



Missouri Division of Workforce Development
DWD Issuance 21-2015

Issued: June 22, 2016
Effective: June 22, 2016

Subject: Workforce Innovation and Opportunity Act (WIOA) Regional Planning Definition and Procedures

1. Purpose: This Issuance communicates WIOA¹ statutory requirements and U.S. Department of Labor (DOL) proposed regulations for Regional Planning. State interpretations are given for these requirements. This Issuance identifies those Local Workforce Development Areas (LWDA) in Missouri that must collaborate to create a Regional Plan and describes the necessary plan contents.

2. Background: WIOA, enacted in July 2014, changes Regional Planning from a State opt-in activity to a required activity for all states. The Workforce Investment Act of 1998² encouraged LWDAs to engage in Regional Planning and permitted the state to impose Regional Planning, at its discretion. WIOA requires the state and the Local Workforce Development Boards (Board) to work with Chief Elected Officials (CEO) to engage in a regional planning process for those Planning Regions designated as such in the State Plan.

“Regional Planning” does not mean an expansion of a local service area. WIOA requirements do promote regional collaboration, but they do not mean dissolution of any existing LWDA. Each LWDA within a regional planning area shall operate autonomously within its respective designation and prosper among its regional planning partners.

This subject requires comparison of three sources of information:

- 1) The law;
- 2) Its proposed implementing regulations; and
- 3) DOL’s preamble summary interpretation of those regulations.

A “region” can be a group of two or more Local Areas where large population, economic development, labor market information, regional planning, or other factors offer an opportunity for a wider zone of coordination. WIOA Sec. 106(a)(2)(B) describes these conditions. There is also *non-WIOA* administrative language within the Missouri Department of Economic Development. The Missouri Economic Research and Information Council (MERIC) refers to 10 *economic regions* across the State. In this case, the “St. Louis Region,” corresponds with the Local Areas of four different Local Boards. MERIC’s “Kansas City Region” corresponds with two Local Areas. In the rest of the State, the economic regions occupy the same space as the one Local Area.

For clarity and consistency, DWD’s policy is to refer to the local geographic designation made by the Governor as the “Local Area” or “Local Workforce

¹ Pub. Law 113–128.

² Pub. Law 105-220.

Development Area” while reserving use of the word “region” for a MERIC *economic* region or a WIOA *planning* region.

3. Substance:

Regional Planning and WIOA

In the absence of federal guidance, LWDAs await a clear interpretation of what the State requires. The State interprets each of these provisions of the Law. Wherever it refers to the “Act” or the “Law,” the State means the WIOA, Public Law 113–128 and proposed regulations. Final versions of regulations implementing WIOA, promulgated by the DOL and U.S. Department of Education, remain unpublished as of the date of this Issuance.

Regional Planning Eligibility

SEC. 106. WORKFORCE DEVELOPMENT AREAS

(a) REGIONS.—

- (1) IDENTIFICATION.—Before the second full program year after the date of enactment of this Act, in order for a state to receive an allotment under section 127(b) or 132(b) and as part of the process for developing the state plan, a state shall identify regions in the state after consultation with the local boards and chief elected officials in the local areas and consistent with the considerations described in subsection (b)(1)(B).

In its *Workforce Innovation and Opportunity Act Missouri Combined State Plan* (2016), the state of Missouri establishes the Greater Kansas City and Greater St. Louis Planning Regions. A Regional Plan must comprise the local planning areas of Kansas City and Vicinity and East Jackson County and a Regional Plan must comprise the local planning areas of the City of St. Louis, the County of Saint Louis, the County of St. Charles, and the Jefferson County–Franklin County Consortium.

SEC. 106. WORKFORCE DEVELOPMENT AREAS

DOL’s preamble discussion for proposed 29 CFR 679.510, “What are the requirements for regional planning” (at 80 FR 20709), acknowledges that although WIOA Sec. 106(c) clearly describes the *contents* of a Regional Plan, it provides less detail about the approval and modification process. DOL continues: “*Because the Local Plan is a component of the Regional Plan,*” the Department has decided to apply the approval and modification requirements, including the requirement to seek public comment and sunshine provision, to the Regional Plan as it is incorporated into each respective LWDA.

“As provided in WIOA Sec. 107(d), the Local Board must:

- (a) Develop and submit a 4-year Local Plan for the Local Area, in partnership with the Chief Elected Official and consistent with WIOA Sec. 108;
- (b) If the Local Area is part of a Planning Region that includes other Local Areas, develop and submit a Regional Plan in collaboration with other Local Areas. If the Local Area is part of a Planning Region, the Local Plan must be submitted as a part of the Regional Plan; ...”

To parse this phrasing, the rule does *not* present these subsections as alternative actions. They are *action steps in a sequence*, with the required action in paragraph (a) taking precedence. Were they alternatives, rulemaking syntax would necessitate the word “or” between the subsections, as is commonly and frequently found in the law

and in these regulations. Additionally, WIOA Sec. 106(c)(2) specifies that a Regional Plan “incorporates Local Plans for each of the LWDAs in the Planning Region.” Ergo, a Local Plan *must exist* for every LWDA within a Planning Region.

Interpretation—It is the interpretation of the state of Missouri that no provision within WIOA, or the proposed rules, prohibits a separate Local Plan, distinct from the regional economic and workforce needs of the Regional Plan.

Missouri initially designated fourteen (14) LWDAs and Boards and will continue with these same designations. Each of the LWDAs must create a Local Plan. However, collaboration must occur within the Greater Kansas City and Greater St. Louis Planning Regions for the creation of two Regional Plans as established in the State Plan.

The State encourages the remaining eight Boards to collaborate, cooperate, share information, and plan to serve common needs as required, but they will *not* submit Regional Plans.

What is the purpose of Regional Planning?

The implementing regulation for WIOA Title I, found at 29 CFR Subpart D, Part 679.500 (as proposed) explains that the purpose of a Regional Plan is identical to that of the workforce Local Plan. It serves as the four (4) year action plan to align service delivery, direct investments, apply job-driven strategies, and enable the building of a skilled workforce.

Interpretation—It is the interpretation of the state of Missouri that the submission of a Local Plan by a Board within a Planning Region is neither prohibited nor excused.

Missouri’s interpretation aligns with Regional Planning options within the proposed regulation at 679.510(a)(1)(viii), which requires LWDAs to include within the content of their Regional Plan:

“....how the Planning Region will collectively negotiate and reach agreement with the Governor on local levels of performance for, and report on, the performance-accountability measures....for Local Areas **or** the Planning Region.”

Therefore, as long as there is a collaboratively developed negotiation agreement for the Planning Region, the Boards for that region also may agree that it treats LWDAs **separately**, and it is *not* required to be applied only to the region.

In this case, the syntax in proposed rule Part 679.510(a)(1)(viii) *does* use the alternative “or” in the phrase “for LWDAs **or** the Planning Region,” identical to the language that appears in the law. The clear textual interpretation is that the negotiation and reporting of performance levels for LWDAs may remain separate. Levels may be pooled only if *all* the LWDAs in the Planning Region assent to that approach. All that is required is for the Regional Plan to state that “the Local Boards in this region elect to negotiate and report performance independently.”

Approving the Regional Plan

In proposed Part 679.520, after submission to the state, a Regional Plan has automatic approval after 90 days, *unless* during that period the Governor determines that:

- (a) Deficiencies in workforce investment activities appear in audits and a Local Area (i.e., any one of the regional partners) has not made acceptable progress to address those deficiencies;
- (b) The Regional Plan does not comply with WIOA (such as not accommodating public comment);
- (c) The Regional Plan does not align with the State Plan (contrary or omitted objectives).

In proposed Part 679.530, the Regional Plan must be modified (according to Missouri's modification procedures³) and undergo a collective review within two years by the Boards, CEOs, and the economic regional partnership. The review must reflect changes: 1) in the labor market and economic conditions; and 2) other factors affecting implementation of the plan, including financing available to support WIOA.

Regional Planning Outcomes/Deliverables

The law, at Sec. 106(c)(1), defines expected Regional Planning outcomes. There are eight (8) of them, subdivided as (A) through (H). The following are the citations and interpretations for each.

- (A) The preparation of a Regional Plan, as described in paragraph (2);

Interpretation—A description of activities for all LWDA is brought together as one Regional Plan. Each of the Local Plans within the regional planning area meets the intent of the law if it references and describes the agreed-to regional planning role of that Board in the Regional Plan. The converse of this, meaning one plan composed of elements of all others in the region, is *not* required.

- (B) The establishment of regional service strategies, including use of cooperative service-delivery agreements;

Interpretation—These steps are at the core of effective Regional Planning. How will multiple, independently existing Boards cooperate to deliver service within a regional context? How do people effectively get services, and how are costs shared when a customer crosses from one LWDA to another for services? The LWDA shall develop cooperative strategies for service delivery.

- (C) The development and implementation of sector initiatives for in-demand industry sectors or occupations for the region.

Interpretation- The LWDA shall develop cooperative strategies for the development and implementation of sector initiatives for in-demand industry sectors or occupations within the region.

- (D) The collection and analysis of regional labor-market data (in conjunction with the state);

Interpretation— Utilizing reports from [MERIC](#), as well as current regional economic analyses including but not limited to [Mid-America Regional Council](#) or [St.](#)

³ As described in the current DWD Issuance on Local Plan and Regional Plan Modification Procedures.

[Louis Community College](#), the LWDA shall utilize labor market data for the purpose of regional planning.

- (E) The establishment of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate, for the region;

Interpretation—It is the textual interpretation of the state of Missouri that this requirement is met by responding to the face value of what is asked for here: “administrative cost *arrangements*, including the pooling of funds for administrative costs, *as appropriate*.”

There is insufficient clarity or support from changes in the law, or the proposed implementing regulations, to support a supposition that this is a requirement for a single, integrated, administrative budget shared by two or more LWDA's. Moreover, there is sufficient evidence to the contrary.

There is an absence of alternate regional procedures in the several specific references to LWDA administrative cost issues elsewhere in the law. When Congress explicitly wishes to establish a practice, it uses precise language that is not present in WIOA. The State of Missouri will not read language into a statute that Congress intentionally left out. Although the final version of the rules could clarify, or radically change, this interpretation, at present a Regional Plan should only describe and estimate pooled, shared costs in these areas *as they may be appropriate*.

- (F) The coordination of transportation and other Supportive Services, as appropriate, for the region;

Interpretation- How persons are served within the region in a coordinated and effective manner is a mutual concern for LWDA's in a Planning Region. Clients requiring essential transportation, especially often meager public transportation opportunities, and especially regarding Supportive Services, must be addressed in the Regional Plan. This must include how individuals are served given differing local Supportive Services policies.

- (G) The coordination of services with regional economic-development services and providers;

Interpretation—It is the State's intent that regional economic development services and providers have been, and will continue to be, a part of the sector-strategies engagement process. This means that regional planning efforts are either synchronized with, or supportive of, economic development services and providers. It also requires integrating workforce development plan strategies with the needs of economic development providers. Planning regions are encouraged, whenever possible, to attach letters of support from economic development providers to the Regional Plan as evidence of awareness and engagement with the sector strategies workforce development effort.

- (H) The establishment of an agreement concerning how the planning region will collectively negotiate and reach agreement with the Governor on local levels of performance for, and report on, the performance-accountability measures described in section 116(c), for LWDA's *or* the planning region.

Interpretation—The language of the law requires doing this either for the planning region **or** for the individual LWDA's. Therefore, the State has no intention (unless directed by further federal legislation, regulation, or interpretation of law) to hold individual LWDA's within a region accountable for regional planning

performance targets or fiscal improprieties. There cannot be retribution or negative consequences (performance sanctions) in the event of a regional performance lapse at this time. However, it is always important for the LWDAs within a planning region to have their performance targets complement each other when building a regional service strategy. All LWDAs should strive to achieve performance for the region as a whole, even without any specific consequences for a regional performance lapse.

Regional Planning Procedures

Individual LWDAs will complete a Local Plan for each of their own originally designated LWDAs as before. One interpretation of the extra effort in regional planning, would require the resulting documents to be conjoined in a single, separate, planning document that reiterates all of the Local Plans within the region, as shown in Figure 1:

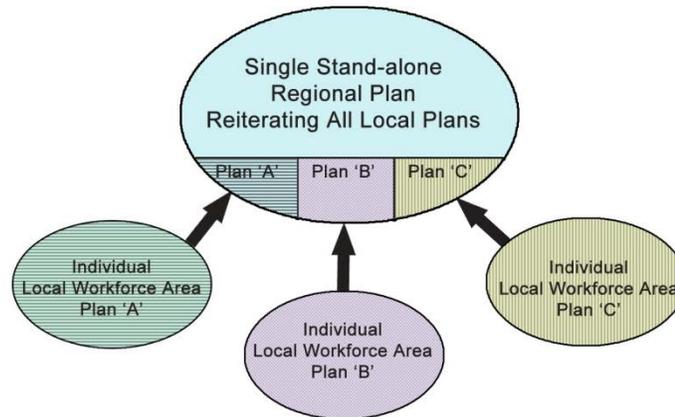


Figure 1: Single Regional Economic Plan

Interpretation—It is the interpretation of the state of Missouri that every intention and function of the law can be met by each Local LWDA within a planning region completing its own individual plan that contains a single, jointly agreed to Regional Plan that is identical within each participating area, as shown in Figure 2. In effect, this results in multiple Regional Plans, but they are identical to the agreed-to strategies and objectives within the planning region.

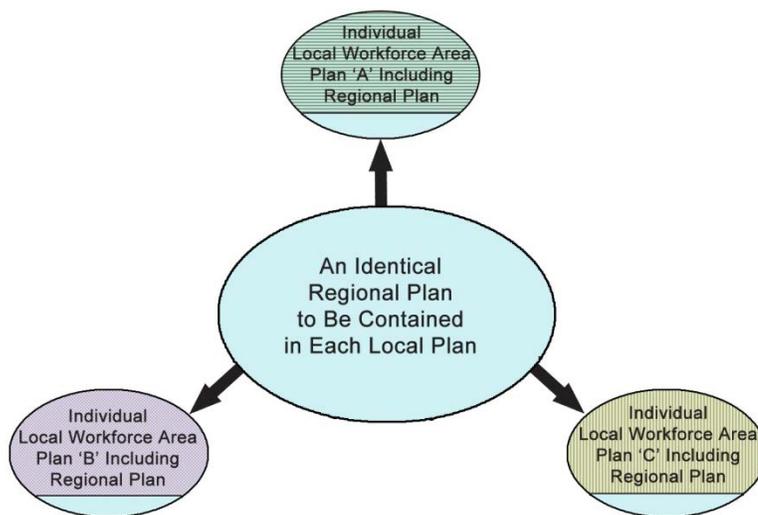


Figure 2: Multiple (Identical) Regional Economic Plans

Regional Plans Have Local Plan Content

Proposed rule Part 679.540 states that for all practical purposes, all regional planning undertaken under proposed Part 679.510, also must incorporate all local planning requirements found in WIOA Sec.108(b)(1)–(22).

Interpretation—It is the interpretation of the state of Missouri that all requirements as to the contents of the Local Plan also must be reflected in the Regional Plan, *although these contents need not be redundant.* The Regional Plan may condense, summarize, and refer to the local planning directives, models, and strategies within separate LWDAs without creating an additional exact duplication of the Local Plans. Describe the local input and participation toward regionally and collaboratively developing and achieving goals, objectives, and strategies.

4. Action: Effective June 22, 2016, this information should be used to develop regional planning documents for the Greater Kansas City and Greater St. Louis workforce planning regions.

These planning regions should submit these Regional Plans to DWD on or before July 1, 2016, after the requisite period and procedure for public comment.

5. Contact: Direct questions or comments regarding this issuance to Clinton Flowers, Performance Research Manager, Performance Research and Planning Section, Missouri Division of Workforce Development, P.O. Box 1087, Jefferson City 65102, or at (573) 526-8261, or clint.flowers@ded.mo.gov.

6. Reference: [WIOA Sections 3, 106, and 108.](#)
<https://www.gpo.gov/fdsys/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf>
[29 CFR Part 679—Statewide and Local Governance of the Workforce Investment System under Title I of the Workforce Innovation and Opportunity Act, as proposed.](#)
<https://www.gpo.gov/fdsys/pkg/FR-2015-04-16/pdf/2015-05530.pdf>

[DWD Issuance 14-2015, "Planning Policy and Guidelines for Missouri Local Workforce Development Boards," February 16, 2016.](https://jobs.mo.gov/sites/jobs/files/dwdissuance14-2015_02162016.pdf)
https://jobs.mo.gov/sites/jobs/files/dwdissuance14-2015_02162016.pdf

DWD Issuance 19-2015, "Local Plan and Regional Plan Modification Procedures,"
June 22, 2016.

7. Rescissions: None.

8. Attachments: None.

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