

To: Minnesota Association of Workforce Boards, Local Workforce Development Boards, and Local Elected Officials

From: Minnesota Department of Employment and Economic Development

4/15/2020

Supplemental Guidance on Compliance Timelines During COVID-19 Outbreak

WIOA requires the regular submission and approval of various workforce system documentations and plans from system leadership at both the local and state level. The coronavirus pandemic has required system leadership to dedicate significant time to its response and has necessitated the cancellation or delay of many critical meetings. In consideration of this, the Minnesota Department of Employment and Economic Development (DEED) is extending deadlines for the below referenced system compliance items when possible. The items below include the details of timelines and summaries of what is required for their completion. Local Workforce Development Area leadership must be aware of the expectations required by law as communicated in this supplemental guidance.

Regional and Local Plans: DEED is extending the deadline for the submission of the regional and local plans to 4/30/2021. Regions and areas may still submit their plans before this date if they wish to do so. For all local plans DEED is further requiring the following item to be addressed:

Detail how your one-stop system has prepared to respond to your area's new workforce development needs as a result of the coronavirus outbreak's economic effect.

Subsequent Designation: DEED's [existing policy](#) to require subsequent designation requests from local boards every year by May 30th will be amended as soon as possible to reflect regulatory language that indicates the following: local area designations must be reviewed by the Governor at least every four years in concert with the submission of the state plan; unless areas request to not be subsequently designated the Governor will review the area's designation as if they had.

DEED has been advised by the Federal Department of Labor (DOL) that we can extend any deadlines associated with subsequent designation at will per our policy and supplemental guidance. DEED will be reviewing local area designations and communicating about the Governor's decision on these designations by 9/1/2021. At least three months prior to this date, DEED will request any necessary information for this process from local areas. This new timeline is because of the following reasons: 2020 is a year in which we have submitted a four-year state plan so we have to move forward with the designation process; a requirement for the subsequent designation of areas is regional planning and our new timeline for the approval of regional plans is mid-2021; some details of performance negotiations are unclear at this time.

The Governor will review area's designations with the following three required factors in mind-

1. Performed successfully– pursuant to [20 C.F.R 679.260](#) (b), the local area met or exceeded the levels of performance the state negotiated with the local workforce development board and chief elected official for core indicators of performance and that the local area has not failed any individual measure for the last two complete federal program years.
2. Sustained fiscal integrity– if the Secretary of Labor has made a formal determination that neither the grant recipient or the administrative entity of the area misspent 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.
3. Regional Planning– not meeting the regional planning requirements per section 106 (c)(1) of WIOA.

Any requests for subsequent designation already submitted or submitted before 9/1/2021 will be responded to, but at this time the 9/1/2021 designation is planned to affect all areas. All formal changes in system policy will be open for discussion and public input before implementation.

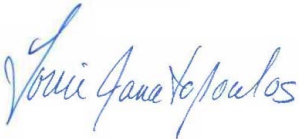
Memorandums of Understanding (MOUs) and Infrastructure Funding Agreements (IFAs): The DOL recently monitored Minnesota's Local Workforce Development Area 16, (Washington County), and communicated what they will require we change about our system's MOUs and IFAs. A formal write-up from their visit will be available by approximately early May and information from that will be made available at that time. Most critically, the DOL informed DEED that we cannot extend the deadlines for our system's MOUs expiring 6/30/2020 as the maximum time MOUs can be in place per regulations is three years. The Region 5 DOL representatives DEED posed this question to indicated they are checking with the national office on this, but we need to proceed as a system as if new MOUs must be finalized by 7/1/2020. The IFAs must be renewed to match up to the MOUs timelines as well per the DOL.

DEED's current [MOU](#) and [IFA](#) policy are in effect and can be referenced to move forward with the work of completing these documents and for information on their appeals process if the documents are not finalized by 7/1/2020. DEED will be working with the State Board to communicate with and educate them about these documents, the DOL monitoring, and what we are facing with our timelines during the pandemic to ensure all parties referenced in the appeals process are aware of the realities of the situation.

The following are some considerations to be aware of while moving forward with this work-

- Before the DOL's monitoring DEED leadership met and indicated a revision of our current IFA policy was needed. DEED is moving forward with gaining internal agreement and direction on this policy revision that incorporated the DOL's commentary as well. After internal consensus is achieved, DEED will present a draft IFA policy to MAWB for input before seeking public comment and finalizing this policy. This policy revision will result in changes in our current IFA practices. Initial changes will be including the following as stipulated by the DOL or required by DEED:
 - An IFA will not be effective until its last signature is obtained.
 - The IFA must indicate the overall one-stop budget of the local area, then subsequently break out infrastructure costs and additional costs per organization as the "Local Funding Mechanism."
 - The IFA must include regulatory language describing the appeals process of the document.

- The IFA must indicate how all required one-stop partners in each area contribute to the infrastructure costs of the area's one-stop system in a clear manner.
- The DOL's commentary on the MOU they reviewed indicated they will require more robust descriptions of referral processes between programs and the copying and pasting of regulatory language on the appeals process of the agreement.
- Because of the complicated nature of MOUs and IFAs DEED will be producing new example templates for each document as soon as possible that you may use when completing these documents that will satisfy feedback obtained from DEED leadership and the DOL.



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Questions?

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