible for timely vacancy replacements.

Attachment A

Summary of the WDB Membership Requirements

Composition Requirements	Nomination Process Criteria and Other Information
Business Sector Representatives	
<p>The majority of the board, 51%, must be represented by individuals from businesses in the local area. Business representatives must meet the WIA-required criteria:</p> <p>Represent businesses in the local area, and who are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority and represent businesses with employment opportunities that reflect the employment opportunities of the local area.</p>	<p><u>Nominations</u> Members must be appointed from among individuals nominated by local business organizations and business trade associations.</p> <p><u>Industry Mix</u> To ensure that business members are those with employment opportunities in the area, the following industry mix shall be followed:</p> <p>Industries that make up more than 10% of the industries in an area shall have members equal to at least one per every 10%. For example, 33% manufacturing would mean at least three business representatives from the manufacturing industry; 25% service sector would require at least two service industry representatives. Overall, industry sector representation should reflect the local area's business demographics.</p> <p>If an area chooses not to follow the above sector percentages, an explanation must be provided as to why a different industry mix is being used, e.g. focusing on particular industries to deal with short-term needs in the area.</p>
Non-Business Representatives	
A minimum of two representatives from <u>Local Education Entities</u> and selected from nominations by regional or local educational agencies.	<u>Nominations</u> must be sought from regional or local educational agencies, institutions or organizations.
A minimum of two representatives from <u>Labor Organizations</u> and selected from nominations by local labor federations.	<u>Nominations</u> must be sought from local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees).
A minimum of two representatives from <u>Community-based Organizations</u> .	Such entities may include faith-based organizations.
A minimum of two representatives from <u>Economic Development organizations</u> .	See policy narrative for details.

One-Stop Mandatory Partners	
WIA Title I: WIA activities for Adults; Youth and Dislocated Workers.	
<ul style="list-style-type: none"> WIA Title III: Job Service- - Labor Exchange (Wagner-Peyser). WIA Title IV: Vocational Rehabilitation. Unemployment Insurance. 	DWD will provide the names of representatives for each program by WDA.
WIA Title II: Adult Education and Family Literacy.	This representative may wear a "multiple entity" among the non-business "education" entity seats if the criterion are met.
Carl D. Perkins Vocational and Applied Technology Education	This representative may wear a "multiple entity" among the non-business "education" entity seats if the criterion are met.
Temporary Assistance for Need Families: Wisconsin Works (W-2). The Governor added this program as a mandatory partner. [Welfare-to-Work is no longer a program]	Note that as of January 2013 there are new W-2 service provider contracts which must be reflected in the WDB representation.
Food Stamp Employment and Training.	See the Resource sheet for contacts.
Senior Community Service Employment Program	See the Resource sheet website.
Trade Adjustment Assistance [NAFTA-TAA no longer a program]	The DWD Job Service appointee may serve in this capacity.
Veterans Employment and Training Services	The DWD Job Service appointee may serve in this capacity. Or, a Local Veteran's Employment Representative, or a staff person from the Disabled Veterans Outreach Program.
Community Services Block Grant	See the Resource sheet website.
Housing and Urban Development -Employment & Training (E&T)	This program may be represented by the same agency that represents the CSBG program if that agency also is engaged in a HUD E & T program.
Representatives from national programs - if operationally present in area:	
Native American Programs	These national programs are considered one-stop partners and require representation if there is funding with an operational presence in the WDA.
Migrant and Seasonal Farmworker Programs -	
Job Corps	
Veterans Workforce Investment Program	
Optional: CLEOs may add additional members such as:	
National and Community Services	Additional members could be added based on their involvement and/or interest in the one-stop delivery system.
Wisconsin Conservation Corps	
Literacy Councils	
Child Care agencies	
Others	

To ensure demographic diversity, the WDB

1. Must be comprised of at least 20% female members,
2. Minority groups that make up at least 3% of the WDA's population must be represented on the WDB. This may entail more than one minority population representative on the WDB. For example, an area may have at least a 3% Native American/American Indian population and at least 3% Asian population, in which case each minority population would be represented on the WDB, and
3. Should reflect the area's demographic populations including Tribal/Nation representation, persons with disabilities, etc.

Attachment B
MEMBERSHIP CHART for the WORKFORCE DEVELOPMENT BOARD RE-CERTIFICATION 2014-2015
 (Use additional sheets as necessary)

Workforce Development Area Name:

Contact Person Name and Title: Membership #

Member Name & Title (number each entry)	Business and/or Organization Name, Address, Phone Number, and Email Address	Check if Person is for the Business Category	List the Required Category for the Non-Business Category (e.g., UI, TANF, Labor)	Organization nominated by (where required, e.g., Business Sector, Education, Labor)	Term Starts On (M/DD/YY)	Term Ends On (M/DD/YY)	Sex (M/F)	Minority (Y/N)	NAICS Code for Business Members *

*Enter the appropriate NAICS Code that can be found on the U.S. Census Bureau website at <http://www.census.gov/epcd/naics02/naicod02.htm>

Attachment C
Sample of Conflict of Interest – Disclosure Statement
2014-15 WDB Two-Year Recertification

Name:

Affiliation with the Workforce Development Board (*Check One*):

Board Member: Employee: Grantee: Grant Applicant:

The Department of Workforce Development (DWD) understands that conflicts of interest may arise over the course of normal business. DWD's goal is not to eliminate all conflicts. However, DWD expects to see these conflicts appropriately identified on the conflict of interest statement.

Board members and employees, please respond to the following questions:

1. Do you, or a member of your immediate family, have any ownership interest in, investment in, employment with, contractual relationship with, and/or fiduciary or professional relationship with any organization or entity which receives or may seek to receive funds from or which does business with or may seek to do business with the Workforce Development Board?

Yes No

If you responded "Yes" to the above question, please explain below:

2. Do you agree to excuse yourself from matters that produce or assist in the production of a substantial benefit, direct or indirect, for yourself, one or more members of your immediate family, or an organization with which you are associated? By marking the checkbox below, you indicate that you agree to abide by this statement.

I agree to abide by this statement:

Grantees and grant applicants, please respond to the following questions:

1. Do you, or an immediate family member, serve on the Workforce Development Board?

Yes No

2. Does any member of the Workforce Development Board serve on your organization's board of directors or advisory council?

Yes No

3. Do you have a business or employment relationship with any board member of the Workforce Development Board?

Yes No

If you responded "Yes" to any of the above questions, please explain below:

I hereby certify that the information set forth above is true and complete to the best of my knowledge. Should circumstances change that require updating the information disclosed on this form, I agree to file a new declaration.

Signature

Date

Print Name

Attachment D

Check-off Tool

Workforce Development Board Compliance Check-list for Re-certification 2014-2015

When the WDB Membership Chart has been completed (Attachment B), check the boxes where appropriate and fill in the answers to ensure that the submittals are complete. This must accompany the completed membership chart.

Date of Submittal:

Workforce Development Board Name:

Contact Person Name and Title:

Chief Local Elected Official Name:

The total number of WDB members is

- At least 20% of the nominees are female. The number of females is
- If there are at least 3% minority population in an area, there must be at least one minority representative(s) appointed to the local board. List the minority population(s) represented for this criteria.

Business Representation

Business Representation: All three of the following requirements must be met:

1. The majority (51%) of the total number of members on the Workforce Development Board are representatives of businesses "with employment opportunities that reflect the employment opportunities of the local area" who are "owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policy-making or hiring authority."
2. The business representatives correlate with the industry mix within the Workforce Development Area
OR
 The business representatives do not correlate with the industry mix within the Workforce Development Area and the explanation for that is provided in an attachment.
3. The business representatives were "appointed from among individuals nominated by local business organizations and business trade associations" and the organization's names are listed on the chart.

The total number of business representatives on the WDB is

Non-Business Representation:

- The two or more representatives of local educational entities were “selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities.”
- The two or more representatives of labor organizations were “nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees.”
- There are two or more representatives of “Community-based organizations” (including organizations representing individuals with disabilities and veterans...). WIA defines community-based organizations as "a private nonprofit organization that is representative of a community or a significant segment of a community that has demonstrated expertise and effectiveness in the field of workforce investment."
- There are two or more representatives of "economic development agencies, including private sector economic development entities. “WIA defines economic development agencies to "include local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.”

All of the mandatory one-stop partners are represented:

- WIA activities for Adults, Youth & Dislocated Workers (WIA Title I)
- Adult Education and Family Literacy (WIA Title II)
- Job Service (Wagner-Peyser WIA Title III)*
- Vocational Rehabilitation (WIA Title IV)*
- Temporary Assistance to Needy Families/Wisconsin W-2
- Food Stamp Employment and Training and Food Stamp Workfare: Food Share
- Senior Community Service Employment Program, Older Americans Act
- Carl D. Perkins Vocational and Applied Technology Education
- Trade Adjustment Assistance
- Veterans Employment and Training Services & local Veteran’s outreach programs**
- Community Services Block Grants
- Housing and Urban Development E & T Activities
- Unemployment Insurance*

[Welfare-to-Work: This is a WIA mandatory one-stop service delivery partner, however, funds for this program were rescinded

- *The representatives from Vocational Rehabilitation, Unemployment Insurance and Job Service are the Department of Workforce Development designees.
- There are representatives if the following national program or activity is carried out in a local area with an operational presence:
 - Native American Programs
 - Migrant and Seasonal Farm Worker Programs
 - Job Corps
 - Veterans

- OPTIONAL: There are representatives from additional programs that provide services in the area. In Wisconsin, other entities traditionally considered workforce partners include:
- National and Community Services
 - Conservation Corps
 - Literacy Councils
 - Child Care agencies

List Names and Programs

Identify the members who are representing more than one program:

Name and programs

Name and programs

Other comments

The total number of non-business representatives on the WDB is

Attachment E
WORKFORCE INVESTMENT BOARD'S KEY WIA RESPONSIBILITIES

In partnership with the Chief Local Elected Official(s):

- Develop the five-year local Workforce Investment Plan
- Set policy for the Workforce Investment System within the WDA
- Conduct oversight of the One-Stop System
- Identify the designated comprehensive Job Centers and other service sites
- Appoint a Youth Council as a subgroup of the WDB & determine role
- Select youth providers upon recommendations of the Youth Council
- Conduct oversight of the youth programs and adult and Dislocated Worker activities (Title I)
- Identify eligible intensive services providers and training providers
- May employ staff
- May solicit and accept grants and donations from sources other than funds made available under WIA
- Assist the state in employment statistics system
- Coordinate with economic development strategies and develop employer linkages
- Promote participation of private sector employers
- Provide Rapid Response activities in conjunction with the State
- Conduct regional planning if the State mandates this effort

With the expressed agreement of the Chief Local Elected Official(s):

- Select One-Stop Operator(s)
- Develop and execute Memorandum of Understanding with One-Stop partners which must be consistent with the local plan
- Negotiate performance measures with the state

Subject to the expressed approval of the Chief Local Elected Official(s):

- Develop a budget for the purpose of carrying out the duties of the local board
- Identify other entities to participate as One-Stop partners

Only with the agreement of the Chief Local Elected Official(s) and the Governor, and meets State Requirements:

- Be a direct provider of Core, Intensive or Training services for adults and youth
- Be designated as a One-Stop Operator