

U.S. Department of Labor



Employment and Training Administration

REGION 5

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February 8, 2018

Beth Townsend
Director
Iowa Workforce Development
1000 E. Grand Avenue
Des Moines, Iowa 50319

Dear Director Townsend:

Thank you for your response, dated December 21, 2017, to our November 8, 2017 monitoring report. The enclosed report identifies the resolution status of each of the Findings. Finding 5 is resolved. The other 10 Findings remain open pending further action. In ETA commentary in the enclosure to this letter, you will find IWD's initial responses included verbatim for the record.

Please note that the State's response to Finding 3 references attachments that were not included with the State's response. In our comments on some of the State's responses, we ask IWD to submit a revised Realignment Plan timeline (pp. 20-22) to us, within 10 days of receipt of this letter. The revision is needed because a number of key dates are not identified in the timeline. The attachments related to Finding 3 and the revised timeline should be submitted to your Federal Project Officer, Tommy Ouyang.

Instead of asking that IWD submit another written response to each of the unresolved Findings, my team will follow-up, via conference calls and an on-site review, to ensure on-going progress towards resolution. Any questions or concerns may be directed to Stacy O'Keefe at okeefe.stacy@dol.gov or Tommy Ouyang at ouyang.tommy@dol.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine Quinn".

Christine Quinn
Regional Administrator

Enclosure

COMPLIANCE FINDINGS

Finding 1: Local Areas Not Aligned Appropriately – State (Core Component 3.1 – Governance)

The 15 local areas in Iowa do not meet the substantive requirements of a local workforce development area (LWDA) under WIOA. The 15 service areas date back to the Job Training Partnership Act under which States established “Service Delivery Areas” or SDAs. These SDAs were formed to align with service delivery in the State and, in Iowa, this resulted in areas being formed around the Community College locations throughout the State. Subsequent workforce development legislation, first the Workforce Investment Act of 1998 and, most recently, WIOA, allowed for existing service delivery areas to continue to serve as local areas, with only minimal qualifying criteria.

As a result, the current local service areas in Iowa do not align with the characteristics around which the WIOA intends a LWDA to be aligned, such as local labor market areas and/or economic development areas. Furthermore, the division of limited WIOA funds among 15 service areas, particularly in a State that has large rural areas, is stretching the available dollars so thin that the local areas are unable to fund core WIOA functions, such as staff support for the required Local Workforce Development Boards (WDBs) and/or the One-Stop Operators (OSOs). And finally, this structure does not facilitate the development of WIOA-compliant planning regions which, by law and regulation, are aligned with labor markets, commuting patterns, economic development areas, etc.

Required Action: The State must work with the chief elected officials to establish WIOA-compliant LWDAs that are able to fulfill all of the required roles and functions of a LWDA. The State must submit a plan to address the non-compliant local structure, in its response to this report. The Finding will be resolved when the State has LWDAs that are aligned with the criteria described above and are able to fund and/or administer the core WIOA functions described above.

IWD Response

Iowa complied with WIOA in its initial designation of local areas.

WIOA section 189(i)(1) is entitled, “Special Rule Regarding Designated Areas,” and states:

A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 106.

Iowa Code section 84B.C, which the Iowa General Assembly enacted on May 2, 1996, states:

A workforce development center, as provided in section 84B.2, shall be located in each service delivery area. Each workforce development center shall also maintain a presence, through satellite offices or electronic means, in each county located within that service delivery area. **For purposes of this section, “service delivery area” means the area included within a merged area, as defined in section 260C.2, realigned to the closest county border as determined by the department of workforce development. However, if the state workforce development board determines that an area of the state would be adversely affected by the designation of the service delivery areas by the department, the department may, after consultation with the applicable local workforce development boards and with the approval of the state workforce development board, make accommodations in determining the service delivery areas, including but not limited to the creation of a new service delivery area. In no event shall the department create more than sixteen service delivery areas.**

(emphasis added).

The Iowa General Assembly enacted Iowa Code section 84B.C on May 2, 1996. It provides for the designation of service delivery areas for the delivery of workforce investment activities.

Therefore, under the Special Rule Regarding Designated Areas in WIOA section 189(i)(1), Iowa may use the designated service delivery areas under Iowa Code section 84C.3 as local areas under WIOA Title I, notwithstanding WIOA section 106. Thus, the requirements from WIOA section 106 cited by the Regional Office in Finding No. 1 are not applicable to the designation of local areas under Iowa Code section 84B.3 as a matter of law under WIOA section 189(i)(1).

Even if one takes the position for the sake of argument that the Special Rule Regarding Designated Areas in WIOA section 189(i) (1) does not apply to Iowa the initial designation of local areas in Iowa complies with WIOA section 106, which states:

(1) IN GENERAL.—

(A) PROCESS. — Except as provided in subsection (d), and consistent with paragraphs (2) and (3), in order for a State to receive an allotment under section 127(b) or 132(b), the Governor of the State shall designate local workforce development areas within the State—

- (i) through consultation with the State board; and
- (ii) after consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process as described in section 102(b)(2)(E)(iii)(II).

(B) CONSIDERATIONS.—The Governor shall designate local areas **(except for those local areas described in paragraphs (2) and (3))** based on considerations consisting of the extent to which the areas—

- (i) are consistent with labor market areas in the State;
- (ii) are consistent with regional economic development areas in the State; and
- (iii) have available the Federal and non–Federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

(emphasis added).

Thus, under the express text of WIOA section 107(b)(1)(B), WIOA sections 107(b) (2) and (3) create an exemption to the local area designation process and considerations contained in WIOA section 107(b)(1). Section 107(b)(2) applies to initial designation and states:

(2) INITIAL DESIGNATION. — During the first 2 full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2–year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity.

Iowa considered the criteria in WIOA section 107(b)(2) when performing initial designation of local areas. Because each of Iowa’s 15 local areas were designated as a local area for the purposes of WIA for the two-year period preceding the date of WIOA’s enactment and requested initial designation as a local area, Iowa applied the “performed successfully” and “sustained fiscal integrity” criteria. After that process, all 15 of Iowa’s incumbent local areas under WIA were given initial designation under WIOA. This process was described in Iowa’s Unified State Plan, which DOL and the U.S. Department of Education approved in 2016.

Because WIOA expressly authorizes a State to use service delivery areas designated under a qualifying state law (such as Iowa Code section 84B.C), notwithstanding Section 106, and WIOA section 107(b)(1) contains an express exception to its process and considerations for designating local areas that were designated as such for the two-period before the date of WIOA’s enactment (such as each of Iowa’s 15 current local areas), the Regional Office’s conclusion that “the current local services areas in Iowa do not align with the characteristics around which WIOA intends a [local area] to be aligned, such as local labor

market areas and/or economic development areas” is off base. Why would the Regional Office base a finding on noncompliance with what “WIOA intends” when WIOA exists in text form and that text (as quoted above) expressly authorizes States like Iowa to use as local areas that are not necessarily aligned with local labor market areas and/or economic development areas?

IWD’s response to this component of Finding No. 1 is:

- 1) WIOA section 189(i)(1) expressly authorizes Iowa to use services delivery areas designated under Iowa Code section 84B.3, notwithstanding WIOA section 106.
- 2) Even if we assume for the sake of argument that WIOA section 106 applies to local area designation in Iowa, WIOA section 106(b)(1) creates an express exception to its process and considerations that applies to Iowa’s 15 local areas.
- 3) Iowa designated its 15 local areas in compliance with WIOA sections 189(i)(1) and 106(1).
- 4) DOL and the U.S. Department of Education approved the initial designation of local areas in Iowa when they approved Iowa’s Unified State Plan.

Even under the Special Rule in WIOA section 108(i)(1), the part of Finding No. 1 that Iowa’s WIOA allotments cannot support 15 local areas is accurate and compelling. Iowa does not have enough WIOA funds to support the competitive procurement of 15 one-stop operators, as required under the DOL interpretation of WIOA section 121(d). Nor does Iowa have enough WIOA funds to support a full-time local board support staff person for each of the 15 local boards, which means that Iowa’s local boards are not providing all of their required functions under WIOA section 107(d) and those functions that are being performed are being performed by WIOA Title I service provider staff, which makes independent oversight by the local boards of Title I service providers difficult if not impossible. IWD has developed the attached plan to address Finding No. 1, as well as other findings in the Monitoring Report to create administrative efficiency that allows each local area to have the resources necessary to meet all WIOA requirements.

ETA Conclusion: Unresolved

This Finding remains open pending designation of local workforce development areas (LWDAs) which have the structures and resources in place to fulfill the required roles and functions of a LWDA. As the reviewers discussed with IWD, despite the fact that the current local areas were grandfathered from JTPA to WIA to WIOA, the areas do not align with labor markets, economic development areas, commuting patterns, or other criteria identified as relevant in the current statute. And, as the Finding articulates, the impact of the current local area configuration includes insufficient funding and resources to allow for WIOA compliance. The Realignment Plan timeline that IWD included with its response indicates that the State is seeking to realign its local areas in a manner that maximizes limited resources and facilitates WIOA compliance, but the timeline does not indicate a date by which the new LWDAs will be established. While Step

24 in the timeline indicates that the State Board will vote on a new local area configuration on 5/31/18, the timeline does not include the critical step of the CEOs requesting to realign, or otherwise approving realignment of, their local areas. Local areas cannot be realigned without this step. The State must revise its Realignment Plan to include a step that identifies the date by which CEOs must request and/or approve new LWDA designation. The IWD must submit an updated timeline to the Regional Office within 10 days of receipt of this letter. The Regional Office will conduct an on-site visit to assess the status of the LWDAs in Iowa to resolve this Finding.

Finding 2: Improper Disbursement of Local WIOA Funds – State
(Core Component 3.1 – Local Area Governance)

IWD improperly disburses WIOA Title I grant funds directly to the WIOA Title 1 Adult, Dislocated Worker and Youth service providers in each designated local area, bypassing the chief local elected officials who are, per statute and regulations, the local grant recipients for WIOA funds. There was no evidence that the State and the CEOs had entered into agreements in which the CEOs designated the Governor to serve as the local fiscal agent.

The statute at section 107(12) states, “The chief elected official in a local area shall serve as the local grant recipient for WIOA funds allocated to the local area under WIOA sections 128 and 133, unless the CEO reaches an agreement with the Governor for the Governor to act as the local grant recipient. “ The statute further states that only the local grant recipient/chief elected official or his/her designated fiscal agent may disburse local WIOA grant funds and this must be done at the direction of the local board.

Required Action: The State must establish a process for the allocation of WIOA funds directly to the local grant recipient/chief elected official or to his/her designated fiscal agent in each local area. The State must execute this process beginning with its PY18 WIOA Youth allocation, which the State should receive by April 2018. From that point forward, all WIOA allocations to the local system must be disbursed in accordance with the new process. In its response to this report, the State must submit the steps it will take to ensure that, by April 2018, it will be ready to disburse funds appropriately. This Finding will not be resolved until the PY18 WIOA Youth allocation is properly disbursed to the local system.

IWD Response

On or before April 2018, the CEO in each of Iowa’s 15 local areas will designate a local fiscal agent. Because Iowa’s 15 local areas will be reduced via realignment, IWD has included as part of the realignment plan training and technical assistance for the local board and chief elected official(s) in each of the new local areas to ensure that the local fiscal agent function is appropriately fulfilled under WIOA. This is outlined in the plan developed in response to Finding No. 1.

ETA Conclusion: Unresolved

This Finding remains open pending: 1) completion of Step 20 in the Realignment Plan IWD provided with its response; and 2) disbursement of the State's PY2018 WIOA Youth Formula funds to the new fiscal agents. The State must submit verification of completion of both of these efforts to resolve the Finding.

Finding 3: Non-Compliant State Monitoring and Oversight of Local System – State
(Objective 2.1 – Administrative Controls)

The State's monitoring and oversight efforts are inadequate in terms of compliance with WIOA requirements and overall effectiveness and quality. Our review of the State's Program Year (PY) 2016 monitoring reports for Regions 5, 10, and 12 identified deficiencies in a number of areas. The State also failed to correctly implement its own monitoring policies, and such policies do not ensure that WIOA objectives are met. The following outlines the areas of non-compliance and/or deficiency:

- 1) All monitoring was conducted remotely, with no on-site review. The State's monitoring reports indicated that State staff completed the review through the data management system and through electronic correspondence with the local office. This was confirmed by the State's monitoring staff during the site visit. The State's monitoring policy is also out of compliance in this regard, as it expressly allows for monitoring to be conducted either on-site or remotely (in section 3, under the "process" subheading);
- 2) The scope of the State's monitoring is not compliant with State policy or WIOA requirements. As reflected in the monitoring reports, the scope of the State's monitoring was limited to the review of one participant file per program area (Youth and Adult/Dislocated Worker) for each of five months covered (January through May of 2017). This resulted in the review of a total of 15 participant files per local area. State monitoring efforts did not extend past this limited file review. The State is not assessing the overall operation, management, and performance of its One-Stop Centers; it is not reviewing administrative structures, processes and/or systems at the local level for operating and/or evaluating WIOA programs; and the State has not assessed the implementation of key WIOA provisions at the local level.

The State's monitoring policy identifies eight areas that should be monitored (Activities and services; Applicant and participant process; Customer engagement; Participant eligibility and verification; Participant file review; Management Information Systems; Compliance with state and local policy; and Performance accountability); however, only one of these eight areas, the participant files, were monitored.

- 3) The reviewers found no evidence that the State had issued formal monitoring reports with detailed findings and corrective action requirements. The Comprehensive Monitoring Reports that the State provided to the reviewers include a paragraph establishing a Pass/Observation/ Finding system, which bases the severity of an issue on the number of times it occurred in the files reviewed. It is unclear how this method can be effective with such a small sample size; it requires that a single issue occur 3 or more times in

order to generate a Finding, but only 15 files were reviewed in total. This Pass/Observation/Finding system is also not included in the State's policy document.

The findings that are discussed in the reports include very little detail. For example, in the local area 12 report, finding #2 states, "Participant contacts were not occurring according to policy." No further information is provided. Despite multiple occurrences across all programs, no detail was presented regarding the source of the problem or the specific actions needed to resolve the Finding.

The regulations, at 20 CFR 683.410(b), outline the State's roles and responsibilities for monitoring and oversight. The regulations indicate, in part:

(2) The State monitoring system must: (i) Provide for annual on-site monitoring reviews of local areas' compliance with 2 CFR part 200, as required by sec. 184(a)(3) of WIOA; (ii) Ensure that established policies to achieve program performance and outcomes meet the objectives of WIOA and the WIOA regulations....(3) The State must conduct an annual on-site monitoring review of each local area's compliance with 2 CFR part 200, as required by sec. 184(a)(4) of WIOA. (4) The [State] must require prompt corrective action be taken if any substantial violation of standards...is found...."

Additionally, the Uniform Guidance requirements at 2 CFR 200.331 state:

All pass-through entities must: ...(d)Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include: (1) Reviewing financial and performance reports required by the pass-through entity. (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means....

A monitoring policy centered exclusively on participant file review ignores many critical areas of WIOA Title I compliance and administration and operation of WIOA programs in the local areas. It also fails to comply with even the minimum WIOA and Uniform Guidance requirements around monitoring and oversight.

Required Action: The State must develop new policies and procedures for monitoring and oversight that address the purpose and scope of monitoring, establish new and improved monitoring guides/tools, create a standardized report format and institutionalize follow-up and technical assistance activities. Any new processes developed must allow for annual on-site visits to all local areas across the State and ensure that all major grants and programs are monitored in

any given year, as appropriate. The process must result in the issuance of a report that identifies any corrective action needed. Provision of any follow-up or technical assistance needed must also be an integral part of the process. In its response to this report, the State must describe the steps it is taking to address this issue and submit links to any new policies, procedures, or tools that are developed.

IWD Response

IWD has developed the attached policies, procedures, and templates for WIOA Title I program monitoring that:

- 1) Requires annual on-site visits to all local areas in Iowa;
- 2) Ensures that all major grants and programs are monitored in any given year, as appropriate;
- 3) Results in the issuance of a report that identifies any needed corrective action; and
- 4) Provides for the provision of follow-up or technical assistance, as needed.

Further, the Realignment Committee and State Board will consider IWD's limited WIOA resources for monitoring during the realignment process to ensure that IWD can meet all WIOA monitoring requirements while acting within its limited budget with respect to the new local areas.

ETA Conclusion: Unresolved

This Finding remains open pending receipt and review of the policies and procedures referenced in the State's response above. *The State did not include the referenced attachments with this response.*

Finding 4: Lack of CEO Agreements – State (Core Component 3.1 – Local Area Governance)

Despite being composed of multiple units of local government, the local areas in Iowa do not have agreements in place between the local elected officials outlining the liability, roles and responsibilities of the local elected officials in their respective jurisdictions.

The regulations at 683.710(2) state, "When a local workforce area or region is composed of more than one unit of general local government, the liability of the individual jurisdictions must be specified in a written agreement between the local elected officials." This agreement typically outlines roles and responsibilities of the chief elected official(s) under WIOA. This regulation, at subparagraph (3) further requires that, when there is a change in the chief elected official(s), the Local Workforce Development Board (WDB) inform the new CEO(s) of their responsibilities and liabilities and of the need to review and update the written agreement.

This written agreement is a critical governing document, as the local elected officials must be aware of, and agree to, their roles and responsibilities as the grant recipients for local WIOA

Title I funds. If WIOA grant funds allocated to a given local area are misused, liability for those funds rests with the chief local elected official(s) in that local area as outlined in the CEO Agreement.

Required Action: The State must ensure that the local elected officials in local workforce areas with more than one unit of general local government enter into an agreement in accordance with the regulation cited above. The State must submit copies of these agreements for all local areas, in order to resolve this Finding.

IWD Response

The plan submitted in response to Finding No. 1 includes the establishment of new CEO agreements in each of the new local areas that result from the realignment process.

ETA Conclusion: Unresolved

This Finding remains open pending receipt and review of copies of signed CEO Agreements for each LWDA in Iowa.

Finding 5: Non-Compliant State Board - State

(Core Component 1.1: State Workforce Development Board Structure)

Based on the membership roster provided by IWD, the State Workforce Board membership structure is not in compliance with WIOA as follows:

- The Board does not have the required business majority.
- The following required board members do not have voting privileges as required:
 - WIOA required core partners;
 - Registered Apprenticeship; and
 - Representatives from each chamber of the State legislature.
- The board does not include the following required board members:
 - A small business representative;
 - Lead State Official for WIOA Title I and Wagner-Peyser Act programs;
 - Two chief elected officials; and
 - The Governor.

The regulations at section 20 CFR 679.110 identify the required members of a WIOA-compliant State Workforce Development Board (WDB). The members listed above are identified in this section as required State WDB members. This section also requires that a majority of members be representatives of businesses in the State. Section 20 CFR 679.110(g) further states, “all required WDB members must have voting privileges.”

Required Action: The State must appoint the members needed to bring the State WDB into compliance with WIOA. The must also ensure that all required members have voting privileges, as stated above. In order to resolve this Finding, the State must submit an updated board membership roster demonstrating that the board has all of the required members and that those members have voting privileges.

IWD Response

Iowa's State Board membership structure is set forth in the Iowa Code. In June 2015, in accordance with section 101(e) of WIOA, Iowa sought to have its State Board recognized as an alternative entity via a letter from the Governor to the U.S. Secretary of Labor. The letter reflected Governor Branstad's decision in evaluation of the options available under the WIOA legislation and after consideration of what was in the best interests of the state of Iowa. Iowa did not receive a response until June 29, 2016, when the Departments of Labor and Education (Departments) rejected Iowa's State Board membership structure in Iowa's Unified State Plan (USP). In the June 29, 2016 letter, the USP was conditionally approved on the receipt of additional information and changes. The Departments' letter was the first indication that the alternative entity would not be recognized.

Since that time, as the Regional Office is aware, IWD has been working diligently to constitute a WIOA-compliant State Board within the confines of the Iowa Constitution and Iowa Code. First, Iowa legislation had to be amended. Immediately after the Departments' conditional letter of approval for Iowa's USP, IWD drafted a legal memorandum that detailed the membership structure requirements in WIOA section 101(b) and distributed it to the State Board, Governor's office, legislators, partner agencies, and other stakeholders. After that, IWD met with stakeholders, including members of the Governor's office, the State Board, legislators from both parties and chambers, business organizations, and labor organizations. IWD advised all stakeholders of the requirements for State Board membership under WIOA section 101(b). Additionally, IWD kept the Regional Office updated on these efforts.

Based on conversations with stakeholders and public officials, IWD drafted legislation to amend the Iowa Code to change Iowa's State Board membership structure to comply with WIOA section 101(b). IWD legislative liaisons shepherded this legislation through both chambers of the Iowa General Assembly. The bill passed the Iowa House by an 88-9 vote and the Iowa Senate by a 49-0 vote. Former Gov. Branstad signed IWD's State Board membership structure bill into law on April 13, 2017.

In April, the United States Senate confirmed former Gov. Branstad as Ambassador to China and, at the end of May, then-Lt. Gov. Reynolds became Gov. Reynolds. IWD has brought new gubernatorial staff up to speed on the State Board membership requirements. The Governor's office has changed the State Board's webpage information on the website for Iowa boards and commissions to reflect the new WIOA-compliant membership requirements. Further, IWD has assisted the Governor's office in recruiting new members to the State Board. This is an effort that is complicated by Iowa Code provisions that

limit the share of members on a board with respect to political affiliation and that require gender balance. Gov. Reynolds appointed members to a WIOA-compliant State Board and the first meeting of Iowa's fully transitioned State Board took place on November 20, 2017. IWD has previously provided the Regional Office with the membership roster.

ETA Conclusion: Resolved

This Finding is resolved. Please note that we are waiting on a decision from the U.S. Department of Education's solicitors' office regarding the representation of Adult Education on State Workforce Boards. This decision could impact Adult Education representation on State Boards. ETA will communicate the decision to all States outside of this report process.

Finding 6: Non-Compliant Local Board Membership – Regions 5, 10 and 12
(Core Component 3.1: Local Area Governance)

Based on the membership rosters the State provided, the local boards in Regions 5, 10 and 12 do not include all of the WIOA-required members, as follows:

For Region 5:

- The majority of members are not representatives of business.
- It appears there is no Registered Apprenticeship representative.

For Region 10:

- The majority of members are not representatives of business.
- It appears there are no small businesses, Registered Apprenticeship, Wagner Peyser, Adult Education, Vocational Rehabilitation, and Economic Development representatives.

For Region 12:

- Seven of the 14 members' terms expired in 2016. While we could not verify this from the list provided because it only included individual names, with only seven members, it appears the board does not have all of the WIOA-required members.

The regulations, at Section 20 CFR 679.320, identify the required members of a WIOA-compliant Local Workforce Development Board (WDB). The members identified above are identified in this section as required Local WDB members in this section. This section also requires that a majority of members be representatives of business in the local area.

Required Action: The State must ensure that the local boards in these three regions, as well as all other local boards, appoint the members needed to be WIOA-compliant as outlined above. In order to resolve this Finding, the State must submit updated board membership rosters demonstrating that the boards have all of the required members.

IWD Response

The establishment of a local board in each of the local areas that result from realignment with a membership structure that complies with WIOA section 107(b) is included in the realignment plan submitted in response to Finding No. 1.

ETA Conclusion: Unresolved

This finding remains open pending receipt and review of updated local board membership rosters.

Finding 7: Local Workforce Development Boards (LWDBs) Are Not Performing WIOA Required Functions - State (Core Component 3.1: Local Area Governance)

The local boards are not performing the functions that WIOA requires Local WDBs to perform. Based on the reviewers' discussions with IWD and Region 5 staff, it appears that the Title I Adult and Dislocated Worker service providers are performing these Local WDB functions.

Section 20 CFR 679.370 (a-q) outlines the roles and responsibilities of the local board. Section 20 CFR 679.400(a) grants Local WDBs authority to hire a director and other staff to assist in carrying out the functions of the Local WDB. Neither the statute nor the regulations authorize any entity other than the Local WDB or its staff to perform these required functions. In the absence of the authority to perform these functions, the costs associated with doing so are potentially subject to disallowance.

Required Action: The State must ensure that each Local WDB in the State is able to perform all of its WIOA-required functions. The State must also ensure that Title I service providers that are performing local board functions stop doing so immediately. The State must describe the actions it will take to ensure Local WDBs are able to perform the required functions, in its response to this report. To resolve this Finding, the State must submit descriptions of who is performing, and how they are performing, the WIOA-required Local WDB functions in the three Regions sampled – Regions 5, 10 and 12.

IWD Response

One of the focuses of the State Board Realignment Committee is ensuring that Iowa's new local areas will have sufficient resources so that each local board can hire full-time support staff to ensure that all of the WIOA-required functions for local boards are performed by support staff employed directly by the local board and not a Title I service provider. While IWD is unable to commit the Committee to a specific course of action, IWD anticipates that the Committee will make a recommendation with respect to local realignment that allows each local area to meet this requirement. Therefore, the realignment plan attached in response to Finding No. 1 includes the hiring and orientation of local board support staff in each of the new local areas that results from realignment.

ETA Conclusion: Unresolved

This Finding remains open pending 1) receipt of descriptions of who is performing, and how they are performing, the WIOA-required Local WDB functions in each of the three Regions sampled; and 2) a Regional Office on-site visit to verify local board performance of the required local board functions.

Finding 8: Nominal Funding Levels in One Stop Operator (OSO) Request for Proposals (RFPs) – State

(Core Component 3.1: Local Area Governance)

The OSO RFPs issued by Iowa Workforce Development (IWD) were flawed due to insufficient funding levels that were not supported by a cost analysis.

Because the Local Workforce Development Boards are not fully composed, the IWD developed and issued the OSO RFPs. IWD issued four RFPs for the State's four Districts: Central, Western, Eastern and Northern. Each District contains three to four Local Workforce Development Areas (LWDAs). Each of the four RFPs contained an annual funding range of \$32,500 - \$37,500 for the OSO role, using IWD's State set aside funds. Given that each District covers multiple LWDAs, this equates to approximately \$8,000 per LWDA for performing the OSO functions for a year. This funding range was not supported by a cost analysis demonstrating that the OSO roles and responsibilities in each of the four Districts could be performed with the proposed funding level included in the RFPs.

The ETA's FAQ on the OSO RFP published on May 3, 2017 states, "... An RFP or IFB with no funding or nominal funding will restrict competition and result in either no responses or a limited number of responses from entities already receiving Title 1 funds. Such an RFP violates the prohibition on competitive pricing practices under 2 CFR 200.319(a) and 29 CFR 97.36(c)(1)(iii)."

The consequence of such low funding levels in the RFPs that IWD issued was as indicated above; it limited the number of responses received. The Western District secured two bids and the Northern and Eastern Districts secured only one bid each. The Central District, despite issuing the RFP twice, did not receive any bids.

Required Action: The State must ensure that OSOs are competitively procured using a process that meets all UG requirements around fair and open competition, as well as all guidance published in ETA's FAQs on this topic. In its response to this report, the State must submit a plan for ensuring this happens, including key steps and timeframes.

IWD Response

Neither WIOA nor its implementing regulations require funding that is more than "nominal." This is a standard that DOL conjured out of thin air and, instead of including in a regulation, put on a FAQ webpage on its website. When IWD asked if DOL would define the term "nominal," DOL refused. This standard does

not exist under the law and what makes it all the worst is that DOL has refused to define it, which means it is subject to differing and arbitrary interpretations.

Further, the Regional Office misreads its own implementing regulations. The DOL implementing regulations for one-stop operator create two alternative procurement standards, based on the level at which the competitive selection occurs:

State	All Other Non-Federal Entities
20 CFR section 678.605(b)	20 CFR section 678.605
In instances in which a State is conducting the competitive process described in paragraph (a) of this section, the State must follow the same policies and procedures it uses for procurement with non-Federal funds.	All other non-Federal entities, including subrecipients of a State (such as local areas), must use a competitive process based on local procurement policies and procedures and the principles of competitive procurement in the Uniform Guidance set out at 2 CFR 200.318 through 200.326. All references to “noncompetitive proposals” in the Uniform Guidance at 2 CFR 200.320(f) will be read as “sole source procurement” for the purposes of implementing this section.

In Iowa, the State was performing one-stop operator selection until the Regional Office directed us to stop. This means that “the same policies and procedures” that the State “uses for procurement with non-Federal funds” governed the procurement under 20 CFR section 678.605(b) and not the standards that apply to “[a]ll other non-Federal entities” under 20 CFR section 678.605(c). Put otherwise, the Regional Office has inappropriately applied its undefined “nominal” standard to Iowa’s one-stop operator procurement because 2 CFR section 200.319(a) and 29 CFR section 97.36(c)(1)(iii) do not apply under 20 CFR section 678.605(b).

IWD agrees that, if one-stop operator procurement is performed by a non-Federal entity other than the State such as a local board, then the procurement must comply with 20 CFR section 678.605(c) and the standards incorporated therein. However, if the one-stop operator procurement is performed by the State, “the State must follow the same policies and procedures it uses for procurement with non-Federal funds,” as required by 20 CFR section 678.605(b).

As the Regional Office notes in Finding No. 1, Iowa has insufficient WIOA funds to meet the onestop operator requirement in each of its 15 current local areas.

Ensuring sufficient WIOA funds to allow each local area to competitive select a one-stop operator in accordance with WIOA section 121(d) is one of the areas of emphasis in the work of the Realignment Committee of the State Board. While IWD is unable to commit the Committee to a specific course of action, IWD anticipates that the Committee will make a recommendation with respect to local realignment that allows each local area to meet the one-stop operator requirement even if WIOA funds are reduced in the coming years. Therefore, the realignment plan attached in response to Finding No. 1 includes the competitive designation or certification of a one-stop operator in accordance with WIOA section 121(d) in each of the new local areas that result from realignment.

ETA Conclusion: Unresolved

This Finding remains open pending completion of OSO procurement and selection in all of Iowa's LWDAs. Step 39 in the Realignment Plan has a deadline of "TBD" for completion of OSO procurement and selection. The State must revise its Realignment Plan to include the date by which OSO procurement and selection will be completed. The IWD must submit an updated timeline to the Regional Office within 10 days of receipt of this letter. To resolve this Finding, when OSO procurements and selections are completed, the Regional Office will conduct a review to ensure compliance with WIOA and UG requirements.

Finding 9: Non-Compliant Memoranda of Understanding (MOUs) – Regions 5, 10 and 12 (Core Component 1.3 – Memoranda of Understanding)

The MOUs between the Local Workforce Development Boards (WDBs) and the one-stop partners in Regions 5, 10, and 12 are non-compliant as follows:

- The MOUs from Regions 5 and 12 do not include a partner service matrix or other information related to what services each partner provides and how they provide them.

In accordance with 20 CFR 678.500(b)(1), "The MOU must include:(1) A description of services to be provided through the one-stop delivery system, including the manner in which the services will be coordinated and delivered through the system...." The ETA established a deadline of July 1, 2017 for this component of the MOU in an FAQ published on December 21, 2016.

- The MOUs do not include the 'additional costs' component related to shared services and operating costs.

In accordance with 20 CFR 678.500(b)(2)(ii), MOUs must include a description of how the partners will fund the costs of shared services, operating costs of the system, and infrastructure costs. The ETA established a deadline of July 1, 2017 for this cost component in the FAQ referenced in number 1 above.

- The Region 5 MOU did not have any signatures and Region 10's MOU was missing multiple partner signatures. Region 12's MOU did not include a signature from the Local Board

Chair and none of the MOUs included a signature from the chief elected official in the relevant Region.

In accordance with 20 CFR 678.500 (d), “When fully executed, the MOU must contain the signatures of the Local WDB, one-stop partners, and the chief elected official(s)....”

- The Region 10 MOU did not include the local area’s required discretionary grant one-stop partner – the Reentry Employment Opportunities (REO) grant, and the MOUs in all three Regions incorrectly included the Dennison and/or Ottumwa Job Corps Center(s) as required partner(s).

The regulations at 20 CFR 678.400 identify the required one-stop partners to include programs authorized under WIOA Title I, which include the Job Corps program and under section 212 of the Second Chance Act of 2007, which are the Reentry Employment Opportunities (REO) grant programs. For Job Corps, the required partner is the Job Corps Center Operator and, for the REO grant, it is the entity that administers the program in the local area. The regulations at 678.415(a) further clarify that the requirements relating to a required partner (20 CFR 678.420), which include entering into the MOU with the local board, only apply if the required partner program operates in the local area.

Required Action: The State must ensure that Regions 5, 10 and 12, and all Regions in the State, execute WIOA-compliant MOUs in accordance with the requirements above. To resolve this Finding, the State must provide copies of revised MOUs for Regions 5, 10 and 12.

IWD Response

The creation and execution of MOUs that comply with WIOA section 121(c) in each new local area that results from realignment is included in the realignment plan submitted in response to Finding No. 1.

ETA Conclusion: Unresolved

This Finding remains open pending receipt and approval of copies of the MOUs for the three Regions sampled. Based on the timeline IWD provided, it appears MOUs will not be developed until after the potential realignment, so, if the three Regions sampled are integrated into new/different local areas, the State should submit MOUs for those new local areas. Also, IWD must include a date in its timeline for development of MOUs. Currently the timeline indicates “TBD.” The IWD must submit an updated timeline to the Regional Office within 10 days of receipt of this letter.

Finding 10: Stand-Alone Wagner-Peyser (W-P) Offices Not Allowable - State (Core Component 3.3: Service Delivery Design)

The State continues to maintain a stand-alone W-P office in Region 5 in Webster City, despite WIOA’s prohibition on such offices.

In accordance with 20 CFR 678.315, stand-alone Wagner-Peyser Act Employment Service offices are not permitted. This regulation further states, “If W-P services are provided at an affiliate site, there must be at least one or more other partners in the affiliated site with a physical presence of combined staff more than 50 percent of the time the site is open.”

Recommendation: The State must develop a plan to address the stand-alone W-P office in Webster City in accordance with the regulation cited above. The State must also ensure that there are no other stand-alone W-P offices in the State. In its response to this report, the State must indicate what action(s) it plans to take with the Webster City office. The State must also indicate its plans to address any other stand-alone W-P offices that may exist.

IWD Response

The Webster City office and the staff that work in it are funded by State of Iowa General Fund dollars, not federal Wagner-Peyser Employment Service funds. In a conversation with Regional Office staff during the fall of 2016 WIOA implementation assessment, Regional Office staff stated that having traveling staff provide Wagner-Peyser services to rural communities on a part-time basis was allowable. IWD is disappointed at the Regional Office’s apparent about-face on this question, since it could mean fewer services in rural Iowa.

IWD intends to work with legislators during the appropriations process to create a state workforce services program for traveling staff in order to remove such traveling services from federal interference. Iowa has a part-time legislature and the Iowa General Assembly begins its session on the second Tuesday in January. IWD anticipates a legislative resolution by the end of May 2018 that will make IWD traveling staff persons that are not funded by Federal money insulated from unnecessary Federal interference that intends to reduce services to Iowans.

ETA Conclusion: Unresolved

This Finding remains open pending verification of the program(s) available at, and the staffing of, the Webster City office. Given that IWD and the local Title I provider identified the Webster City office as solely a Wagner-Peyser office when the reviewers were on-site and IWD now indicates that the office is not funded by Wagner-Peyser, the Regional Office will need to conduct an on-site visit to verify the status of the Webster City office. Also, the State’s response references a past conversation regarding mobile Wagner-Peyser offices. The reviewer is not aware of these conversations, but, regardless, this Finding is not related to mobile Wagner-Peyser offices.

Finding 11: One-Stop Certification Not Completed -- State (Core Component 3.2: One-Stop Certification)

At the time of the review, none of the local one-stop centers in the State had been certified.

In accordance with 20 CFR 678.800, the State WDB, in consultation with chief elected officials and Local WDBs, must establish objective criteria and procedures for Local WDBs to use when

certifying one-stop centers. TEGL 10-16 establishes the deadline for the completion of the certification process as June 30, 2017.

The inability to complete the one-stop certification effort is likely due to a few factors, including:

- 1) The State did not provide guidance or criteria until August 2017 after the Regional Office notified the State in writing of the missed deadline;
- 2) The tool the State developed for one-stop certification, at 127 pages, is cumbersome and does not facilitate an efficient and timely completion of the certification effort; and
- 3) The local boards in Iowa are not fully composed and do not have any staff. As a result, Title I Adult and Dislocated Worker service providers are attempting to complete the certification process. This is not only slowing down the process, but it also presents a conflict of interest.

Required Action: The State must ensure that its local boards have the tools and resources needed to complete one-stop certification as soon as possible. The State must streamline the certification tool and develop a proposed process for completion of the certification effort that is free from any real or perceived conflict of interest. The Regional Office will provide examples from other States. In its response to this report, the State must provide a copy of revised processes and tools for One-Stop Certification.

IWD Response

DOL has no legal authority to direct a State or local area to revise its one-stop certification tool if it meets the requirements under 20 CFR section 678.800. The Regional Office makes no finding that the one-stop certification tool for Iowa does not comply with 20 CFR section 678.800. Presumably, that's because the one-stop certification tool complies with 20 CFR section 678.800. Given the legal reality that the one-stop certification meets all legal requirements under WIOA, what authority does the Regional Office have in attempting to dictate what is in a State's one-stop certification standards? IWD has recommended that local areas hold off on completing one-stop certification after discussions with the Regional Office. Nonetheless, many local areas have completed one-stop certification.

In the realignment plan submitted in response to Finding No. 1, completion of one-stop certification is included for each new local area that results from realignment. That one-stop certification will comply WIOA and its implementing regulations, including the provisions on "conflict of interest." Further, an effect of the realignment will be ensuring that independent local board support staff is performing one-stop certification, and not local provider staff.

The Regional Office need not provide examples of other states' one-stop certification assessments to IWD. Previous examples provided by the Regional Office did not comply with the requirements in 20 CFR section 678.800, so they are of little use.

ETA Conclusion: Unresolved

This Finding remains open until the local workforce boards complete One-Stop Certification and IWD submits verification of this. The Realignment Plan timeline currently indicates “TBD” for completion of this effort. The State must include a date in its timeline and submit an updated timeline to the Regional Office within 10 days of receipt of this letter. The Regional Office will conduct an on-site visit to assess the Certification efforts once they are complete in order to resolve this Finding. The IWD is correct that, as long as the tool for Certification meets WIOA requirements, the State does not need to revise its tool.

REALIGNMENT PLAN: Establishing WIOA-Compliant Local Areas

KEY	
To Complete	Complete

PLAN			
	Task(s)	Deadline	Completed
1.	Notify the directors of the service providers of WIOA Title I programs of the DOL directive	11/9/17	X
2.	Notify Local Workforce Development Board (LWDB) members, chief elected officials (CEOs), and State Workforce Development Board (Stat Board) members of DOL Mandate	11/13/17	X
3.	IWD reviews current monitoring policy, process, and templates	11/14/17	X
4.	First Meeting of WIOA-compliant State Board	11/20/17	X
5.	Establish State Board Realignment Committee	11/20/17	X
6.	WFS Operations team creates a new draft monitoring policy, processes, and templates to address all DOL recommendations	12/8/17	X
7.	LMI collects data regarding labor markets, economic development areas, commuting patterns, and one-stop center customer distribution	Date of Realignment Committee Meeting	X
8.	First Realignment Committee Meeting	12/25/17 (Occurred on 12/13/17)	X
9.	Provide to Realignment Committee the data regarding labor markets, economic development areas, commuting patterns, and one-stop center customer distribution	12/25/17 (Occurred on 12/13/17)	X
10.	Response to DOL Regional Office Monitoring Report (with Realignment Plan and new monitoring policy, procedures, and templates)	12/22/17	X
11.	Collect budget information from Iowa's current 15 local areas	12/29/17	

PLAN			
	Task(s)	Deadline	Completed
12.	Collect budget information for local areas in neighboring states	12/29/17	
13.	2nd Realignment Committee Meeting	1/4/18	
14.	Additional consultation with CEOs and current LWDBs on realignment	1/5/18 – 4/30/18	
15.	Additional Realignment Committee Meetings	TBD	
16.	Realignment Committee Recommendation	2/18/18	
17.	IWD drafts template CEO agreement	2/28/18	
18.	Outreach and consultation with current LWDBs and CEOs	11/20/17 – 4/30/18	
19.	Outreach to and orientation for CEOs on role and responsibilities under WIOA	1/2/18 – 6/30/18	
20.	CEOs designate fiscal agent for 15 current local areas	3/31/18	
21.	IWD drafts template CEO agreement	1/2/18	
22.	Comment period for local boards and CEOs on realignment	4/30/18	
23.	Iowa General Assembly enacts WIOA conformity legislation	4/30/18	
24.	State Board votes on Local Area configuration	5/31/18	
25.	Governor consults with State Board on new, WIOA-compliant LWDB membership criteria	5/31/18	
26.	Governor establishes new membership criteria for new WIOA-compliant LWDBs	6/30/18	
27.	CEOs execute CEO agreements for new WIOA-compliant Local Areas	9/1/18	
28.	CEOs establish WIOA-compliant bylaws for the new WIOA-compliance LWDBs	9/1/18	
29.	CEOs appoint members to WIOA-compliant LWDBs for each new Local Area	9/1/18	
30.	CEOs appoint one of the WIOA-compliant LWDB members representing business as chairperson of the LWDB	9/1/18	
31.	Orientation for WIOA-compliant LWDB members	9/1/18	
32.	LWDBs establish budget	9/1/18	
33.	CEOs designate fiscal agent(s) for new WIOA-compliant Local Areas	9/1/18	
34.	LWDBs hire support staff	10/1/18	
35.	LWDBs procure local service providers for Title I programs	TBD	

PLAN			
	Task(s)	Deadline	Completed
36.	Transfer duties from current WIOA Title I service providers to the WIOA Title I service providers selected by the new LWDBs for the new Local Areas	TBD	
37.	Dissolve current Local Areas and LWDBs	TBD	
38.	Fiscal Agents distribute funds to service providers for WIOA Title I programs	TBD	
39.	LWDBs procure One -Stop Operators	TBD	
40.	LWDBs distribute funds to One-Stop Operators	TBD	
41.	LWDBs complete WIOA-compliant MOU's	TBD	
42.	LWDBs complete one-stop certification	TBD	
43.	LWDBs complete WIOA-compliant local workforce development plan	3/1/20	