

Mass Workforce Issuance

Workforce Issuance No. 06-66

Policy **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Associate Directors
DCS Field Managers

cc: WIA State Partners

From: Susan V. Lawler, Director
Division of Career Services

Date: October 13, 2006

Subject: **Local Workforce Investment Board FY 2007 Certification Policy and Process**

Purpose: To provide revised guidance and instruction in the preparation of the local Workforce Investment Board (LWIB) Biennial Certification Package that contains requirements for each LWIB related to the programs and services provided through the Workforce Investment Act of 1998 and other programs as designated by the Commonwealth and listed in the Letter of Intent (reference definition). Programs not included in these categories are subject to the requirements pertinent to those programs and funding streams. This revised issuance replaces MassWorkforce Policy Issuance No. 06-59 (issued 9/8/06).

The revisions include:

- The requirement for submission of an “emailed” copy of the local certification package has been eliminated. However, inclusion of a CD-Rom or Floppy Disk version of the certification package will be required as part of the local submission (p. 2).
- The business membership language has been clarified. Individuals who had been appointed as business members but who, at the time of the termination of their current term are either no longer employed in a position with “optimal policymaking or hiring authority” or have “retired” and have relinquished or forfeited their policymaking and/or hiring authority may not be appointed to a new term as a business representative (p. 7).
- The prohibition against an individual representing a chamber of commerce who otherwise meets the requirement to be nominated and appointed as a “business” member from serving as the WIB Chairperson has been eliminated (p. 7).

- The Submission Checklist has been expanded to include the CD-Rom or Floppy Disk version of the package (p. 10).
- In the case where a CEO/Municipality provides LWIB staffing services, the condition that LWIB staff “should not report to or be paid from the same account or department as the Title I administrator or Career Center operator” has been revised. The intent of the Commonwealth in articulating the condition as originally stated was only to assure the autonomy of the local board in order for the board to effectively carry out its oversight responsibilities and functions. Upon review it has been determined that the original language is too restrictive and may place undue burden on local areas in a time of substantially reduced administrative funding. It is sufficient for purposes of meeting the requirements for LWIB Certification that the CEO/LWIB Agreement describe a governance and reporting structure that clearly demonstrates how the autonomy of the board will be assured (p. 20).

Background: The Workforce Investment Act of 1998 (Section 117) requires the establishment of a Local Workforce Investment Board (LWIB) in each local area of a state. LWIBs must be certified by the Governor and are charged with setting policy for the workforce investment system within the locally defined area.

The Governor, in partnership with the State Workforce Investment Board, establishes criteria for use by Chief Elected Officials (CEOs) in the local areas for appointment of members to the local boards in accordance with the requirements set by federal law, the Governor and the State Workforce Investment Board.

The following pages contain instructions and guidance for the completion of the LWIB certification process including membership criteria established by the Workforce Investment Act and additional required criteria established by the Commonwealth.

Policy: The Commonwealth is issuing LWIB certification requirements for all regions designated as Workforce Investment Areas based on the Workforce Investment Act of 1998 and the Governor’s Executive Order Number 413 issued July 30, 1999.

Action

Required: All Local Workforce Investment Boards and Chief Elected Officials must submit **one copy of the complete LWIB Certification package with original signatures** prepared according to the attached instructions to Lisa Caissie, Division of Career Services, Charles F. Hurley Building, 19 Staniford Street, 1st floor, Boston, MA 02114. All packages must be submitted no later than November 3, 2006.

NOTE: A CD-Rom (minimum 740MB capacity) or a 3.5 Floppy Disk (minimum 1MB) version of the certification package will also be required. Specific instructions have been issued separately in WIA Information Issuance No. 06-67.

Attention: Packages which do not contain all required signatures, assurances and documents outlined in the Submission Checklist will not be accepted and will be returned to the local area.

Effective: Certification is effective upon approval from the Department of Workforce Development Division of Career Services.

References: This MassWorkforce Communication replaces WIA Communication No. 04-67
Workforce Investment Act of 1998
WIA Final Rule, Federal Register 08/11/00
Massachusetts Open Meeting Laws <http://www.mass.gov/legis/laws/mgl/39-23a.htm>
Office of Attorney General Open Meeting Law Guidelines
<http://www.cbsys.ago.state.ma.us/pubs/oml.htm>

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

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ABBREVIATIONS USED

CBO	Community Based Organization
CEO	Chief Elected Official
CFR	Code of Federal Regulations
DCS	Division of Career Services
DUA	Division of Unemployment Assistance
DWD	Department of Workforce Development
EO	Executive Order
LWIB	Local Workforce Investment Board
MGL	Massachusetts General Law
SWIB	State Workforce Investment Board
WIA	Workforce Investment Act

Definitions

Annual Business Plan - yearly planning document for the local area outlining workforce priorities and performance goals and the integrated budget.

Business Membership Organization - promotes general business awareness and activities in an area.

Business Trade Associations - comprised of members representing specific industry sectors or occupational areas which have a primary focus related to the employment needs, training and growth of those industries or sectors.

Chief Elected Official (CEO) – the Chief Elected executive officer of a unit of local government or in a case where a local area includes more than one unit of general local government, the individuals designated by local agreement if existent.

Community Based Organization (CBO) - means a private non-profit organization that is representative of a community or a significant segment of a community with demonstrated expertise and effectiveness in the field of workforce development.

Conflict of Interest – the circumstance of a public officeholder, business executive, or the like, whose personal interests might benefit from his or her official actions or influence. See “Conflict of Interest Statement” (sample), page 20.

Critical/Emerging Industries - emerging and critical industries are identified based on past and projected rates of growth in the number of business units and employment in a workforce investment area. An industry may be both critical and emerging or it may be critical and declining. Emerging and critical refers exclusively to numerical employment trends and does not describe the quality of jobs created, profitability condition or demand for products or services.

Commonwealth Corporation - a quasi public organization charged with programmatic operation of the WIA Title I Youth Program.

Department of Workforce Development (DWD) - department charged with administration and oversight of the majority of workforce development activities in the Commonwealth, including WIA.

Division of Career Services (DCS) - division of DWD charged with oversight and management of the WIA Adult and Dislocated Worker Programs, Wagner Peyser, Trade Adjustment Assistance and various other workforce activities. Also provides direct delivery of WP and other services within the Career Center system.

Economic Development Entities - includes local planning and zoning boards, community development agencies, and other local agencies or institutions responsible for assisting and promoting local economic development.

Employer of Record - entity designated as providing employment, supervisory oversight, compensation and benefits for a particular individual.

Employment Statistics System - statewide Labor Market Information system. Section 15(e) of the Wagner Peyser Act.

Fiscal Agent - entity designated by the Chief Elected Official to assist in the administration of WIA Grant funds and to safeguard the integrity of the local fiscal system. Appointment of a fiscal agent does not relieve the CEO of liability for misuse of grant funds.

Geographic Representation - membership on the LWIB that is representative of the employers and primary industries located within the cities and towns that comprise a local workforce investment area (LWIA).

Letter of Intent – Adjunct document to the state contracting process that lists WIA and other grant awards considered to be programs designated by the Commonwealth for the purpose of this policy.

LWIA - a local workforce investment board area designated under Section 116 of WIA.

LWIB - the local Workforce Investment Board for an area established under Section 117 of WIA.

Local Grant Recipient - the unit of local Government and Chief Elected Official designated by the Governor as the recipient of WIA funds for an LWIA.

Open Meeting Law - each LWIB must conduct business in conformance with 117(e) of WIA and consistent with the Massachusetts Open Meeting Law. Reference: Massachusetts Open Meeting Law <http://www.mass.gov/legis/laws/mgl/39-23a.htm>

Oversight - review of the services provided to ensure quality program delivery including performance, innovation, adherence to the annual business plan and budget and compliance with statutory and regulatory requirements.

Performance Measures - performance measures established for a local area under Section 136 (c) of WIA.

Unified Complaint Policy - WIA Communication Policy 05-89 describes the Unified Workforce Investment System Complaint process which outlines policy and procedures for complaint resolution related to the WIA program. The local WIB must develop a local policy consistent with 05-89 and must provide local complaint policies and procedures to all appropriate organizations and staff within the workforce investment area.

Unit of Local Government - 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.

Wagner Peyser Act – Wagner-Peyser authorizes the provision for labor exchange services for job seekers and employers. Title III of the Workforce Investment Act amends the Wagner-Peyser Act.

WIA Title I - funding to provide quality employment and training services for eligible youth, adults and dislocated workers and assist employers in finding the skilled workers needed to compete and succeed in business.

Workforce Investment Activity - an employment and training activity and youth activity.

Youth Council - a sub group of the LWIB focused on youth activities established under Section 117 (h) of WIA.

Substantive Changes Within the FY07 WIB Certification Policy

1. Membership

The Commonwealth is committed to strengthening the local boards and ensuring that business representation is representative of emerging and primary employment opportunities within the region as outlined in the Workforce Investment Act. Following the lead of several states the Commonwealth is further clarifying the criteria for appointment and categorization in three categories:

The definition of “business” candidates requires that members in that category provide employment opportunities in the local area. As new appointments are made to the LWIB in the business category self employed individuals with no employees, individuals who are no longer employed in positions with optimal policymaking or hiring authority within their organizations and individuals who have retired and have also relinquished or forfeited policymaking and hiring authority with their businesses may no longer be appointed as representatives of the business sector. Current “business” members who do not, or who no longer meet the requirements may complete their current terms. However, if they do not meet the qualifications for “business” membership when their terms expire they may not be appointed for a new term as “business” members.

- Business Membership or Business Trade Organizations comprised of members representing specific industry sectors or occupational areas or whose primary focus relates to the employment, training and growth of businesses within the region will continue to be considered as business representatives on the LWIBs.
- Business Membership Organizations which have a membership base that is diverse in nature and whose focus is primarily oriented toward more generic civic activities within a community may no longer serve as “business representatives” on the LWIB. Such organizations may assist the CEO in identifying nominees as business representatives on the LWIB from among its members. These individuals and/or organizations may also continue as LWIB members if appointed in another required category if appropriate or in the “other” category at the discretion of the CEO.
- For profit training providers will no longer qualify as “business” representatives. After the required educational representatives are appointed these entities may be appointed under that provision, or any others that might be appropriate.

2. Definitions

- A list of commonly used definitions has been provided.

3. Assurances

- Many of the CEO/LWIB requirements have been incorporated as Assurances within Section I of the document. The signature of the CEO and LWIB Chair attests to the agreement with the Assurances.

4. CEO/LWIB Agreement

- The governance and oversight of the local workforce system is designed to be a partnership between the designated Chief Elected Official(s) in the region and the LWIB. Each of the parties has specific statutory and regulatory functional roles that are described in the Act. In an effort to clarify the local Governance structure and ensure that the relationship between these two entities is clear and the local roles and responsibilities and the regulatory and operational processes and elements required under the Act by the individual and collective parties are included and understood by all parties, the CEO/LWIB agreement has been revised and a template provided. Written responses are required for all items.

5. Charts

- The LWIB Membership matrix has been revised to include additional information related to the organizational type and size for business members.

6. Local Governance Organizational Chart

- An organizational chart of the local workforce investment system and its governance structure is required.

7. Submission Process

- The submission process and timelines are included.

Local Workforce Investment Board (LWIB) Certification Process and Timeline

The Department of Workforce Development (DWD) will certify on behalf of the Governor, that the composition of the LWIB, including the appointment process complies with the criteria established in Section 117 of the Workforce Investment Act of 1998 and by the Governor. Certification of the Board is required every two years to ensure that workforce investment activities carried out under the board's oversight have enabled the local workforce system to meet established performance measures.

Submission Process and Timeline:

All materials must be submitted within the allotted 45 days of the original submission date of November 3, 2006 in order to permit sufficient time for review.

September 8, 2006 - LWIB Certification Policy Issued.

November 3, 2006 – LWIB Certification Package due to DCS.

One hard copy of the Certification Package with original signatures must be submitted to: Lisa Caissie, Division of Career Services, Charles F. Hurley Building, 19 Staniford Street, 1st floor, Boston, MA 02114. A copy of the package must also be filed electronically (specific instructions are forthcoming). To be accepted for review, Certification Packages must contain all required signatures, assurances, agreements, and documents as outlined on the attached submission checklist. Incomplete packages will not be accepted for review and will be returned to the LWIB.

November 6, 2006 – LWIB email notification

LWIBs will receive an e-mail notification of the receipt of a completed certification package, the return to the local area of an incomplete package, or the failure to submit a package for review.

November 6, 2006 – December 1, 2006 – Certification Package review and follow-up

Complete packages will be reviewed within 30 days of submission. Additional information or clarifications may be requested during this period. Copies of all requests for information, clarification and letters will be sent to the Chief Elected Official, LWIB Chairperson and LWIB Executive Director.

December 4, 2006 – LWIB notification of certification status

Approval letters will be sent to LWIBs meeting all certification requirements. Letters will also be issued to LWIBs not meeting certification requirements.

December 4, 2006 - December 15, 2006 - final period of time to submit required documents

LWIBs that have not met certification requirements by December 1, 2006 will receive notification of failure to achieve certification and may not act as the LWIB for the local area other than for purposes of completing the required certification documents.

December 18, 2006 – final date for attaining LWIB Certification

LWIBs who have not attained certification will be denied certification. In accordance with WIA Section 117 (c)(2)(C) the CEO will be required to reappoint and submit a revised membership listing and required documents following the procedures outlined in the LWIB Certification Policy.

Submission Checklist: Required Documents and Attachments

The following agreements, assurances, documents, and information must be included with your certification package. Incomplete packages will not be accepted for review and will be returned to the local area.

- ❑ The name of the individual who will act as the primary contact for the LWIB relative to the Certification Process
- ❑ The e-mail addresses to the Chief Elected Official, LWIB Chair, LWIB Executive Director and Primary Contact
- ❑ Signed Cover Page with original signatures
- ❑ Required Assurances (Section I)
- ❑ Executed CEO/LWIB Agreement (Section III)
- ❑ Copy of the LWIB By-Laws
- ❑ Copy of the LWIB Diversity Plan that establishes a diversity goal reflective of the population within the area and which demonstrates how the LWIB will ensure that the membership is reasonably representative of the entire geographic region and critical/emerging industries
- ❑ Articulation of WIB status as an incorporated or non-incorporated entity
- ❑ Local Governance Organizational Chart - an organizational chart that describes the local workforce and governance system within the region
- ❑ A copy of the Conflict of Interest Statement and signature form provided to each member
- ❑ Completed Membership Matrix
- ❑ Completed Youth Council Membership Matrix
- ❑ CD-Rom or Floppy Disk version of the Certification Package

LOCAL WORKFORCE INVESTMENT BOARD

CERTIFICATION PACKAGE

LWIB Name

Workforce Investment Area

Submitted for Certification Review to

Department of Workforce Development/Division of Career Services

CHIEF ELECTED OFFICIAL:

Signature _____ Date _____ *

Typed Name and Title/City

LWIB CHAIR:

Signature _____ Date _____ *

Typed Name and Title/Company Name

*** Note: Signatures attest to agreement of Chief Elected Official and Local Workforce Investment Board Chair related to the assurances and documents contained within this Certification package.**

Section I. Required Assurances

The following pages detail the assurances and documents that are required for LWIB Certification in the Commonwealth from each Workforce Investment Area. This Certification process contains requirements that must be met by each entity designated as the Local Workforce Investment Board for the programs and services provided through the Workforce Investment Act of 1998 and other programs designated by the Commonwealth. The signatures of the Chief Elected Official and LWIB Chair on the cover page of this document attests to their agreement with, understanding of, and compliance with these assurances and documents.

1. Nomination Process for members:

The nomination process assures that all nominations are submitted to the Chief Elected Official (CEO) in accordance with the WIA Regulations at 20 CFR Section 661.325 that states: *The local Board is appointed by the chief elected official(s) in the local area in accordance with State criteria established under WIA section 117(b), and is certified by the Governor every two years, in accordance with WIA section 117(c)(2).*

All members are representatives that are Chief Executives or optimum decision-makers within their organizations with hiring authority, and reflect the diversity goal established within each region.

Note: Letters of nomination must be kept on file locally by the LWIB.

The following criteria have been met in the appointment of all new members:

A. Business candidates must:

- Be nominated by local business membership organizations and business trade associations;
- Reflect the industrial and geographic composition of the business community, and
- Represent businesses with employment opportunities that reflect the employment opportunities in the local area.

Note: Self-employed business owners with employees are eligible to serve on the LWIB as a business member provided they reflect employment opportunities in the local area.

Business Membership Organizations that have a membership base that is diverse in nature with a focus that is primarily oriented toward more generic civic activities within a community may no longer serve as “business representatives” on the LWIB. Such organizations may assist the CEO in identifying nominees as business representatives on the LWIB from among its members.

B. Education representatives must:

- Be nominated by regional or local educational agencies, institutions, or organizations representing such local entities. Nominations for the local providers representing Adult Education and Literacy (WIA Title II) must be made by the Massachusetts Department of Education.
- Include a representative from a Community College where one exists.

Note: Subsequent to the appointment of required educational representatives the CEO may appoint for profit training providers under this category. These entities do not qualify as “business representatives”.

C. Labor representatives must be nominated by local labor federations (or if no employees are represented by such labor organizations, other representatives of employees).

D. Direct appointments include:

- Community Based Organizations (CBOs) include those representing individuals with disabilities and veterans for a local area in which there is such an organization.
- Economic Development may include private economic development entities.
- One-Stop Career Center partners are entities that carry out activities at the local level and other partners from state/regional agencies (with no local grant recipient). One-Stop Career Center required partners may represent more than one funding stream and are also required to sign an MOU.
- Other agencies include other members representing appropriate entities at the discretion of the CEO.

E. Terms of appointments:

The term of appointment for the business members of the board must be constructed in such a way that not all appointments expire in the same calendar year.

F. Membership Requirements:

The Local Workforce Investment Board assures compliance with the following membership requirements:

- Local Workforce Investment Board members appointed by the Chief Elected Official as required under the Workforce Investment Act shall constitute the official voting membership of the Board.
- At least 51% of the members of the LWIB will be appointed from businesses which are representative of the primary employers in the region as described in Section 1A.
- The local board chairperson shall be elected from among the business representatives on the board. (*WIA sec. 117(b)(5).*) *Section 117(b)(2)(A) of the Workforce Investment Act*).
- The balance of the membership shall represent education, economic development, organized labor, community based agencies, and the One-Stop Career Center partners as described in Section 1B.
- A minimum of four voting members of the LWIB must also serve on the Youth Council.

Note: Any program or activity, which may have multiple grant recipients, administrative entities or organizations responsible for administering its funds in the local area that is a required partner in the One-Stop system, is entitled to **one seat** on the Local WIB.

G. Membership vacancies:

All membership vacancies or changes in membership must be filled within 90 calendar days.

All One-Stop Career Center partnership vacancies must be filled within 60 calendar days.

Following any membership changes a revised membership matrix must be submitted to DCS.

H. Additional Assurances:

1. The LWIB will develop a fair and impartial review process, which incorporates in its by-laws a conflict of interest statement that is in compliance with the Commonwealth of Massachusetts conflict of interest laws (MGL Chapter 268A and B). This statement will ensure that no LWIB member may participate in discussions or vote on proposals in which the member has a financial or other interest as described in the statement. A signed Conflict of Interest

Statement for each member must be kept on file. (*sample form included on page 20*).

2. The LWIB ensures that it will conduct business in an open manner as required under Section 117(e) of the Workforce Investment Act and consistent with the Massachusetts Open Meeting Laws <http://www.mass.gov/legis/laws/mgl/39-23a.htm>.
3. The LWIB assures that there are current policies and procedures in the local workforce investment area for complaint resolution consistent with WIA regulations and the Commonwealth's procedural outline which is defined in WIA Communication Policy # 05-89 Unified Workforce Investment System Complaint Process. The local WIB must develop a local policy consistent with #05-89 and must provide local complaint policies and procedures to all appropriate organizations and staff within the workforce investment area.
4. The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under Sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability. (Public Law 105-220, Section 117 (d) (3)(B)(i)(I))
5. The designated chief elected official serves as the local grant recipient for a local area and may designate an entity to serve as a local grant sub-recipient for such funds, or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in sub clause (I). (Public Law 105-220, Section 117 (d)(3)(B)(i)(II))
6. The local grant recipient or an entity designated as the fiscal agent shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of WIA, if the direction does not violate a provision of this Act. The local grant recipient or fiscal agent shall disburse the funds immediately on receiving such direction from the local board. (Public Law 105-220, Section 117 (d)(3)(B)(i)(III))
7. The LWIB will enter into a formal agreement with the Chief Elected Official clearly detailing the partnership between the two entities for the governance, review and oversight of Local Workforce Investment Activities (Agreement Template provided).
8. Consistent with Section 118 of WIA, each local board in partnership with the chief elected official for the local area involved shall develop and submit an Annual Business Plan to the Governor. (Public Law 105-220, Section 117 (d)(1))
9. The LWIB, LWIB staff and any organization that directly provides staff to the LWIB may not provide WIA services (including Wagner-Peyser) in the local workforce investment area, i.e., core, intensive, or training, or participate in the management or operations of the local One Stop Career Center.
10. Consistent with section 121(d) of WIA, the local board, with agreement of the chief elected official shall designate or certify one-stop operators as described in section 121(d)(2)(A); and may terminate for cause the eligibility of such operators. (Public Law 105-220, Section 117 (d)(2)(A)(i & ii))
11. The local board shall develop a budget for the purpose of carrying out the duties of the local

board under WIA subject to the approval of the chief elected official.” (Public Law 105-220, Section 117 (d)(3)(A))

12. The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under Section 129 of WIA, local employment and training activities authorized under Section 134, and the one stop delivery system in the local area. (Public Law 105-220, Section 117 (d)(4))
13. The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in Section 136 of WIA. (Public Law 105-220, Section 117 (d)(5))
14. There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the area. (Public Law 105-220, Section 117 (h)(1))
15. The local board shall assist the Governor in developing the statewide employment statistics system described in Section 15(e) of the Wagner-Peyser Act. (Public Law 105-220, Section 117 (d)(6))
16. The LWIB/Fiscal Agent will utilize a procurement process that maximizes open and free competition. Procurement standards as delineated at 2 CFR, Part 215 (*Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*), MGL Chapter 30b and 29 CFR 95.40-48 must be followed as appropriate. The LWIB/Fiscal Agent must be aware of organizational conflicts of interest or other practices that may reduce competition. Written procurement procedures demonstrating compliance with Public Law 105-220 Section 117 (d)(2)(B, C and D) of the Workforce Investment Act of 1998 covering the solicitation and award of contracts for goods and services and records sufficient to adequately document each procurement must be maintained.
17. The Board assures that it and the local one-stop career center operator will carry out all activities relevant to the provision of each program covered under the Annual Business Plan in accordance with all Federal/State policies and procedures. The Board further assures that a schedule for the monitoring of the Board and local one-stop career center activities will be developed and agreed upon in concert with the Division of Career Services (DCS).
18. The Board assures that no funds provided through the Workforce Investment Act of 1998 and other programs as designated by the Commonwealth and listed in the Letter of Intent shall be used for, political activity, lobbying (29CFR 93/PL 101-121,319/31USC1352) or propaganda purposes. Compliance with the Hatch Act is also applicable where required.
19. The LWIB assures that it will focus its efforts on meeting the needs of local employers in both the state and local workforce systems. The LWIB assures that it will provide that connecting, brokering and coaching activities will occur that support these efforts. (Public Law 105-220, Section 117 (d)(8))
20. The LWIB assures (as described in the Annual Business Plan) that linkages have been made by the LWIB with area employers and economic development agencies in order to ensure a well-coordinated and non-duplicative workforce investment system in the region.

Section II. Additional Certification Requirements

The following documents must be submitted as part of the Certification Package:

1. An executed LWIB/CEO Local Agreement. (a template with required elements is provided)
2. A copy of the LWIB By-Laws.
3. A copy of the LWIB's diversity plan that establishes a diversity goal reflective of the population within the area and which demonstrates how the LWIB will ensure the broadest diversity possible in it's membership.
4. A description of how the LWIB will ensure that the membership is reasonably representative of the entire geographic region and critical/emerging industries.
5. Articulation of WIB status as incorporated or non-incorporated entity.
6. An organizational chart of the local workforce investment system and its governance structure.
7. A copy of the Conflict of Interest Statement and signature form provided to each Board member.
8. A completed membership matrix for both the LWIB and the Youth Council.

Section III. Chief Elected Official (CEO) / Local Workforce Board Agreement

A. Developing the Local Workforce Investment Board/Chief Elected Official Agreement:

On August 7, 1998, the Workforce Investment Act of 1998 (WIA) (Public Law 105-220) was signed into law and constituted a comprehensive reform legislation that superseded the Job Training Partnership Act (JTPA) and amended the Wagner-Peyser Act. The WIA also contains the Adult and Family Literacy Act (Title II) and the Rehabilitation Act Amendments of 1998 (Title IV).

The WIA reformed Federal job training programs and created a comprehensive workforce investment system intended to be customer-focused, to help people access the tools they need to manage their careers through information and high quality services, and to help companies find skilled workers.

The governance and operation of the Local Workforce Investment System is contingent on a successful partnership between the Chief Elected Official and the LWIB related to their respective roles which are outlined in the agreement between the Chief Elected Official and the Local Workforce Investment Board. In accordance with the Workforce Investment Act and Regulations, the following template is provided to ensure that the necessary regulatory and operational elements are described, included and understood by both parties. This will facilitate the delivery of optimal workforce development services for individuals and employers within the Workforce Investment area. **The LWIB By-Laws may not alter or circumvent this agreement.**

The responses to be provided within the LWIB/CEO Agreement describe the local workforce organizational design and the functions that each entity will assume related to its statutory and locally agreed upon responsibilities and the communication process that will be used to ensure that the goals and objectives outlined in the Annual Business Plan as well as the Workforce Investment Act are achieved.

The LWIB/CEO Agreement is not intended to serve as a detailed planning document. The Annual Business Plan is the document in which the LWIB and CEO will describe workplans, timelines and performance goals related to the direct delivery of workforce development services and activities within the region.

Changes to the Agreement:

The CEO/LWIB Agreement must cover the new two-year certification period. In order to remain a valid document, the Agreement must be modified if any of the following conditions change:

- There is a new Chief Elected Official
- There has been a change in the entity named to assist in the administration of the grant funds, to act as the local grant subrecipient or local fiscal agent
- The term of the document has expired or has not been properly modified

Changes or modifications to the CEO/LWIB Agreement must be submitted to the Division of Career Services, Charles F. Hurley Building, 19 Staniford Street, 1st floor, Boston, MA 02114 to the attention of Lisa Caissie.

B. CEO/LWIB Agreement Template

This agreement must contain a written response to each item below:

I. Joint Responsibilities of the Local Workforce Investment Board and Chief Elected Official

1. What process is used to designate and/or certify the One-Stop operators, and what are the roles of the Local Workforce Investment Board and Chief Elected Official in the selection and/or re-certification process?
2. What process is used in the development and approval of the Local Workforce Investment Board's operating budget?
3. Describe how LWIB membership is reflective of the Workforce Investment Area's demographic, geographical region and industries.
(Public Law 105-220, Section 117 (b), (c),(d))
4. What is the local oversight process for youth activities, employment and training activities and the one stop delivery system in the area? *(Activities authorized under Section 134, and the one stop delivery system in the local area.)* *(Public Law 105-220, Section 117 (d) (4))*
5. Who participates in the negotiation with the State of local performance measures for your area?
6. What process is used by the LWIB to appoint or reappoint the Youth Council?

II. Responsibilities of the Chief Elected Official

"The term chief elected official means—(A) the chief elected executive officer of a unit of general local government in a local area; and (B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 117(c) (1) (B)." *(Public Law 105-220, Section 101 (6))*

1. What entities or process will the Chief Elected Official use to obtain business candidate nominations for the Local Workforce Investment Board?
2. In regions with more than one unit of local government the Chief Elected Official may execute an agreement that specifies the roles of the other individual Chief Elected Officials. Is there an agreement among the CEOs in the region? If yes, please attach. If not, how will the Chief Elected Official ensure that all units of government in the region participate in workforce development activities?
3. If the Chief Elected Official has designated an entity to act as the WIA fiscal agent and/or to act as a local grant sub recipient, please identify the organization and describe the duties it will have, including its organizational relationship with the LWIB/CEO.

III. Responsibilities of the Local Workforce Investment Board

“There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area.” [Public Law 105-220, Section 117 (a)]

Describe how the Local Workforce Investment Board shall undertake the following activities:

1. How is the Annual Business Plan developed and/or modified in your region, and how is the “partnership” achieved with the CEO?
2. “The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information regarding the local plan, and regarding membership, the designation and certification of One-Stop operators, and the award of grants and contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.” [Public Law 105-220, Section 117 (e)] How will the Local Workforce Investment Board ensure public access and knowledge of Workforce Investment Board activities as described above?
3. Does your Local Workforce Investment Board solicit and directly operate non-WIA/non-State-designated workforce development programs outside the One Stop Career Center system? If yes, how are these programs integrated and linked with other activities and programs provided through the Career Center system? [Public law 105-220, Section 117 (F)]

IV. Local Governance Design and Structure

WIA envisions a strong, cooperative partnership between the CEO and the LWIB which will allow each entity to act within its defined role to positively impact the local labor market and community. Through this agreement the respective roles and responsibilities will be clearly understood by each entity. This will enable the LWIB and the CEO to effectively manage and strengthen their partnership maximizing workforce development efforts in the region.

The creation of a clear governance structure at the local level should, therefore, be articulated in the responses to the following requested information related to the local organizational structure:

1. The LWIB may, in accordance with the attached CEO/LWIB Agreement, choose to employ LWIB staff directly or contract with another appropriate organization to provide staffing services, including the designated CEO, or its fiscal agent and/or sub grant recipient. **Please identify: the organizational employer (including department if paid through a municipality or unit of local government); the entity whose personnel policies will be followed and the entity who has hiring/ terminating authority for all LWIB staff.**
2. The fiscal agent as designated by the CEO (not the LWIB or LWIB staff) may provide services in the local area, including, the management/operation of the local One-Stop Career Center. **Please describe the services that will be provided by the fiscal agent in your area.**
3. Subject to funding restrictions and limitations, the LWIB may manage its funds directly or contract with another appropriate entity or agent to manage its funds, including the CEO, its

fiscal agent or grant sub recipient or one-stop operator/partner. **Please indicate the entity that will manage the funds for the LWIB in your area.**

4. Although it is permissible for the CEO/municipality to be the employer of record for LWIB staffing purposes this staffing structure is **strongly discouraged**. The configuration could result in questions related to the degree of LWIB autonomy required to properly and effectively perform its critical oversight functions. Additionally, given the incorporated structure of the majority of LWIBs in the Commonwealth the employer/employee relationship and related personnel issues have caused significant confusion in the local areas related to the employment status of these individuals.

If the CEO/municipality provides LWIB staffing services, the following conditions must be met:

- The restrictions on the provision of core, intensive and training services by the Local Board also apply to staff of the Local Board (WIA sec. 117(f)(1) and (f)(2)). LWIB staff employed or contracted through the municipality cannot provide services or participate in the operation of the local One-Stop Career Center.
- These individuals will be considered as employees of the municipality and subject to the personnel policies and organizational oversight as other employees within the municipality unless there is a specifically executed and signed agreement between the CEO and LWIB, voted on and approved by the LWIB membership which contains the personnel policies and organizational oversight that will be utilized in the management of LWIB staff.
- An appropriate governance and reporting structure must exist to safeguard the autonomy of the LWIB and its staff in order to effectively carry out its oversight function;
- Adequate distinctions must be created between LWIB staffing and direct provision of service. (*Public law 105-220, Section 134 (d)*)

If your LWIB will employ staff through the municipality please indicate which municipal department will have responsibility for the staffing services for the LWIB and how the autonomy of the LWIB staff will be maintained.

**CONFLICT OF INTEREST
LOCAL WORKFORCE INVESTMENT BOARD
MEMBERS**

LWIB Name: _____

WIA (sec. 117 (g)): Conflict of Interest--A member of a local board may not--
(1) vote on a matter under consideration by the local board--
(A) regarding the provision of services by such member (or by an entity that such member represents); or
(B) that would provide direct financial benefit to such member or the immediate family of such member: or
(2) engage in any other activity determined by the Governor to constitute a conflict as specified in the State plan.

I have been presented with copies of the following documents provided by the State Ethics Commission:

- 1. **An Introduction to the Conflict of Interest Law**
- 2. **An Introduction to the Conflict of Interest Law for the Private Sector**
- 3. **Guide to the Conflict of Interest Law for Municipal Employees**

I will at all times conduct myself as a member of the LWIB in such a manner as to avoid conflict of interest or the appearance of conflict.

I will notify the Chair or Executive Director of the LWIB of any situation that I believe has the potential of being in conflict or giving the appearance of being in conflict. I will excuse myself from any LWIB processes to avoid situations of conflict or abide by any decision related to my participation that is in compliance with the bylaws of the LWIB.

I have been made aware of the following **General Laws of Massachusetts:**
Chapter 268A. CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES.
Chapter 268B. FINANCIAL DISCLOSURE BY CERTAIN PUBLIC OFFICIALS AND EMPLOYEES.

ACKNOWLEDGEMENT:

I the undersigned, acknowledge the Conflict of Interest responsibility that is summarized above as a member of the _____ Local Workforce Investment Board. By my signature below, I am declaring that I will conduct myself within the intent, spirit and letter of the Conflict of Interest Laws, guidelines and by-laws under the pains and penalties of perjury.

PRINT NAME

SIGNATURE

DATE

TITLE

Name & Title	Organization or Agency Name	Number of Employees	City or Town	Type of Business or Industry Represented	Term Start Date	Term End Date
B. LABOR REPRESENTATIVES – Minimum of 2						
<i>REQUIRED ONE-STOP CAREER CENTER PARTNERS - One-Stop Career Center partners may represent more than one funding stream</i>						
C. EDUCATION REPRESENTATIVES – Minimum of 2 Required Partners: Entities providing Adult education and literacy activities; Post-Secondary educational institutions (Post secondary vocational education activities under Carl D. Perkins Vocational and Applied Technology Education Act (WIA § 121(b)(1)(B)(vii) and including representatives of community colleges, where such entities exist (WIA §117(b)(2)(A)(ii).						
D. ECONOMIC DEVELOPMENT REPRESENTATIVES – Minimum of 2						
E. COMMUNITY BASED ORGANIZATIONS – Minimum of 2						
F. ADULTS, YOUTH, DISLOCATED WORKERS						

Name & Title	Organization or Agency Name	Number of Employees	City or Town	Type of Business or Industry Represented	Term Start Date	Term End Date
G. WAGNER-PEYSER						
H. UNEMPLOYMENT INSURANCE						
I. CHAPTER 41 OF TITLE 38 (DVOP/LVER)						
J. ADULT EDUCATION and LITERACY						
K. POST-SECONDARY VOCATIONAL EDUCATION						
L. VOCATIONAL REHAB PROGRAMS						
M. TITLE V OLDER AMERICANS						
N. TRADE ADJUSTMENT ASSISTANCE						

Name & Title	Organization or Agency Name	Number of Employees	City or Town	Type of Business or Industry Represented	Term Start Date	Term End Date
O. JOB CORPS*						
P. NATIVE AMERICAN PROGRAMS*						
Q. MIGRANT AND SEASONAL FARMWORKERS*						
R. COMMUNITY SERVICE BLOCK GRANT EMPLOYMENT & TRAINING*						
S. HOUSING AND URBAN DEVELOPMENT EMPLOYMENT & TRAINING*						
U. OTHER (add rows as needed)						

- * If represented in the area.

Youth Council Membership Matrix

LWIB Name: _____

Date Submitted: _____

Name & Title	Organization or Agency Name	City or Town	Term Start Date	Term End Date
A. Youth Service Agencies – Minimum of 2. Special preference shall be given to juvenile justice and law enforcement agencies.				
B. Local Public Housing Authorities				
C. Parents of Eligible Youth Seeking Services				
D. Individuals – Minimum of 2. Special preference shall be given to former participants and representatives of organizations with experience related to youth services.				
E. Job Corps – Representatives of Job Corps, if available in area.				
F. Voting Members of the LWIB – Minimum of 4				
G. Other Youth Council Members – Youth Councils may include other individuals, who the chair of the Local Board, in cooperation with the Chief Elected Official, determines to be appropriate. Special consideration should be given to (1) a representative from the Adult Basic Education community and (2) a youth representative. Please identify the youth representative(s) as such in the appropriate section, below.				
<i>YOUTH REPRESENTATIVE(S)</i>				