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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 2-07

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS
ALL STATE WORKFORCE INVESTMENT BOARDS AND STAFF
ALL LOCAL WORKFORCE INVESTMENT BOARDS AND STAFF
ALL BUSINESS RELATIONS GROUP STATE LIAISONS
ALL STATE RAPID RESPONSE COORDINATORS
OFFICE OF APPRENTICESHIP FIELD TECHNICIANS
OFFICE OF APPRENTICESHIP STATE AND REGIONAL DIRECTORS
STATE APPRENTICESHIP DIRECTORS

FROM: EMILY STOVER DeROCCO
Assistant Secretary

SUBJECT: Leveraging Registered Apprenticeship as a Workforce Development Strategy for the Workforce Investment System

1. Purpose. The purpose of this Training and Employment Guidance Letter (TEGL) is to provide information and resources to support the use of Registered Apprenticeship by the workforce investment system as an effective approach to building a skilled and competitive workforce in regional economies.

The 21st century economy demands a workforce with postsecondary education credentials, and the adaptability to respond immediately to changing economic and business needs. The public workforce system is playing a leadership role in meeting these demands by catalyzing the implementation of innovative talent development and lifelong learning strategies that will enable American workers to advance their skills and remain competitive in the global economy. Registered Apprenticeship, a critical postsecondary education, training, and employment option available in every state in the country, is an important component of these talent development strategies. Registered Apprenticeship is business- and industry-driven, with more than 29,000 programs impacting 250,000 employers and almost 450,000 apprentices — predominantly in high-growth industries that face critical skilled worker shortages now and in the foreseeable future. Full collaboration between the publicly funded workforce

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investment system and Registered Apprenticeship leverages each system's strengths to maximize the benefits in the context of regional talent development strategies.

This TEGL provides information, examples, and policy guidance to support the full integration of Registered Apprenticeship into workforce system activities. The document is one of a number of products that the Employment and Training Administration (ETA) is releasing to assist regions in developing Workforce Investment Act and apprenticeship efforts that are mutually supportive.

2. References. The Workforce Investment Act, Title I (P.L. 105-220 – August 7, 1998); 20 CFR parts 663, 665, and 666; National Apprenticeship Act (P.L. 75-308); The Wagner-Peyser Act (29 USC 49 et seq.); Training and Employment Guidance Letter No. 17-05, "Common Measures Policy for the Employment and Training Administration's Performance Accountability System and Related Performance Issues;" Training and Employment Guidance Letter No. 18-05, "Using Workforce Investment Act Funds to Serve Incumbent Workers and Employed Workers;" Training and Employment Guidance Letter No. 13-06, "Instructions for Workforce Investment Act and Wagner-Peyser Act State Planning and Waiver Requests for Years Three and Four of the Strategic Five-Year State Plan (Program Years 2007 and 2008);" Training and Employment Notice No. 17-06, "Vision for 21st Century Apprenticeship;" Training and Employment Guidance Letter No. 28-05: The Employment and Training Administration's (ETA's) New Strategic Vision for the Delivery of Youth Services Under the Workforce Investment Act (WIA): "Expanding ETA's Vision for the Delivery of Youth Services under WIA to include Indian and Native American Youth and Youth with Disabilities;" and Training and Employment Guidance Letter No. 3-04: "The Employment and Training Administration's (ETA's) New Strategic Vision for the Delivery of Youth Services Under the Workforce Investment Act (WIA)."

3. Overview of the National Registered Apprenticeship System. Registered Apprenticeship is a national training system that combines paid learning on-the-job and related technical and theoretical instruction in a skilled occupation. The purpose of a Registered Apprenticeship program is to enable employers to develop and apply industry standards to training programs that can increase productivity and improve the quality of the workforce. In the United States today, 250,000 separate employers offer Registered Apprenticeship employment and training to almost 450,000 apprentices in such industries as construction, manufacturing, transportation, telecommunications, information technology, biotechnology, retail, health care, the military, utilities, security, and the public sector. By providing on-the-job learning, related classroom instruction, and guaranteed wage structures, employers who sponsor apprentices provide incentives to attract and retain more highly qualified employees and improve productivity and services. Regions that adopt robust Registered Apprenticeship programs in the context of economic development strategies create seamless pipelines

of skilled workers and flexible career pathways to meet current and future workforce demands.

Principal Partners. The National Registered Apprenticeship system is a partnership among DOL, State agencies, industry leaders, employers, employer associations, labor-management organizations (primarily consisting of labor organizations and employers), and educational institutions. Industries, in partnership with state and federal apprenticeship offices, develop and operate apprenticeship programs based on the skills and knowledge that business and industry needs from its employees, ensuring that apprentices develop up-to-date and relevant skills. Program sponsors, which include employers, employer associations, and labor-management organizations, voluntarily operate and cover most or all costs of the program. The programs are registered with DOL or a federally recognized State Apprenticeship Agency (SAA). Through a formal apprenticeship agreement, program sponsors and apprentices agree to the requirements of the registered program.

The National Apprenticeship Act (NAA) (also known as the Fitzgerald Act), enacted in 1937, authorizes the Federal government, in cooperation with the states, to oversee the nation's apprenticeship system. DOL's Office of Apprenticeship (OA), in conjunction with SAAs, is responsible for registering apprenticeship programs that meet Federal and State standards, issuing Certificates of Completion to apprentices, encouraging the development of new programs through outreach and technical assistance, protecting the safety and welfare of apprentices, and assuring that all programs provide high quality training to their apprentices. DOL/OA staff in 24 states and SAA staff in 26 states, the District of Columbia, and three territories share these responsibilities.

Apprenticeship Program Structure. Registered Apprenticeship programs offer employment and a combination of on-the-job learning and related technical and theoretical instruction through a training provider. Apprentices are employed at the start of their apprenticeship and work through a series of defined curricula until the completion of their apprenticeship programs.

The duration of training, and the skills and competencies required for mastery, are driven by industry. Traditional apprenticeship programs require a specific number of hours of on-the-job training. Increasingly, industries are requiring competency-based training programs that reflect mastery of key skills and allow motivated workers to progress at their own pace. Currently, the Registered Apprenticeship system approves time-based, competency-based, and a hybrid of time- and competency-based programs, and helps industries transition to competency-based apprenticeship programs for enhanced effectiveness.

Certifications earned through Registered Apprenticeship programs are recognized nationwide as portable industry credentials. The primary apprentice certification is a

Certificate of Completion, which is awarded at the end of the apprenticeship. Many apprenticeship programs—particularly in high-growth industries such as health care, advanced manufacturing and transportation—also offer interim credentials and training certificates based on a competency model that leads to a Certificate of Completion. There may be beginning, intermediate, advanced, and specialty certification levels. Registered Apprenticeship programs also allow credit for previous apprenticeship-related experience.

4. **Pre-Apprenticeship Strategies.** For workers who may not have the fundamental skills to succeed in a Registered Apprenticeship program and youth who are exploring career options, pre-apprenticeship training programs act as a bridge. These training programs, which are operated by education, community- or faith-based organizations, can help apprenticeship candidates decide on an occupational track, develop foundational skills, and improve productivity once employed. Pre-apprenticeship programs operate an approved plan under which candidates participate in a short, intensified training period in a school or training center, with the intent to place them into Registered Apprenticeships upon completion or soon after completion of the program. Pre-apprenticeship can be used as a means of selecting apprentices under a particular program sponsor's approved program standards. DOL recognizes pre-apprenticeship programs, but does not formally register them. Many pre-apprenticeship programs also operate in partnership with the workforce investment system.

5. **Benefits of the Registered Apprenticeship Training Model.** Registered Apprenticeship is a key component to the nation's talent development strategies in many high demand industry sectors. This unique, industry-driven training is a proven, effective method with many benefits.

For employers, benefits include:

- Skilled workers trained to industry/employer specifications to produce quality results.
- Increased productivity and knowledge transfer due to well-developed on-the-job learning.
- Enhanced retention. In FY 2006, 82 percent of registered apprentices were still employed nine months after registration as apprentices.
- A stable pipeline of new skilled workers. Apprenticeship programs offer a predictable pipeline of program completers, while established pre-apprenticeship programs provide access to the next generation of workers.
- An emphasis on safety training that may reduce worker compensation costs.

For apprentices, benefits include:

- Immediate employment in jobs that usually pay higher wages and offer career growth opportunities. In FY 2006, the average starting wage for an apprentice was $12.16.
- Higher quality of life and skills versatility.
- Portable credentials recognized nationally and often globally.
- Formal articulation agreements between apprenticeship training programs and 2- and 4-year colleges that create increased opportunities for college credit and future degrees.

6. **Registered Apprenticeship Aligns with Workforce System Priorities.** Registered Apprenticeship is a highly versatile training strategy that aligns with and advances the goals of key workforce investment system initiatives. Features of Registered Apprenticeship, including its customized format, the extensive industry knowledge of state and federal apprenticeship staff, and its significant employment, retention, and wage outcomes, make the program an effective means of meeting workforce system goals. By coordinating and collaborating with the knowledgeable professionals that make up the Registered Apprenticeship system, the workforce system can increase the quality of its services to both its employer and worker customers and enhance activities in support of current workforce system priorities. Apprenticeship is an important addition to the suite of potential education and training services the workforce system provides to its customers. Below are goals of the workforce system that can be met by incorporating apprenticeship as a workforce strategy.

Increasing access to workforce education and training. Adult learners with families and financial obligations frequently are unable to stop working while they gain additional education or workforce skills. Young adults may not be able to go to school full time without benefit of a job. Registered Apprenticeships are "earn and learn" opportunities and provide access to education and training that may not otherwise be accessible to many adults.

Designing innovative programs that fuel regional economic competitiveness and create employment opportunities for career seeker customers. Registered Apprenticeship training can be a valuable tool in the broader suite of talent development approaches that support competitive regional economies and flexible talent that can adapt as jobs grow and/or change. As an employer-driven model for competency development and skill mastery, Registered Apprenticeship can support the development and advancement of worker pipelines for both emerging and established employers and regional industry sectors. Because apprenticeship programs include immediate employment for apprentices, they are an excellent option for dislocated workers and others who are transitioning from declining industries. Registered Apprenticeship programs can also be an important part of industry growth strategies in regions where significant reskilling of the workforce needs to take place. Implementing apprenticeship and pre-

apprenticeship models that are aligned with growth strategies for regionally-critical industry sectors and clusters creates opportunities for workers at all levels of the career ladder to up-skill and advance to meet evolving skill needs, and provides employers with the talented human capital needed for economic prosperity.

Meeting the needs of at-risk youth. Apprenticeship is an important talent development option for youth as they seek postsecondary education and training that will lead to career opportunities in demand-driven occupations. Registered Apprenticeship and pre-apprenticeship programs provide many benefits that allow the workforce investment system to respond to the call of DOL's Youth Vision. In addition to the industry-driven nature of apprenticeship training, apprenticeship involves high school, community colleges, and technical or alternative schools in the delivery of job-related classroom instruction. Apprenticeship also provides youth with the opportunity to earn while they learn, offers professional development and employability skills training curricula, such as that available from SkillsUSA, and incorporates instruction that leads to the completion of a high school diploma or GED.

7. **Call to Integrate Apprenticeship throughout the Workforce Investment System.** In a demand-driven environment, the public workforce system, at the federal, state, and local levels, works collaboratively with business and industry, economic development, education, training providers, and other key partners on talent development strategies and workforce solutions to provide workers with the skills businesses need. Registered Apprenticeship is a potential workforce solution that contributes to the development of industry-defined competencies, and also serves as a proven industry-driven workforce education and preparation strategy for workers.

The Registered Apprenticeship system is administered by ETA and represents a significant investment of knowledge, systems, and resources in our nation's talent development strategies. Registered Apprenticeship opportunities can and should be integrated throughout the workforce investment system as a means of leveraging resources across systems to better serve regional needs. In order to ensure that apprenticeship is consistently integrated into service delivery strategies for businesses and the workforce, it is critical to support collaboration between the apprenticeship infrastructure, the workforce investment system, and the continuum of education at all levels. Strategies for collaboration and integration are discussed below. Specific examples of state and local collaborative efforts are provided in more detail in Attachments A and B. Attachment C provides contact information for specific models. Attachment D provides informational tools and resources to support development of new registered apprenticeship opportunities and models.

WIA State and Local Strategic Planning. State and local Workforce Investment Boards (WIBs) have an opportunity to support integration of Registered Apprenticeship

through their regular strategic planning processes for WIA and the Wagner-Peyser Act. One highly effective strategy is to include apprenticeship training as a workforce strategy in the WIA state and local plans as a workforce solution for growing skills in targeted industry sectors.

Business Engagement Strategies. WIBs and/or One-Stop Career Centers can integrate apprenticeship into business engagement strategies by encouraging the development of new apprenticeship programs as a solution to meet business customer needs. WIBs and One-Stops can leverage business relationships and engage businesses jointly with apprenticeship staff. WIBs can further enhance strategic regional partnerships by integrating apprenticeship programming into their strategies for talent development and linking apprenticeship programs to other economic development entities and school district administrations, alternative education programs, adult basic education programs, prisons, and city, county, and state governments. An important asset that can be marketed to employers is the ability of apprenticeship staff to develop competency models which break the skills needed for any particular task into learning objects that then become the foundation for classroom curricula and training. This ensures that apprentices achieve the right skills to meet industry needs.

Expanding Available Eligible Training Providers for ITAs. The WIA statute and regulations explicitly provide for flexibility in determining registered apprenticeship training programs as initially eligible providers of ITA-funded training services. This enables expanding the available training options to ITA recipients. Specifically, the WIA regulations at 20 CFR 663.505(b)(2)(ii) identify entities that carry out programs under the National Apprenticeship Act (NAA) as potential eligible providers of training services, and the WIA regulations at 20 CFR 663.515(b) empower local WIBs to determine the eligible training provider application procedures for apprenticeship programs registered under the NAA. As such, apprenticeship programs may benefit from streamlined processes for becoming initially approved as eligible providers of training to ITA recipients, without having to undergo the standard State agency review process (20 CFR 663.515(d)).

One-Stop Career Center Operations. At the One-Stop Career Center level, a range of programmatic and operational activities can support closely integrated and coordinated functions.

- Career Guidance Strategies. Referral to apprenticeship and pre-apprenticeship programs can be routinely integrated into the career guidance and career exploration services offered through the One-Stop Career Center system, both virtually and as part of staff-assisted services.
- Service Delivery Design. Co-locating apprenticeship staff in One-Stop Career Centers allows them to work collaboratively with WIA case managers and veterans' representatives to place career seekers with apprenticeship sponsors

and to market and establish programs. Even when programs are not co-located, One-Stop Career Center and Registered Apprenticeship staff can be encouraged to work together to market apprenticeship and refer appropriate candidates.

- Coordinated Education and Career Outreach. One-Stop Career Centers can co-sponsor career fairs and other outreach activities related to education and career opportunities with local representatives of the Registered Apprenticeship system, and can market apprenticeship opportunities to both employers and workers.
- Coordination for Pre-Apprenticeship. One-Stop Career Center staff can coordinate the development of pre-apprenticeship or training venues between participating Registered Apprenticeship programs and community-based organizations committed to provide related work experience to prepare candidates for Registered Apprenticeship.

Policy Development and Funding Strategies. Collaboration with apprenticeship can be further enhanced through the development of policies that facilitate and encourage partnership. For instance, states may issue policy to provide guidance around the operation of such partnerships, and to highlight models of successful collaboration. States and local areas may organize regular roundtables or other policy forums in which workforce system, apprenticeship system, education, and employer stakeholders are brought together to discuss policy issues and explore collaborative opportunities. State and local workforce system leaders may explore opportunities for leveraging existing workforce system funding with other funding sources to support and advance apprenticeship models. A more detailed discussion of opportunities to leverage funding follows.

8. **Funding Sources to Support Registered Apprenticeship.** Historically, employers, industry associations, and labor-management organizations have been instrumental in developing and funding Registered Apprenticeship programs. The public workforce system has an important role to play in leveraging and advancing these investments. This can be accomplished both through workforce system funding strategies, and through the system's unique position as the convener and catalyst of a broad array of workforce and economic development partners, all of whom have a stake in the acceleration of competency-based education and training models that enable workers to meet the evolving skill needs of the 21st century work environment. Workforce system leaders, with their education and employer partners, can play the critical role of identifying and aligning funding that may support both theoretical and practical education, advancing skills upgrading models, and supporting workers' career advancement based on increasing mastery of the skills required in current and emerging workplaces. In today's economy, states and economic regions must continuously identify new approaches to ensuring that the education levels of the current and projected workforce align with the anticipated skill and competency needs

of both established and emerging industries. The workforce system can support these efforts by ensuring that the full complement of education, employer, and economic development partners, including new or "non-traditional" partners, are at the table and involved in discussions related to the alignment and commitment of resources to support innovative training and advancement models.

Leveraging Workforce Investment Act Funding. Ensuring that apprenticeship is included as part of the full complement of education and training resources provided to job seekers and employers presents multiple opportunities for the public workforce system to leverage WIA funds in innovative and creative ways. The Workforce Investment Act provides the workforce system with significant flexibility to implement responsive training and education solutions, and state and local workforce system leaders are urged to consider ways in which their existing WIA training resources may be invested strategically to support apprentices and apprenticeship sponsors. For example, while most Registered Apprenticeship programs are funded by program sponsors, the workforce system can help to expand apprenticeship programs regionally by strategically deploying WIA funds to temporarily offset training costs for employers who might need to understand the potential returns on their investment before undertaking significant training costs. See Attachment B for specific examples of how states are using WIA funds to offset training costs.

Individual Training Accounts (ITAs)
ITAs, described at 20 CFR 663.400 - 663.440, are training and education financing accounts established on behalf of eligible adults and dislocated workers that enable these individuals to purchase training for in-demand occupations and careers from eligible providers of their own choosing. Both employed and unemployed adults and dislocated workers may be eligible to receive ITAs, though employed individuals must be determined to be in need of training services to obtain or retain employment that leads to self-sufficiency in order to receive ITAs (see 20 CFR 663.220 (b), 20 CFR 663.230, and 20 CFR 663.310, as well as the Preamble to the Final Rule for WIA, 65 Fed. Reg. 49294, 49326, Aug. 11, 2000). As the primary method of training service purchase and delivery in the public workforce system, ITAs can provide eligible apprentices with financial support for the related instruction portion of their apprenticeships. In addition, ITAs may be used to provide eligible individuals with access to pre-apprenticeship training in preparation for formal apprenticeships.

The use of ITAs to support the related instruction (e.g., classroom and distance learning) portion of apprenticeship training or pre-apprenticeship training may be advantageous for a number of reasons. ITAs support customer choice in selecting training providers, empowering apprentices and pre-apprentices to make informed education and career decisions. WIA funded training must be directly linked to employment opportunities in the local area (20 CFR 663.310(c)). This can be a useful

tool to support Registered Apprenticeships' focus upon employer-driven training design and delivery.

When WIBS and One-Stop Career Centers use ITAs as a mechanism to support apprenticeships, it is important to remember the eligibility requirements associated with the WIA Adult and Dislocated Worker programs. Another consideration to keep in mind is that ITAs are only available to eligible individuals who are unable to obtain grant assistance from other sources to pay for education and training (such as State-funded training funds, Pell Grants, and Trade Adjustment Assistance), or who require assistance beyond that which is available from other grant sources in order to pay for the costs of training (see 20 CFR 663.310(d) and 20 CFR 663.320(a)(2)). The intent of these limitations is to ensure that complementary education and training resources are leveraged to the greatest extent possible, and to reduce duplication in service provision. Thus, in designing education, apprenticeship program sponsors and local WIBs should jointly identify the full complement of education and training funding available in the area.

Customized Training Models

When working with employers on training and workforce solutions, WIBs and One-Stop Career Centers may find it valuable to utilize customized training to subsidize the classroom training portion of an apprenticeship model. For example, a local WIB could offer a particular course of training for apprenticeship sponsors in a targeted sector, such as advanced manufacturing, across a region whose economic base revolves around this sector.

Local WIBs could also offer "linked" courses of training across connected industry sectors, such as construction and transportation, to more broadly support the economic clusters driving job growth in that particular region. This approach provides the ability to leverage employer investments with WIA funding to increase the skilled labor pool in a regional economy.

Customized training is typically based upon a contractual agreement between a local WIB and an employer (or group of employers) to provide specialized training to employees. Under WIA, both potential new hires and incumbent employees may participate in customized training, though incumbent employees must be determined by the local WIB to not be earning self-sufficient wages in order to participate (20 CFR 663.720(a)), and their training must be related to the introduction of new technologies in the workplace, skills upgrading for new jobs, or other related purposes (20 CFR 663.720(c)).

Customized training arrangements entail the commitment by the employer to hire trainees after successful training completion, or to continue to employ incumbent

employees after successful training completion (20 CFR 663.715(b)). In addition, employers that enter into customized training agreements under WIA typically pay for at least 50 percent of the cost of the training (20 CFR 663.715(c)), though ETA has granted waivers of this matching requirement to allow for employer match on a sliding scale, based upon business size. Under the waiver, the following scale is permitted in two targeted categories of business with 100 or fewer employees:

- No less than 10 percent match for employers with 50 or fewer employees, and
- No less than 25 percent match for employers with 51 - 100 employees.

WIA-funded customized training models offer several operational advantages that facilitate their use in the Registered Apprenticeship context. Customized training may be designed and delivered for multiple employers, such as in an industry sector, or for groups of targeted employees of a single employer, creating the opportunity to develop economies of scale that truly maximize and leverage the contribution of the workforce system and participating employers. In addition, while providers of customized training must meet the performance requirements outlined at 20 CFR 663.595, they are not subject to the other requirements for eligible training providers outlined in 20 CFR 663, Subpart E, or in WIA Section 122. These streamlined requirements for eligible providers of customized training may facilitate the ability of apprenticeship sponsors to collaborate with the public workforce system in the design and delivery of programs of customized training. Finally, in states that have obtained waivers to permit small- and medium-sized employers to fund customized training on a sliding scale below the mandated 50 percent, customized training provides a flexible model for assisting these smaller businesses in expanding their talent pool and upgrading the skill levels of current employees.

On-the-Job Training (OJT)

Defined at WIA Section 101(31), OJT can be a useful training methodology for employers wishing to upgrade the skills of new hires and incumbent workers and keep workplaces current with the evolving skill and technology demands of the 21st century economy. Under traditional OJT partnerships, employers fund and deliver skills upgrade training at the workplace to participating employees, and the public workforce system leverages employers' training investments by contributing up to 50 percent of the OJT participants' wages, in recognition of the costs associated with providing the training (20 CFR 663.710). Like customized training models, OJT may provide apprenticeship sponsors with a talent development strategy that supports apprentices' increasing mastery of technical skills. Furthermore, because the content of OJT is largely designed by employers, the workforce system may find that this training model is an attractive tool for increasing and expanding its partnership with Registered Apprenticeship programs.

Similar to WIA-funded customized training models, OJT also offers several operational advantages that may facilitate workforce system and Registered Apprenticeship collaboration. Like providers of customized training, providers of OJT may take advantage of the streamlined eligible training provider requirements outlined at 20 CFR 663.595. In addition, ETA has granted waivers to states to increase their capacity to offer OJT as a talent development strategy for small- and medium-sized businesses. Under this waiver, approved states may match employers' training contributions up to 75 percent for businesses with 100 or fewer employees, which may provide an attractive incentive for smaller apprenticeship sponsors to partner with the public workforce system in the design and delivery of the OJT component of Registered Apprenticeship.

WIA State-wide Reserve and Other State Funding Sources

Governor's statewide 15 percent funds, reserved under WIA Section 128(a) for statewide activities, provide the most flexible WIA funds available to states. Up to 15 percent of funds allotted to states for adult, dislocated worker, and youth activities may be reserved by the Governor for statewide workforce investment activities and may be combined and used for any of the activities authorized in WIA Sections 129(b), 134(a)(2)(B), or 134(a)(3)(A) (which are further described in 20 CFR 665.200 and 665.210) regardless of originating funding streams. The Act and the regulations identify required statewide activities and other optional activities; these lists, however, are not all-inclusive. States have considerable flexibility to develop and implement these and other activities, including apprenticeship and pre-apprenticeship models, using reserve funds, as long as these activities are consistent with the purpose of WIA. Because individuals served with Governor's 15 percent reserve funds are not subject to the eligibility requirements of the respective funding streams from which the reserve is drawn, these funds offer a particularly flexible way to develop and grow training and education partnerships for pre-apprentices and apprentices.

Local activities funded with WIA Adult and Dislocated Worker program formula funds must conform with the eligibility requirements associated with these funding streams. States may want to seek waiver authority to allow greater flexibility in using funds to support apprenticeships. ETA has granted waivers to states to enable local areas to use up to 50% of their Adult and Dislocated Worker funds as though it were state set-aside funding, which makes the funding much more flexible and eliminates the need to determine eligibility.

In addition, incentive funds received by states under WIA Title V – General Provisions, Sections 503(a) and 503(b) and described at 20 CFR 666.200 and 666.210 are also highly flexible, and provide an opportunity for states to implement creative programs in partnership with apprenticeship sponsors. States may use these funds to carry out innovative programs under WIA Titles I and II and the Carl D. Perkins Vocational and Technical Education Act, regardless of which Act is the source of the incentive funds.

Should states wish to modify their approved incentive grant plans and corresponding grant documents to incorporate models for leveraging incentive funding for pre-apprenticeship and/or Registered Apprenticeship, the Department will work with states to make any necessary and allowable modifications.

State workforce system leaders and apprenticeship stakeholders are strongly encouraged to consider other state funding sources to support and advance innovative pre-apprenticeship and Registered Apprenticeship. Other potential sources of funding for apprenticeship programs include state general revenue funds as well as other funds appropriated by state legislatures, such as state education monies targeted for career and technical education.

9. **WIA Performance Measures and Apprenticeship**. Apprenticeship strategies offer the opportunity for states and local WIBs to enhance their performance under the Workforce Investment Act. Apprenticeship is a proven model for effectively educating and training workers, promoting retention, and advancing the apprentice's career and earnings. Below is information related to performance measurement that may be useful to consider when integrating apprenticeship as an employment or training opportunity provided under WIA and/or Wagner-Peyser.

Registered Apprenticeship as Employment. WIA and Wagner-Peyser clients who receive core and intensive services resulting in their entry into a Registered Apprenticeship program become employees of the Registered Apprenticeship sponsor and can be tracked against Common Measures associated with employment.

Registered Apprenticeship as Training. Apprentices who receive WIA services after enrollment in Registered Apprenticeship to support classroom or on-the-job training, or to provide other services, should be treated as incumbent workers. Retention and earnings outcomes should be tracked in this case, but not the placement outcome.

Identifying the Point of Exit. For the purposes of tracking and common measures, WIA and Wagner-Peyser clients associated with apprenticeship programs should be exited from the workforce system after the completion of WIA/Wagner-Peyser associated activities. It is not necessary to track apprentices through to the completion of their apprenticeship program unless they are supported by workforce system resources for the entire duration. Thus, an apprentice who receives workforce system resources to support specific portions of classroom training may be exited from the program upon completion of that training, even if they continue in the apprenticeship program for a longer period of time.

Tracking Earned Credentials. The workforce system should track only those credentials that are earned by an apprentice while they are enrolled in WIA or Wagner-Peyser.

Where tracking of earned credentials is required, the workforce system should track the interim credential earned by the apprentice while co-enrolled. For example, apprentices in competency-based programs may receive a Certificate of Training upon completion of each level working towards a Certificate of Completion. Additionally, many apprenticeship sponsors have negotiated articulation agreements with community and technical colleges that give college credit for the related instruction component of the program. All of these interim credentials may be recorded as appropriate credentials for the purposes of reporting under the Common Measures.

Please note that the DOL Office of Apprenticeship (OA) tracks cohorts of apprentices throughout their participation in the Registered Apprenticeship system for the purpose of reporting outcomes and drawing conclusions about program effectiveness. The Common Measures are also used for this purpose.

10. **Action Required.** Registered Apprenticeship is a critical component of talent development strategies across the country. With the combination of on-the-job learning, related instruction, and mentoring, the apprenticeship model is a powerful tool for addressing the skill shortages that many industries face. It also provides the grounded expertise and knowledge individuals need to do their jobs well and advance in their careers. The model offers an efficient, flexible training strategy, responsive to new technology that will keep workers up-to-date on skills they need to do their jobs.

In the current environment of global economic competition, it is critical that the workforce investment system integrate the resources of the Registered Apprenticeship system into its talent development strategies. ETA urges state and local leaders to consider the benefits of Registered Apprenticeship while developing their workforce investment systems plans and programs and to fully utilize apprenticeship as a unique model that incorporates employment, postsecondary education, and training. Some next steps to consider include.

- Mapping existing Registered Apprenticeship programs in your region.
- Strengthening collaborative relationships between WIBs and apprenticeship staff to explore opportunities to leverage Registered Apprenticeship as a significant workforce development strategy.
- Educating One-Stops Career Centers and WIBs about Registered Apprenticeship, including how to collaborate with apprenticeship staff, how to use WIA funding in support of Registered Apprenticeship, and how Registered Apprenticeship applies to performance outcomes under the Common Measures.

- Discussing apprenticeship as a workforce tool with leaders focused on workforce issues, such as legislators, governor, mayors, county executives, council members, and department heads, and sharing with them the concepts addressed in this TEGL.

- Adopting policies and procedures to better integrate Registered Apprenticeship training as an option offered by the workforce investment system using, but not limited to, the examples found in this TEGL.

- Encouraging Registered Apprenticeship sponsors to contact their local WIBs to inform them about their training programs, inquire about becoming eligible training providers, and discuss opportunities for collaboration and partnership.

11. Inquiries. Questions should be directed to the appropriate ETA Regional Office, Office of Apprenticeship Regional Director, or State Director. Contact information can be found in Attachment D.

Attachment A
Promising Practices in Integrating Registered Apprenticeship and Public Workforce System Activities

Several states have integrated the Registered Apprenticeship model at various levels of state government as a tool to help employers meet their workforce needs and for individuals—from high school to adult learners—to enhance their career paths. Although no state is yet using the model to its maximum capacity, several states are creatively applying Registered Apprenticeship as an important workforce and career solution. The following are examples of some states that have used the Registered Apprenticeship model in innovative ways to address many economic development and workforce challenges of its business community.

Washington State

Leaders in Washington State have integrated Registered Apprenticeship into workforce strategies in a broad way. They not only use WIA funding to support training programs, but Registered Apprenticeship is included in the state strategic plan as a workforce tool. They also bring together support from other public sources, most notably the state legislature which has appropriated general funds for a variety of Registered Apprenticeship programs including outreach and awareness to schools and businesses and supporting related instruction and on-the-job training. WIA discretionary dollars have been used for programs; the WIBs and One-Stops have provided funding and support.

State Plan

The Washington State strategic workforce plan incorporates language calling for the expansion of Registered Apprenticeship training in emerging fields and expansion of preparation programs for apprenticeship in high-demand clusters. Additionally, they include language to develop new programs and to increase student enrollments and apprenticeship retention and completion.

As a result of the state's workforce policies on Registered Apprenticeship, Washington has—

- Advanced development of Registered Apprenticeship programs in health care, information technology, maritime/transportation, energy, public utilities, and advanced manufacturing among the high-growth industries.

- Prepared individuals to enter Registered Apprenticeship programs or gain employment in supportive roles in industries that use the apprenticeship model.

- Supported projects to provide training to more than 500 pre-apprentices and apprentices in food processing, biotechnology, communications, health care, construction and manufacturing.

WIA Funding

WIA state-wide reserve funds have been used for Registered Apprenticeship programs through competitive solicitations.

Local WIBs and One-Stops

The Pierce County WIB funded an innovative program, *Get Electrified*, an Electrical School to Apprenticeship program, offered to high school juniors in the Tacoma School District. It is a pre-apprenticeship program that prepares students to meet the rigorous application requirements of an electrical apprenticeship. During the nine-week summer program, students attend work and class and earn a wage for work done. Upon completion of high school, the graduate can enter a Registered Apprenticeship program in electrical work.

Apprenticeship Integration into K-12, and Post-secondary Education Systems

The state has embraced Registered Apprenticeship as a career path in and of itself as well as a path in conjunction with community college and a four-year degree, as many of the training programs require an advanced degree. Now state leaders see the importance of career and educational guidance starting in middle school and are incorporating information about apprenticeship into that effort.

The state legislature has recently funded an initiative by the Department of Labor and Industry to enhance an Educational Guidance model for 6th through 12th graders, *Navigation 101*, which shows students various careers and what classes and activities they need to pursue for the job. The model includes a lively, student-friendly website, curriculum, and other material. Information on Registered Apprenticeship is prominently featured.

The legislation also:

- Authorized existing Community Colleges' Centers of Excellence to compile and provide information related to grants, scholarships, job openings, and growth industries;
- Required the Washington State Apprenticeship and Training Council (WSATC) to lead an educational outreach program about apprenticeships for students and educators; and
- Required the Washington State Apprenticeship Training Council to manage direct-entry programs, including awarding ten incentive grants for school districts to negotiate and implement agreements with local apprenticeships.

Inter-agency collaborations
The legislature passed a law to allow the Washington State Department of Transportation to implement an apprenticeship program for Washington State Department of Transportation construction. This apprenticeship utilization requirement started with local municipalities and private contractors 12 years ago and has grown over the years to include school districts, counties, other state agencies and private work also to encourage the development of more opportunities for young people.

The Washington State Apprenticeship Program Manager is an active participant and member of the Washington State Workforce Education and Training Coordinating Board Interagency Committee and attends their regularly scheduled meetings. At these meetings, the program manager is able to talk with other state agencies' representatives about how apprenticeship can be better integrated with other State workforce investment system partners. Apprenticeship in Washington State aligns with the Governor's economic plan called "Next Washington" and the Workforce Board's "Washington Works" report that reviews the workforce development system.

Next steps
Washington State would like to develop structured training on Registered Apprenticeship for all One-Stop Career Center staff to be more effective in educating the business community about the benefits of Registered Apprenticeship.

Kansas

Kansas State leaders have recognized the value of Registered Apprenticeship as a tool to help employers meet their workforce needs and the overall necessity to link workforce development to economic development.

State Organization of Registered Apprenticeship in Workforce Development
The state has looked at how structurally it can best organize government functions to meet their goals. To this end, state government was reorganized with many workforce functions placed in the Commerce Department including Registered Apprenticeship, Veterans Affairs, and WIA functions. These programs had previously been in the State Department of Labor. Among some of the other structural shifts, several Registered Apprenticeship staff members are housed in One-Stops across the state so they can work with employers seeking assistance.

Internal Staff Development
To better train its own staff, and to address the newly established roles and responsibilities under Public Law 107-288 and the requirements to develop a certification program, the Department of Commerce established a Registered

Apprenticeship program for Career Development Technician for the Disabled Veterans Outreach Program and Local Veterans Employment Representative staff.

WIA Funding

The state uses some of its 15 percent state set-aside funds to support Registered Apprenticeship staff.

Local WIBS and One-Stops

Several local WIBs fund components of Registered Apprenticeship programs including the cost of related instruction, uniforms and tools for apprentices. WIA Incumbent Worker monies are used to help Registered Apprenticeship programs in manufacturing, construction, and health care in four of the five workforce investment regions in the state. Additionally, the Department of Social and Rehabilitation Services funds the Early Childhood Associate Apprenticeship program through a grant.

Additional Examples of Apprenticeship Integration in the Workforce System

Action	State
Include apprenticeship in the WIA state plan	AK
	MO
	WA
Apprenticeship and WIA functions located in same department	HI
	KS
State Apprenticeship Council member sits on the state WIB	NC
Co-locate apprenticeship staff in One-Stop Career Centers	KS
	VT
One-Stop and Apprenticeship staff jointly market apprenticeship even when not co-located	NC
	OH
	OR
Use Registered Apprenticeship for staff development	KS
Link apprenticeship programs to other public entities such as school districts, prisons, and city, county and state governments.	PA
	NC
	OR
	WA
Integrate the apprenticeship electronic database with the state job-matching system	OH
	OR
	VT

Attachment B
Use of Workforce Investment Act Funds to Support Registered Apprenticeship

Activity				
Encourage entities to sponsor and register new programs and occupational training, including the cost of OJT and related instruction	**Guam** in partnership with the Guam Shipyard and Guam Power Authority. Since inception, nearly $1.4 million in WIA funding has been invested in salaries, benefits, and educational assistance.	The **Durham, North Carolina** WIB recently issued a RFP for a health care initiative using the DOL Health Career Lattice model, which integrates apprenticeship for the Certified Nursing Assistant level. **The Winston-Salem** WIB granted $15,000 to a tool & die trade program.	**Pennsylvania's Job Ready** program, which is a combination of WIA and private funds, supports apprenticeship training programs. The local WIBs also regularly support apprenticeship training.	The **West Virginia** State WIB has funded apprenticeship programs in aerospace and wastewater treatment.
Provide related instruction or other education that satisfies specific apprenticeship requirements.	**Kansas** WIBS pay the cost of related instruction and purchase uniforms and tools for apprentices.	**The Winston-Salem, North Carolina** WIB provided $37,000 to a sponsor to pay for related instruction for the Senior Maintenance Tech trade.	**South Dakota** provides $50,000 to 10 sponsors to help pay for related instruction from the Governor's WIA Discretionary Fund.	
Supplement Apprentices' wages	**Idaho** and Boise State University will fund a pilot project in Advanced Manufacturing. The state will use $50,000 from WIA set-a-side funds to pay half the apprentices' wages for the first three months. The university will fund the costs of related instruction for the first year.			
Provide on-the-job training/learning	**Alaska's** local workforce centers agree to pay up to 50 percent of the employers wage costs for the first 1,000 hours of apprenticeship. In this way, employers evaluate the trainee's soft skills and can make a reasonable assessment of the individual's capacity to complete the training.	**Maryland** used its WIA discretionary dollars to provide matching funds for customized training. In 2006, it granted a 50-50 match for an incumbent health care worker apprenticeship program.		

Disseminate information about apprenticeship programs	**Many states** routinely co-sponsor career expos with the state apprenticeship office and the federal Office of Apprenticeship.	**Maryland's** state WIB has provided $50,000 of its performance measures incentive funding to the State Apprenticeship Agency to market apprenticeship in the state.		
Pre-apprenticeship or preparatory training designed to provide related work experience to prepare candidates for Registered Apprenticeship	**California's Greater Long Beach** WIB sponsors a Construction Jobs Initiative which provides pre-apprenticeship training and builds connections between the One-Stop Centers and Registered Apprenticeship programs.	**Pennsylvania's Lancaster County WIB** has partnered with the Keystone Chapter of the Association of Builders and Contractors to conduct pre-employment training; the **Wilkes-Barre WIB** is partnering with the Building and Construction Labor-Management Council and local school districts to prepare at-risk youth to enter into apprenticeship programs.	**Washington State** supports pre-apprenticeship programs for 500 individuals in food processing, biotechnology, communications, health care, construction and manufacturing from the Governor's WIA Discretionary Fund.	

Attachment B
Other Funding Sources for Apprenticeship Program

Activity			
Encourage entities to sponsor and register new programs and occupational training including the cost of OJT and related instruction	**Alaska's** Denali Fund uses **state Department of Labor funds** to support tuition, instructor's wages, books, tools, required clothing, incidental stipends, lodging, transportation, and administration.	**Guam** signed into law the Guam Registered Apprentice Program (GRAP) to invest in skilled training in the form of **tax Incentives**	**Vermont's** Workforce Education and Training Fund, a state program **funded by the state legislature** to help employers with workforce development issues, has regularly funded apprenticeship proposals.
To provide related instruction or other education that satisfied specific apprenticeship requirements.	Seventy percent of **Guam's** Manpower Development Fund goes to the Apprenticeship Training Program at the Guam Community College. The revenue source is **registration fees on non-immigrant temporary workers.**	**Washington State** Legislature awarded 10 incentive grants from the **General Fund** for school districts to negotiate and implement agreements with local apprenticeship programs.	The **Texas** Workforce Commission supports the apprenticeship program with $1.6 million per year from **General Revenue funds** under Chapter 133 of the Texas Education Code. The program helps support the cost of classroom instruction.
To provide on-the-job training/learning	**Alaska** has a state training and employment program (STEP) which is funded by **UI Trust fund** contributions. Funds have been used for individuals who don't qualify for WIA support. STEP funds have been used for construction apprenticeships.		
To disseminate information about apprenticeship programs:	**Washington State legislature provided funds** to the Apprenticeship and Training Council to promote apprenticeship to high school students and educators in 2006.		
To develop and provide pre-apprenticeship or preparatory training designed to provide related work experience to prepare candidates for Registered Apprenticeship.	**The District of Columbia** provides $1.2 million to support pre-apprenticeship programs with **General Revenue** funds to apprenticeship sponsors. Upon completion, sponsors have agreed to take students who complete the program.		

Attachment C
Contact Information for Cited Programs

Alaska: John Hakala (federal), State Apprenticeship Director, 907/271-5035, Hakala.john@dol.gov; Mike Shiffer, Assistant Director, Division of Business Partnerships, Alaska Department of Labor and Workforce Development, 907/269-3729, mike_shiffer@labor.state.ak.us

California: Long Beach WIB: Patty Garcia (federal), Acting State Apprenticeship Director, 415/975-4007, Garcia.patricia@dol.gov; Glen Forman, Division of Apprenticeship Standards
Department of Industrial Relations, GForman@dir.ca.gov, 415/703-4920; George Fernandez
Program Coordinator, Center for Working Families, Long Beach CA 90806, 562/570-3728, george_fernandez@longbeach.gov

District of Columbia: Lewis Brown, Director, D.C. Apprenticeship Council, 202/698-5099, lewis.brown@dc.gov; Daryl Hardy, Administrative Officer, Department of Employment Services, 202/698-5146, darylg.hardy@dc.gov

Guam: Alfred Valles (federal) State Apprenticeship Director, 808/541-2519, valles.alfred@dol.gov; Maria Connelley, Director of Labor, 671/565-2237, connent@ite.net

Hawaii: Alfred Valles (federal) State Apprenticeship Director, 808/541-2519, valles.alfred@dol.gov; Elaine Young, Administrator, Workforce Development Division, Department of Labor and Industrial Relations, 808/586-8837, eyoung@dlir.state.hi.us

Kansas: Loretta Shelly, Director, Apprenticeship Program, Kansas Department of Commerce, 785/296-4161, lshelley@kansascommerce.com; Armand Coprology, WIA Program Manager, Kansas Department of Commerce, 785-296-7876, acorpolongo@kansascommerce.com

Maryland: Robert Laudeman (federal) State Apprenticeship Director, 410/962-2676, Laudeman.robert@dol.gov; David Ghee, (state) Maryland Apprenticeship & Training Program
Division of Workforce Development, 410/767-2246, www.dllr.state.md.us

Missouri: Neil Perry (federal), Apprenticeship Director, 314/539-2522, perry.neil@dol.gov; Janeen Osborne, Workforce Development Specialist, Division of Workforce Development 573/526-8260, janeen.osborne@ded.mo.gov

Pennsylvania: Thomas Bydlon (federal), Apprenticeship Director, 717/221-3496, Bydlon.thomas@dol.gov; A. Robert Rascality, (state) Director Bureau of Labor Law Compliance,
PA Department of Labor and Industry, 800/932-0665, arisaliti@state.pa.us

Ohio: Mary Ann Dayspring (federal) Apprenticeship Director, 614/469-7375, Dayspring.MaryAnn@dol.gov; Jean Sickles (state) Director, Ohio State Apprenticeship Council, 614/644-2242, SICKLJ@odjfs.state.oh.us; Julie McKay, program specialist, Ohio Department of Job & Family Services, 614/466-9692, MCKAYJ@odjfs.state.oh.us

Oregon: Anne Wetmore (federal), Apprenticeship Director, 206/553-0076, Wetmore.anne@dol.gov; Stephen Simms, Director, Apprenticeship and Training Division, Oregon State Bureau of Labor and Industries, 503/731-4891, steve.simms@state.or.us; match Skills: David Allen, 503/526-2774, david.k.allen@state.or.us

South Dakota: Don Reese (federal), Apprenticeship Director, 605/330-2566, Reese.Donald@dol.gov;

Texas: Dennis Goodson (federal) Apprenticeship Director, 512/916-5435, Goodson.Dennis@dol.gov; Desiree Holmes, 512/936-3059, Desi.Holmes@twc.state.tx.us

West Virginia: Kenneth Milnes (federal), Apprenticeship Director, 304/347-5794, milnes.kenneth@dol.gov

Washington State: Anne Wetmore (federal), Apprenticeship Director, 206/553-0076, Wetmore.anne@dol.gov; Elizabeth Smith, Apprenticeship Program Manager, Department of Labor and Industries, 360/902-5320, smel235@lni.wa.gov; Jamie Krause, WA State Workforce Training Coordinating Board, 360-753-5660, jkrause@wtb.wa.gov

Attachment D
Informational Tools & Resources to Support Development of New Registered Apprenticeship Opportunities and Models

Informational Materials available through Office of Apprenticeship Web site http://www.doleta.gov/OA/eta_default.cfm

General Information Brochures

- For Employers - Registered Apprenticeship – Building a Skilled Workforce in the 21st Century (http://www.doleta.gov/oa/brochure/building_skilled_workforce.pdf)
- For General population: High Wage, High Skill – Career Opportunities in the 21st Century (http://www.doleta.gov/oa/brochure/high_wage_high_skill_careers.pdf)

Industry Facts Sheets provide explanations of Registered Apprenticeship in various industries (http://www.doleta.gov/oa/e-tools2.cfm#factsheets)

Setting Up an Apprenticeship Program presents information about how to start a program and provides a link to local apprenticeship staff who can offer free technical assistance. (http://www.doleta.gov/OA/setprgm.cfm)

Bulletins/Circulars of High Growth Occupations – Announcements and information about new apprenticeship programs and apprenticeable occupations (http://www.doleta.gov/oa/whatsnew.cfm)

Demand-Driven Case Studies - "Registered Apprenticeship Trends in Six Industries" (http://www.doleta.gov/oa/e-tools.cfm#brochures)

- Advanced Manufacturing
- Geospatial Technology
- Health Care
- Information Technology
- Maritime
- Military

Contact Information

- Office of Apprenticeship, State Offices (http://www.doleta.gov/oa/stateoffices.cfm)
- State Apprenticeship Agencies (http://www.doleta.gov/oa/stateagencies.cfm)
- Office of Apprenticeship Regional Offices (http://www.doleta.gov/oa/regdirlist.cfm)
- Office of Apprenticeship, National Office (http://www.doleta.gov/oa/national.cfm)

Related Information

WIRED Web site - The WIRED Web site is a comprehensive online resource for the WIRED initiative. The Web site houses information about the initiative, a fact sheet, and a description of the Road to WIRED. The WIRED resource library provides resources to communicate the concepts and ideas of economic transformation and the WIRED Initiative and offers a suggested reading list. The "WIRED Regions" page shows the map of WIRED Regions, a one-page description of the regional projects, and each region's working implementation plan. This tool is available on-line at: http://www.doleta.gov/wired/

Careervoyages.gov – This joint Departments of Labor and Education Web site focused particularly on young people and career changers includes useful apprenticeship information by industry (http://www.careervoyages.gov/apprenticeship-main.cfm). Contact information for Registered Apprenticeship program sponsors can be found through a search locator on each industry's web page.

InDemand Magazine - This resource from the Employment and Training Administration is for students, guidance counselors, and parents to provide information on careers in high-growth industries, including those in science, technology, engineering, and math. This magazine is available at: www.careervoyages.gov/indemandmagazine-stem.cfm

YouthBuild Guide to Expanding Opportunities with Trade Unions – This manual developed by YouthBuild U.S.A provides information for local interactions between YouthBuild programs and skilled trades labor management organizations. The manual is available on-line at:
http://www.youthbuild.org/site/c.htIRI3PIKoG/b.1360529/apps/s/content.asp?ct=1974993

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EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Youth
	CORRESPONDENCE SYMBOL OWI-DYS
	DATE March 2, 2012

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 18-11

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Improving Literacy and Numeracy Gains of Workforce Investment Act (WIA) Youth Program Participants

1. **Purpose**. The purpose of this Training and Employment Guidance Letter (TEGL) is to provide guidance to state and local workforce investment area staff and WIA Youth Program service providers to increase literacy and numeracy gains of out-of-school, basic skills deficient youth and to further clarify reporting policies and requirements. This TEGL does not change or replace any previous guidance related to the literacy and numeracy gains measure.

2. **References**.
   - Workforce Investment Act of 1998 (WIA), as amended (Public Law 105-220, 29 United States Code 2801 et seq.);
   - WIA Performance Accountability Regulations, 20 Code of Federal Regulations part 666;
   - TEGL No. 17-05, *Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues*, http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2195; and
   - TEGL No. 17-05, Change 2, *Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues*, http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2759.

3. **Background**. The literacy and numeracy gains measure is one of three youth common performance measures used to assess performance of the WIA Youth Program. ETA has provided policy guidance related to literacy and numeracy gains in TEGL 17-05 and TEGL 17-05, Change 2. This TEGL builds on previous guidance and provides additional policy clarification and technical assistance to states and local areas to enhance programs and practices that increase literacy and numeracy skills of out-of-school WIA youth. It does not replace or supersede previous guidance.

Section 203 (12) of the Adult Education and Family Literacy Act, Title II of WIA, defines "literacy" as "the ability to read, write, and speak in English, compute, and solve problems, at

RESCISSIONS NONE	EXPIRATION DATE CONTINUING

levels of proficiency necessary to function on the job, in the family of the individual, and in society." Without these skills, youth struggle in entering the world of work, unable to transition from low-skilled jobs to careers that offer family sustaining wages.

The literacy and numeracy gains rate has steadily improved since common measures were implemented, increasing from a rate of 30.4 percent in Program Year (PY) 2007 to a rate of 42.5 percent in PY 2010. However, some states and local areas continue to face challenges with the measure, both in terms of developing effective program models and in calculating and reporting the measure. In PY 2010 for instance, nearly half of states did not meet the national target of 40.7 percent. Regardless of whether a state is a "common measures" or "statutory measures" state, assisting out-of-school, basic skills deficient youth in increasing literacy and numeracy skills is essential to their success in the workplace and should be a priority in all youth programs funded by WIA. Additionally, results must be reported to ETA whether the State is accountable for the measure or not.

Based on data of WIA Youth exiters in PY 2009, 70 percent of out-of-school youth were found to be basic skills deficient at initial assessment, as were half of out-of-school youth who had already completed high school or a general educational development (GED) prior to entering the program. These numbers suggest that all programs that serve out-of-school youth must build strong basic skills remediation into effective program models in order to assist youth in becoming competitive in the workforce.

4. **<u>The Importance of Literacy and Numeracy Skill Development</u>.**

Earning a high school diploma or GED is typically not enough to obtain and retain jobs with family sustaining wages. In its 2010 Employment Projections, the Bureau of Labor Statistics reported that occupations typically requiring a postsecondary degree are projected to grow the fastest during the 2010-20 decade. These newly created jobs, often called "middle skill" jobs, require education and training beyond high school but not necessarily a four-year degree. Understanding this workforce need, President Obama has called on the United States to have "the best educated, most competitive workforce in the world" by 2020, once again leading the world in the percentage of individuals with postsecondary degrees and/or industry-recognized certificates and credentials. The President's goal is to have every American complete at least one year of postsecondary education or career training.

In step with the President, and as part of the Department of Labor's (Department) strategic plan for 2011-2016, the Secretary of Labor announced as one of the Department's High Priority Performance Goals to increase by ten percent the number of participants in the public workforce system who receive training and attain a degree or certificate by June 2012. As the workforce system strives to achieve this goal, the first step is to ensure youth have access to programs designed to increase literacy and numeracy skills that will enable them to be successful in postsecondary education or training.

This TEGL provides strategies the workforce system can utilize to:

- Improve program design, service delivery, staff development and basic skills assessment;
- Implement performance-based contracts and cultivate strong partnerships with providers to facilitate joint responsibility for skills gains; and,

- Clarify reporting requirements and associated processes.

For informational and illustrative purposes, this TEGL provides examples of and links to programs, practices and strategies developed by WIA Youth programs and other organizations. This guidance is not meant to endorse any particular organization, program or approach.

5. **Program Design, Service Delivery, Staff Development and Basic Skills Assessment.**

Program Design: ETA encourages literacy and numeracy skills development to be an integral part of WIA Youth programs. When possible, local areas should infuse literacy and numeracy skills building into each of the required program elements. "The Literacy/Numeracy Gains in Massachusetts WIA Youth Programs Manual," found at http://www.commcorp.org/resources/documents/LiteracyNumeracyMarch2009.pdf, suggests that youth can be encouraged to read and discuss materials that pertain to work experience, summer employment, or service opportunities. These activities can be integrated into all aspects of the program through coordination with other staff as well as with community partners. The Manual provides examples of how to integrate literacy and numeracy into key service elements, including employment and career development activities (e.g., summer employment opportunities; paid and unpaid work experiences, including internships and job shadowing; occupational skill training; and leadership development services).

Additionally, WIA Youth programs, in partnership with secondary and postsecondary education and social service providers, can take a systemic approach to ensuring literacy and numeracy skills development supports a broader strategy that moves youth towards the ultimate goal of postsecondary education and training and/or employment. To that end, programs can establish more comprehensive partnerships among state workforce agencies, local workforce investment boards, youth councils, state and local boards of education, and community college systems, among others, through coordinated, innovative approaches such as:

- Integrating basic and remedial education with occupational skills training. Models such as Washington State's I-BEST program pair basic skills instructors with technical instructors, providing students with both literacy and numeracy education and workforce skills. In this model, literacy and numeracy instruction is contextualized within occupational training, allowing learners to advance simultaneously in basic skills and workforce training. (See Washington State's I-BEST model at http://ccrc.tc.columbia.edu/Publication.asp?UID=692. Other state models include Minnesota's FastTRAC program, http://www.fasttrac.project.mnscu.edu/ and Wisconsin's RISE program, http://risepartnership.org/.)

- Strengthening bridge programming. Bridge programs provide contextualized learning within a career framework to prepare individuals who lack adequate basic academic and/or English language skills to enter and succeed in postsecondary education and employment. The essential features include a modular and contextualized curriculum; connection points on a career ladder; industry certification that articulates with academic degrees; project-based learning assessments; specific criteria for entry and exit; articulation to other bridges and to postsecondary education; academic supports incorporated into lesson plans; career counseling; and non-academic support services as part of the regular schedule. (See *How to Build Bridge Programs that Fit into a Career*

Pathway: A Step-by-Step Guide Based on the Carreras en Salud Program in Chicago, at https://learnwork.workforce3one.org/view/2001103402930253015/info.)

- Implementing innovative program models such as Career Academies and Community Education Pathways to Success (CEPS). Career Academies aim to keep students engaged in education and prepare them for successful transitions to postsecondary education and employment. They are organized as small learning communities, combine academic and technical curricula around a career theme, and establish partnerships with local employers to provide work-based learning opportunities. (See MDRC's study on Career Academies at http://www.mdrc.org/publications/366/overview.html.)

  CEPS programs, developed by the Youth Development Institute, help community-based organizations strengthen their services for youth who have dropped out of school with low reading and math levels (below eighth grade). CEPS is a highly structured approach to youth services focusing on youth who are ineligible for GED preparation due to low academic skills, and builds the capacity of organizations to serve them effectively. CEPS also develops partnerships with colleges so young people with GEDs or those who were marginalized in high school, but completed through a special program, can enter and remain in college. (See the Youth Development Institute's CEPS model at http://www.ydinstitute.org/initiatives/pathways/ceps_work.html.)

Service Delivery: In addition to developing program models that are strategically designed to address basic skills needs, service providers can also employ multiple service delivery strategies to increase literacy and numeracy skills of WIA youth. Through effective basic skills assessment, support, and joint planning, programs can increase the likelihood that youth remain engaged and experience success in all program areas, including building literacy and numeracy skills. Programs should consider employing strategies that take into account the needs and skill levels of youth, such as:

- Joint Planning and Individual Service Strategy (ISS) Development. Youth providers develop individual service plans or strategies to help guide youth through the program and beyond. Case managers and youth can ensure the ISS clarifies specific literacy and numeracy goals and the steps needed to attain them based on an initial assessment of the youth's literacy and numeracy levels. Of critical importance to the development of an effective ISS, case managers must interpret assessment results and incorporate those results into service planning and activities to help youth achieve established goals and obtain desired outcomes. In this regard, case managers should assist youth in mapping out expected progress that takes into account individual needs, abilities and goals.

- Increasing the amount and intensity of instruction based on need. WIA programs serve youth with a variety of basic skills levels. Therefore, programs must take into consideration individual youths' needs to determine the amount and intensity of instruction that should be provided. Programs should also consider breaking down goals into smaller, more tangible units for youth with greater need and take into account the pace at which a youth is expected to achieve those goals. In addition, providing youth with immediate feedback helps youth and instructors understand where to focus additional attention.

- Ensuring that instruction and assessment are founded upon rigorous standards of college and career readiness. For example, the Common Core Standards (available at: http://www.corestandards.org/) provide a consistent, clear understanding of what youth are expected to learn, so instructors and parents know what they need to do to help them. The Common Core Standards are designed to be robust and relevant to the real world, reflecting the knowledge and skills that young people need for success in college and careers. Developed under the auspices of the National Governors Association and the Council of Chief State School Officers, the Common Core Standards are one example of college and career readiness standards that have been adopted by 44 states and the District of Columbia.

- Utilizing applied learning techniques. Youth often learn better when curriculum is linked with the type of tasks and activities required in the workplace. This includes providing youth opportunities to connect classroom-based learning with life beyond the classroom through hands-on activities that solve real-world problems. Additionally, partnering with employers to develop curriculum ensures learning is relevant to workforce needs.

- Creating smaller learning cohorts for young people. Creating small student cohorts based on academic or career interests and assigning projects that require students to collaborate and cooperate strengthen youth engagement and the probability of achieving skills goals. Providing targeted and appropriate services and creating environments conducive to learning, wherever possible, can benefit both youth and overall program performance.

- Utilizing technology to promote optimal learning. Especially for youth of the digital age, the use of technology is a critical element of instruction, learning, and self-expression. Technology affords instructors and youth the flexibility to customize materials, assignments, presentations, and engage in authentic inquiry. It can also be used to extend the learning beyond the classroom or overcome barriers to class attendance of time and distance. For more information on using technology to increase basic skills, see *Adolescent Literacy: What's Technology Got to Do With It?* http://www.adlit.org/article/35792/.

- Emphasizing the importance of literacy and numeracy skills for education and employment goals. Case managers should communicate the relevance of basic literacy and numeracy skills, helping youth understand that the ability to read and write is critical if short- and long-term education and employment goals are to be met. Case managers should also communicate the skills employers require in today's knowledge-based economy. Reading, for instance, should be stressed as a fundamental skill necessary for youth to accomplish their stated goals, such as:

  i) Completion of technical training. A high school diploma or GED alone may not prepare an individual for success in a technical training or apprenticeship program. According to the report, *Bridging the Readiness Gap: Demystifying Required Reading Levels for Postsecondary Pursuits*, as the text demands in K-12 have trended downward, reading demands in high-growth industries have trended upward. http://www.lexile.com/m/uploads/downloadablepdfs/Policy_Brief_1_Bridging_the_Readiness_Gap.pdf. For example, the majority of books on a typical 11th and 12th grade English/language arts reading list are written at the 7th grade level, while the reading demands of Automotive Technology service manuals have increased over the

past 20 years to the 11th grade level as technology has advanced and "Automotive Technicians" replaced "Auto Mechanics."

ii) Passing an industry certification exam. Employers seek employees who possess both school- and industry-based credentials. Almost all certification exams are written exams. Therefore, they not only test technical knowledge, but also reading and writing skills.

iii) Earning a living wage. A longitudinal study of adult literacy found that the level of literacy proficiency affects both initial earnings and the rate of subsequent earnings growth. The report of this study, *Adult Literacy Development and Economic Growth*, by Stephen Reder can be found at: http://lincs.ed.gov/publications/pdf/AdultLiteracyDevEcoGrowth.pdf.

iv) Continuing on a career pathway. Typically, ongoing education and training is required in order to get promoted in a high-growth industry or enter employment in a new industry. Reading proficiency is directly tied to the acquisition of new knowledge and skills. Typically, ongoing education and training is required in order to acquire new skills and get promoted in a high-growth industry or enter employment in a new industry. Helping youth to visualize and learn about multiple job options that are available as they progress through a career should be an important component of case management. It helps attract youth to an industry by showing potential career progression beyond entry points, helps focus workforce development efforts, and informs youth about the training, education, and developmental experiences that would enable them to accomplish their career objectives. Reading proficiency is directly tied to the acquisition of new knowledge and skills.

- Engaging and supporting youth to ensure program completion. Too often, youth become discouraged and drop out of programs. Youth need to feel supported and encouraged by the adults who provide services, and youth frequently require additional supportive services, including individual tutoring, in order to stay in a program and demonstrate success. Other supportive services, such as child care or transportation assistance, can also support continued participation. It is also important to help youth establish a sense of self-worth through program participation by providing incentives for measurable performance increases; providing positive feedback for attained goals; and helping youth realize their contributions matter. Cultivating positive youth-adult relationships from the very beginning and providing opportunities for one-on-one instruction through tutoring and/or class time are also fundamental. Service providers can also increase youth engagement through the innovative use of smart technology and social media. For additional information, resources, and training tools on increasing youth engagement, youth providers can access the "Toolkit for Effective Frontline Services to Youth," http://www.doleta.gov/youth_services/Toolkit-improve.cfm. Also, the presentation, "Improving literacy/numeracy outcomes," offers youth engagement strategies and tips for youth-friendly programming. http://www.doleta.gov/performance/trainingtutorials/ppt/improving_literacy_and_numeracy_outcomes.ppt.

Staff Development and Training: For staff working with youth, it is essential to not only understand the importance of assisting youth to achieve literacy and numeracy gains, but also to understand the measure itself. Both are critical to a youth's success as well as success of the overall program. States and local areas should consider:

- Increasing the capacity and knowledge base of state and local staff through training and enhanced communication: It is essential that those who work in the WIA Youth program at the state level have a strong knowledge base of WIA Youth policies and performance measures in order to assist local workforce investment areas in accurately collecting and reporting performance data, including the inputting of required data by youth service providers. ETA encourages states to communicate with their ETA Regional Office, and with local workforce areas on an on-going basis to assess performance progress and address any issues that arise. In the State of Maryland, for instance, the state provides local workforce areas with quarterly performance updates. If an area is close to 80 percent of its target or fails a measure, the state contacts the local area to discuss what the data show and strategies to improve performance. A PowerPoint presentation that highlights Maryland's strategy, *Peeling Back the Layers of Literacy Numeracy Gains*, can be found here: http://www.doleta.gov/regions/reg02/documents/ETA-ASTD-Forum-2011/Youth%20Performance-%20Literacy-Numeracy%20Gains%20Measure.pdf.

  In addition, communication and information sharing across staff is critical to capacity building. In some local areas, for instance, regularly scheduled staff meetings generally include a discussion of performance and reporting issues and recommendations for improvements. For example, program staff and reporting staff provide input and discuss data integrity issues and ways to enhance data accuracy. Program staff may recommend strategies or changes that would assist with case management and program reporting; reporting staff can then discuss how those strategies or changes could be accomplished. This type of communication not only maintains a performance-related focus for staff, it can also enhance staff capacity.

- Continued staff development for case managers and frontline staff. Generally, case managers are responsible for documenting services, activities, and outcomes, which means they must fully understand the program and performance-related policies and associated procedural requirements. Therefore, continual training opportunities and ongoing staff development are critical components for successful WIA Youth programs, especially to mitigate the impact of staff turnover. Local areas are strongly encouraged to incorporate training on performance measures into staff orientations and on-going professional development activities. At a minimum, staff should receive training on the definition of the measure, trigger points for action, required reporting elements, and documentation requirements, in addition to policy and procedural requirements. Local areas are also strongly encouraged to include performance-related discussions in staff meetings in order to encourage dialogue and the opportunity for immediate clarification.

- Using management reports and technology wisely. States and local management information systems (MIS) often provide real-time and/or ad-hoc reports or queries to allow staff to proactively respond to program requirements. For example, reports or programmed reminders (e.g., pop-ups) may list youth nearing their anniversary date; those without a pre- or post-test; out-of-school youth without a basic skills deficient determination; and participants nearing exit. Similarly, calendar reminders can alert

service provider staff to take appropriate action to ensure effective service provision, accurate reporting, and positive outcomes. Utilizing reports and available technology to support case management and service delivery minimizes unintentional or accidental exits, which often contribute to negative outcomes.

ETA developed a technical assistance presentation to help state and local staff better understand the literacy and numeracy measure. The presentation, *Achieving Successful Outcomes: Literacy and Numeracy Gains*, is available at: https://www.workforce3one.org/view/4201120336716954175/info.

Basic Skills Assessment: Administering tests appropriately and analyzing test results are critical to determining the necessary instruction, service and supports to be provided. The effective administration of tests, and subsequent reporting of test results, not only help youth achieve measurable learning gains, but will help ensure programs receive credit for positive outcomes. A number of factors must be considered when determining the assessment instrument and its effective utilization. For a current list of approved tests, staff should refer to the U.S. Department of Education's (ED) announcement published annually in the Federal Register. The current announcement can be accessed at http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23263.pdf. For the current Educational Functioning Levels table, refer to ED's National Reporting System (NRS) Implementation Guidelines (http://www.nrsweb.org/.

Common issues related to identifying and administering assessments include:

- Utilizing approved assessments. WIA providers must use only tests approved by the NRS and identified in its Implementation Guidelines to assess literacy and numeracy levels and to measure learning gains. In this regard, state and local staff must keep in mind that specific tests are approved for specific literacy levels; for instance, "WorkKeys Reading for Information and Applied Mathematics" can be used to assess high intermediate Adult Basic Education (ABE) and above *only* and is not appropriate for assessing basic ABE Literacy, Beginning Basic Education, and Low Intermediate Basic Education levels (below the 6th grade). The Massachusetts Adult Proficiency Test (MAPT) can only be used to assess beginning basic education and above.

  It is also important to note that ED periodically updates their NRS guidelines and the list of approved tests; therefore, staff should continually refer to the latest Federal Register announcement and NRS Implementation Guidelines for the most current list of approved assessments and educational functioning levels.

- Clarifying pre-test and post-test policies. The assessment used for the pre-test must be the same assessment used for the post-test. If the pre-test was given within the six months prior to the date of first youth service, staff must determine the assessment used for the pre-test and use the same assessment for the post-test, while ensuring appropriate documentation has been obtained. In addition:

  - All out-of-school youth must be assessed in reading/writing and math to determine skill levels, and those results must be reported in the information management system. Failure to report either the pre- or post-test will cause the record to be rejected in the Workforce Investment Act Standardized Record Data (WIASRD) when the state uploads its quarterly WIASRD submissions.

- If prior pre-tests are not available, youth must take a pre-test within 60 days of their first youth program service. Failure to do so means that programs have less time to help youth achieve the gain, which minimizes the opportunity for a positive outcome both for the youth and the program.
- Youth should be post-tested by the end of the first year of participation. The results of the post-test should then be compared to pre-test results. Note: If no pre-test is given or recorded, no post-test can be given, and no gains can be recorded. If the post-test is not conducted by the end of the first participation year, it will be reported as a negative outcome for that year.
- If a youth remains in the program, or a partner program, after one full year, the post-test of the first year becomes the pre-test for the second participation year (and so on through the third year). If no post-test was given for the first year, the pre-test for the first year remains the pre-test for the second year.
- Youth who are in the program for more than 3 years are excluded from the measure after their third participation year.

- Assessing youth with disabilities. As noted in existing policy guidance, reasonable accommodations must be provided to youth with disabilities, which may include utilizing alternative methods of presentation and/or method of response, providing an alternate test setting, or arranging different scheduling of assessment tests. Accommodations are not designed to lower expectations for performance in school or work; rather, they are designed to mitigate the effects of a disability and to level the playing field. It is important that accommodations be carefully selected based on the knowledge, skill or ability being tested since an accommodation may be valid for assessing some skills but not others. ETA's full policy on assessing youth with disabilities is contained in TEGL 17-05. Additionally, ETA released specific guidance in TEGL 31-10 on *Increasing Enrollment and Improving Services to Youth with Disabilities*: http://wdr.doleta.gov/directives/attach/TEGL/TEGL31-10ACC.pdf. This guidance includes a listing of organizations and resources that can assist WIA youth providers in the accurate assessment of youth who present with disabilities. Additional resources are provided in the resource section of this TEGL.

- Assessing Limited English Proficient youth. TEGL 17-05 requires all out-of-school youth to be assessed in basic reading/writing and math within 60 days following the date of first youth service, which includes Limited English Proficient (LEP) youth. States and local programs with questions regarding testing LEP youth should consult with the publishers of approved tests to identify appropriate assessment instruments. ETA also encourages local areas to contact their state ABE office for further guidance. Additional resources may be found in the resource section of this TEGL.

- Determining instructional hours between tests. Programs are encouraged to follow the publisher's recommendation on the number of instructional hours required between pre- and post-testing on approved instruments. Based on recent relevant research, 40 hours of instruction or less is not sufficient for youth reading at low levels to make reading gains. Seven studies conducted by the Adult Literacy Research Network on reading instruction of ABE students whose reading was between grade level equivalency 4 and 8 demonstrated that even 100 hours of instruction may be insufficient to realize gains. Knowledge of these and other research findings can help states make informed choices on their State Assessment Policy Guidelines. ETA encourages states to consider the

potential impact of reductions to the minimum number of hours between pre- and post-testing when developing assessment policies.

6. **Performance-Based Contracting and Strategies for Partnering with Literacy and Numeracy Instructors/Providers.**

Literacy and numeracy services and instruction are provided to youth by a variety of organizations other than WIA youth service providers, such as WIA-funded Title II adult education programs, community colleges, community-based organizations, faith-based organizations, and public libraries. Local Workforce Investment Boards and WIA youth service providers have long partnered with these providers for basic literacy and numeracy services and issued requests for proposals and contracts that require these providers to demonstrate effective and efficient service delivery.

The Adult Education and Family Literacy Act (AEFLA), Title II of the WIA, is the major source of Federal support for adult basic skills programs that provide instruction below the postsecondary level. Many disadvantaged youth are eligible for adult education services. Individuals must be at least 16 years old and not be enrolled or be required to be enrolled in secondary school under state law to be eligible for adult education services.

Instructional adult education services under AEFLA are offered in three program areas: ABE – basic skills instruction below the 9th grade level; Adult Secondary Education (ASE) – instruction at the 9th to 12th grade; and English Literacy – English language instruction designed to help achieve competence in the English language.

The adult education program serves approximately three quarters of a million youth between the ages of 16 and 24 years. Almost a half million of those youth scored below the 9th grade level in reading or mathematics. The adult education program provides basic reading, writing, and numeracy instruction to these individuals and helps them complete secondary school. The adult education program is accountable for educational outcomes of these individuals, as well as outcomes related to employment and entrance into postsecondary education. Partnerships between adult education and WIA youth programs can maximize resources to achieve both educational and employment related outcomes. Program expertise can be blended allowing more efficient case management, support services, and high quality educational interventions that will help disconnected youth to reengage in education leading to credentials and careers.

Numerous strategies can be deployed to establish and cultivate strong partnerships between local youth providers and adult education providers, as well as other literacy and numeracy providers, which include strengthening performance-based contracting and partnering to achieve learning objectives.

Strengthening Performance-Based Contracting: Youth programs do not always provide direct services to increase literacy and numeracy skills for youth, such as basic skills instruction or tutoring. Rather, programs often contract or partner with other providers to deliver associated instruction. One strategy to assist youth programs in meeting their literacy and numeracy goals is to require contracted literacy and numeracy providers to implement effective practices and to meet certain performance goals as part of their contract. To implement such a strategy, local workforce areas should create request for proposals and contracts that spell out the performance measures for which the programs will be held accountable, as well as provide examples of strategies youth service providers should implement as part of the contract. In Baltimore City,

for example, contracts include both WIA and contract-specific goals. Service providers are trained before a program starts and receive training throughout the contract period, with technical assistance and guidance provided as needed. If goals are not met, providers are considered non-compliant and receive corrective action plans. Additionally, quarterly monitoring visits are conducted to ensure providers are on-track to meet their goals. Contract renewal is therefore based upon provider performance. See the *Peeling Back the Layers of Literacy Numeracy Gains* presentation previously mentioned.

When partnering with adult education providers, it may be beneficial to consult with the particular state adult education office regarding its policies and practices around performance-based funding and end-of-year program performance report cards. A resource for finding the contact information for the state agency administering AEFLA in your state is available at: http://wdcrobcolp01.ed.gov/Programs/EROD/org_list.cfm?category_cd=DAE. By contacting the state adult education office in your state, local youth service providers can learn more about the extent to which the state is funding AEFLA providers based upon performance as well as how to obtain performance information for particular local providers with whom the youth program may be considering partnering.

To learn more about performance-based contracting for youth services, review TEGL 13-09, *Contracting Strategies that Facilitate Serving the Youth Most in Need*, at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2854.

Partnering to Achieve Learning Objectives: ETA encourages workforce development and literacy and numeracy service providers to strengthen their collaborative efforts and work together to prepare youth for postsecondary education and training, and employment, particularly in cases where literacy and numeracy instruction is not provided on-site at a local WIA Youth program or when youth are referred to partner organizations or institutions to receive the instruction. In such situations, youth are more likely to function at the literacy level required to reach their education and employment goals when these providers assume shared responsibility for youth successes, including the development of youth learning objectives and the development of joint plans to reach those objectives. Strategies include:

- Developing a Detailed Instructional Plan. Case managers should work with the literacy and numeracy service provider to develop a more detailed instructional/study plan aligned with employment goals and designed to meet specific learning needs. The plan should be based on the literacy goals documented in the ISS and the information gathered from multiple assessments. In addition to employment and personal goals, the instructional/study plan should take into consideration learner characteristics, prior education, and literacy in the first language for LEP youth.

- Ensuring Engagement through an Attendance Plan. The case manager should work with the youth to develop an attendance plan to ensure youth remain engaged. Most learners make progress when provided with more instruction, and regular attendance makes this possible. An agreed-upon plan helps to identify attendance barriers and to ensure that literacy goals are met. The literacy and numeracy service provider can help to improve attendance by recruiting adult learners enrolled in the program to act as peer tutors for youth; increasing student engagement by decreasing the emphasis on a worksheet-driven curriculum and increasing the mix of direct, whole group and software-driven instruction; and selecting reading materials that align with a student's interests and reading level.

- Providing Opportunities for Independent Learning. When youth are unable to attend class, workforce development and literacy and numeracy providers should work together to identify ways for youth to strengthen basic skills outside of the classroom. Case managers and literacy and numeracy instructors can promote independent practice by providing study links to free online practice materials.

7. Reporting.

Accurate program reporting is an essential element to achieving program success. This section highlights reporting challenges identified during ETA monitoring visits, including Program Reporting and Data Validation Reviews, and through discussions between state, local and ETA staff. These clarifications do not revise or otherwise modify current policy.

Where to find policy guidance: Policy guidance related to the reporting of the literacy and numeracy measure is provided in TEGL 17-05, Change 2. Attachment A, found at http://wdr.doleta.gov/directives/attach/TEGL17-05c2a1.pdf, provides a decision path and flow chart that can answer questions pertaining to whether or not a youth is included in the measure. In addition, a new resource available to assist youth providers and reporting staff with data entry is the WIASRD On-Line Training Tutorial, found at https://www.workforce3one.org/view/4011125635182958781/info. This tool provides assistance in the areas of reporting and performance outcomes. The tutorial uses several scenario-based situations to describe the required data entry. Although front line staff and providers may not be familiar with the WIASRD reporting function, the scenarios provide excellent information and examples of service delivery and recording data. In addition, as mentioned earlier, ETA developed a technical assistance presentation, *Achieving Successful Outcomes: Literacy and Numeracy Gains*, to help staff better understand the measure, including issues related to reporting.

Common reporting-related issues and clarifications:

- Basic skills deficient and pre-test Educational Functioning Level (EFL) scores. Youth reported as basic skills deficient must also have their pre-test EFL scores reported. Reporting a youth as basic skills deficient in WIASRD Element #130 (coded 1 for YES) is the "trigger" for youth inclusion in the measure. If an out-of-school youth is reported as basic skills deficient but does not have a pre-test score reported by the end of the first participation year, the youth will be included in the denominator *only* and will automatically be a negative outcome for the measure.

- Co-enrollment and exit. Consistent with TEGL 17-05, it is possible for youth services to end or otherwise be completed, but the youth does not "exit" due to continued participation in partner programs. For example, a youth may no longer receive WIA Youth program services at the end of their first anniversary but continue to receive other WIA, Wagner-Peyser or partner program services. If this youth remains basic skills deficient at the end of their first anniversary and completes a second full year of participation, the youth must be post-tested again or will automatically be considered a negative outcome for the literacy and numeracy gains measure for the second participation year and, if applicable, the third year. This requires the youth case manager and the other partner program staff to work together to ensure success for the youth and for the program overall.

- Second and third year gains. If the youth stops receiving services from all programs before completing a full second or third year, he/she is not included in the measure in those years. (The youth would not be included in the numerator or the denominator and would result in a neutral outcome for the program.) ETA's intention is to hold programs accountable for helping youth achieve a gain, but recognizes that youth are highly mobile and, on average, remain in a program less than a year. Therefore, holding programs accountable for second or third year gains would be unreasonable.

- The importance of post-testing. The lack of post-testing is the single greatest cause for failure in this measure nationwide. WIASRD data show that youth who take a post-test improve their scores by at least one EFL nearly 80 percent of the time. Taking creative steps to engage youth in the program long enough for them to post-test is critical for both youth and program success. Strategies to increase engagement are discussed throughout this guidance.

- Sixty day warning to take a pretest. TEGL 17-05 states that all basic skills deficient out-of-school youth must take a pre-test before or within 60 days of the First Youth Service Date or FYSD (WIASRD Element #306). If a pre-test is not administered within 60 days, it is still required. The Data Reporting and Validation Software (DRVS) will generate a warning in these instances (not a rejection) if the youth has not pre-tested within 90 days of the FYSD, but states should be aware that pre-testing after 60 or 90 days past the FYSD will not exclude the youth from the measure, it will only shorten the time allowed for the learning gains that are necessary for a positive outcome.

- Known calculation issue in DRVS. ETA is aware of a known calculation issue in the DRVS pertaining to this measure. The miscalculation occurs when participants that have a pre-test within the first year of participation but fail to post-test in Year #1 and post-test in Year #2 with an EFL score increase, the DRVS should add +1 in denominator for Year #1 and Year #2, and +1 in the numerator for only Year #2. That is, the DRVS should register a failure in Year #1 and a success in Year #2. However, the DRVS is failing to count the success in Year #2. This error will be corrected in the new DRVS, scheduled for release in the summer of 2012. Until then, a manual data manipulation work-around is available. Below are the steps necessary for PY 2011:

    - For youth with a FYSD of 7/1/2010 to 6/30/2011, only show year 1 post-tests. If the youth have a year 2 post-test, remove the year 2 post-test data from the extract file.
    - For youth with a FYSD of 7/1/2009 to 6/30/2010, only show year 1 post-test and year 2 post-test. If the youth have a year 3 post-test, remove the year 3 post-test data from the extract file.
    - For youth with a FYSD of 7/1/2008 to 6/30/2009, show all post-tests for these individuals – year 1, year 2 and year 3 post-tests.

8. Resources. Below are additional resources that programs may find useful when implementing literacy and numeracy programming.

- LINCS, Literacy Information and Communication System, is a national dissemination and professional development system, providing information on literacy research, practice, and resources. http://lincs.ed.gov.

- Learning to Achieve, through LINCS, provides research-based resources and professional development to increase achievement of students with learning disabilities. http://lincs.ed.gov/programs/learningtoachieve/learningtoachieve.html.

- The National Collaborative on Workforce and Disability, funded through the Department's Office of Disability Employment Policy, provides strategies and resources for assessing youth with disabilities. http://www.newd-youth.info/topic/assessment.

- "Learning: Engage and Empower," information from the ED detailing individualized instruction, educational strategies that instructors can utilize, and the use of technology in the classroom. http://www.ed.gov/technology/netp-2010/learning-engage-and-empower.

- Doing What Works (DWW) is a Web site sponsored by ED. The goal of DWW is to create an online library of resources that may help teachers, schools, districts, states and technical assistance providers implement research-based instructional practice. http://dww.ed.gov.

- ELL-U is a National Adult English Language Learning Professional Development Network that provides practitioners with unlimited access to high quality online professional development and learning opportunities. www.ell-u.org.

- The National Clearinghouse for English Language Acquisition's Web site, funded by ED, collects, coordinates and conveys a broad range of research and resources in support of an inclusive approach to high quality education for English Language Learners (ELLs). http://www.ncela.gwu.edu.

- The Center for Adult English Language Acquisition has developed a toolkit that provides a variety of materials to help instructors working with individuals learning English: "Practitioner Toolkit: Working with Adult English Language Learners." http://www.cal.org/caela/tools/program_development/prac_toolkit.html.

- Adult Career Pathways Training and Support Center, developed by Kratos Learning Solutions with funding from ED's Office of Vocational and Adult Education, provides the most up-to-date information and resources on Adult Career Pathways. http://www.acp-sc.org.

- The Partnership for 21st Century Skills (P21) is a national organization that advocates for 21st century readiness for every student. P21 and its members provide tools and resources to help with instruction on the three Rs and four Cs (critical thinking and problem solving, communication, collaboration, and creativity and innovation). http://www.p21.org.

- The National College Transition Network at World Education, Inc.: Promising Practices briefs from professionals serving ABE students making the transition to postsecondary education. http://www.collegetransition.org/promisingpractices.briefs.html.

- Mid-Continent Research for Education and Learning (McREL), one of the regional educational laboratories funded in part by ED, has developed and produced a number of teacher and educational resources. www.mcrel.org.

- "Improving Literacy Outcomes for YouthBuild Students through the Balanced Literacy Approach." Webinar featured on Workforce3one, January 2011. The Youth Development Institute (YDI) discusses how it improved learning results for young people by implementing the Community Education Pathways to Success (CEPS) program, a balanced literacy approach with core youth development principles." https://www.workforce3one.org/view/50011006477101171 31/info.

- "Workforce Education Standards for Adult Education Programs" developed by Workforce Solutions Collaborative, March 2011. http://libwww.freelibrary.org/mcol/Workforce_Education_Standards_and_SelfAssessment.pdf.

- "Youthwork Information Brief, No. 26: Why Do Basic Skills Matter?"; "Youthwork Information Brief, No. 32: Effective Numeracy Instruction for Out-of-School Youth"; and "Youthwork Information Brief, No. 28: Project-Based Learning." Ohio Department of Job and Family Services, Office of Workforce Development, http://jfs.ohio.gov/owd/WorkforceProf/youthlinksresources.stm.

- "Planning Literacy and Language Services for Texas' Limited English Proficient Workers: The Devil is in the Details: A guide for program design, planning, implementing, and sustaining workforce-related education programs." https://www.workforce3one.org/view/1900.

- "Capitalizing on Context: Curriculum Integration in Career and Technical Education." National Research Center for Career and Technical Education, March 2010. http://136.165.122.102/UserFiles/File/Tech_Reports/NRCCTE_Curriculum_WEB_READY.pdf.

- "Getting In, Staying On, Moving Up: A Practitioner's Approach to Employment Retention," by Tony Proscio and Mark Elliott for Public/Private Ventures, December 1999, http://www.ppv.org/ppv/publication.asp?section_id=-1&search_id=0&publication_id=100.

9. **Inquiries.** Questions regarding this guidance should be directed to the appropriate ETA Regional Office.

ANEJO 11

Administración de Desarrollo Laboral

Detalle de Costos de Salarios y Beneficios Marginales

Ley de Inversión en la Fuerza Trabajadora (WIA)

I. INFORMACIÓN BÁSICA Página 1 de 2

A. Nombre y Dirección del Subrecipendiario

_____
_____
_____
_____
_____

B. Fondos

_____ *WIA*
_____ *ARRA*

C. Categoría de Costos

_____ Administración
_____ Programa
_____ *Costos Operacionales*

D. Periodo del Informe

Desde: _____
Hasta: _____

E. Programa

_____ Adultos
_____ Jóvenes
_____ Trabajadores Desplazados

F. # Empleados	G. Título de Puesto	H. Salario Mensual	I. % de Tiempo en la Categoría	J. Número de Meses	K. Subtotal
					$ -
					$ -
					$ -
					$ -

Administración de Desarrollo Laboral
Detalle de Costos de Salarios y Beneficios Marginales
Ley de Inversión en la Fuerza Trabajadora (WIA)

II. CÓMPUTO DE BENEFICIOS MARGINALES Página 2 de 2

A. Seguro Social	_____	%	X	_____	=	$0
B. Medicare	_____	%	X	$ _____	=	#VALUE!
C. Fondo del Seguro del Estado	_____	%	X	$ _____	=	#VALUE!
D. Plan Médico	_____	%	X	$ _____	=	#VALUE!
E. Seguro por Desempleo	_____	%	X	$ _____	=	#VALUE!
F. Bono de Navidad	_____	%	X	$ _____	=	#VALUE!
G. Otros (especifique)	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!
_____	_____	%	X	$ _____	=	#VALUE!

H. Total de Costos de Beneficios Marginales → #VALUE!

III. TOTAL DE SALARIOS Y BENEFICIOS MARGINALES #VALUE!

ANEJO 12

Administración de Desarrollo Laboral

RESUMEN GENERAL
TOTAL DE FONDOS ASIGNADOS Y PARTICIPANTES PLANIFICADOS

A. Área Local: _____

B. Año Programa _____

Periodo: _____

C. Tipo de Documento

☐ Plan Anual

☐ Modificación ____

Categorías	Jóvenes	Adultos	Trabajadores Desplazados	Total
Participantes a Servirse				0
Fondos				
Asignación Regular	-	-	-	-
Fondos Sobrantes				-
Fondos Incentivos por Ejecución				-
Fondos Reserva Estatal				-
Total	$ -	$ -	$ -	$ -

Certificadón

_____
Presidente Junta de Alcaldes

_____
Presidente Junta Local

_____
Fecha

_____
Fecha

ANEJO 13

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Performance Reporting CORRESPONDENCE SYMBOL OPDR-OWI DATE June 1, 2011

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 29-10

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Negotiating Performance Goals for the Workforce Investment Act Title 1B Programs and Wagner-Peyser Act Funded Activities for Program Year (PY) 2011

1. Purpose. To inform states of the guidelines for negotiating Workforce Investment Act (WIA) Title 1B performance and customer satisfaction goals and performance levels for the Wagner-Peyser Act funded activities for PY 2011. These performance goals, once they are agreed upon between the state and the Employment and Training Administration (ETA), will be incorporated into the state's Strategic Plan for the WIA and Wagner-Peyser Act.

2. References.

- WIA Section 136.
- WIA regulations at 20 CFR Part 666 and Part 661.
- Training and Employment Notice No. 8-10 *Workforce Investment Act Self – Service Participant Reporting - What, Where and How.*
- Training and Employment Guidance Letter (TEGL) No. 23-09, *Negotiating Performance Goals for the Workforce Investment Act, Title 1B Programs and Wagner-Peyser Act Funded Activities for Program Year 2010.*
- TEGL No. 14-08, and TEGL 14-08, Change 1, *Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009.*
- TEGL No. 9-07, *Revised Incentive and Sanction Policy for Workforce Investment Act Title 1B Programs.*
- TEGL No. 17-05 and 17-05 Change 2, *Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues.*
- TEGL No. 11-01, *Guidance on Revising Workforce Investment Act State Negotiated Levels of Performance.*

RESCISSIONS	EXPIRATION DATE
TEGL 23-09	Continuing

3. **Background**. The intent of this guidance is to clarify the performance measures for which states will be held accountable in PY 2011, provide an outline of the negotiations process, and provide descriptions of tools available for use during the negotiations process. The negotiations process across the system has been improved by the consistent use of these tools to do the required analysis, which are available as attachments to this guidance. Additional information is available on ETA's performance website at http://www.doleta.gov/performance/guidance/negotiating.cfm.

This guidance provides national performance targets required for the Government Performance and Results Act of 1993 (GPRA), also referred to as the "GPRA goals." The levels set as GPRA goals provide information by which Congress and the Office of Management and Budget (OMB) evaluate the success of Federal programs, including those operated by states and localities. Furthermore, this guidance describes actions taken to address the effects of the current recession on the GPRA goals over the next few years. The impact of economic conditions on WIA performance led the U.S. Department of Labor to develop a regression model that adjusts performance levels to be utilized as a starting point for negotiating performance targets in PY 2011.

4. **Changes to the Negotiations Process**. In general, the process for this current round of negotiations will be similar to the process used in PY 2010. Negotiations will continue to take place between the states and the corresponding ETA regional offices, and specific guidance regarding contacts and timeframes will be provided to the states by the appropriate regional office (the actual process steps are described in more detail in section 8(C) of this guidance).

As was the case for the last round of negotiations, states will be required to establish PY 2011 performance levels for the Wagner-Peyser Act component of the State Plans at the same time as they negotiate performance levels for the WIA Title 1B programs. States have the option, as they did in PY 2010, of extending their current goals. States may extend their negotiated PY 2010 goals into PY 2011 or they may negotiate new goals for PY 2011. States that choose either option (extending PY 2010 negotiated goals or negotiating new goals for PY 2011) must notify their appropriate Regional Administrator no later than May 31, 2011.

The primary difference between the PY 2010 negotiations process and the current PY 2011 process involves the utilization of the regression model as it relates to the negotiation process. In a departure from PY 2010, the regression adjusted performance targets for all states (not just the pilot states) will be provided to each Regional Administrator for his/her use in negations with each state. In the PY 2010 negotiation process, regression adjusted targets were made available to the eight pilot states and it was possible for these states to adopt the regression adjusted targets directly without undergoing negotiations. This is no longer an option as states must engage in negotiations, as required under WIA. However, a state and ETA may agree to accept the regression adjusted targets, in which case, the negotiation has taken place. The Regional Administrators will be the recipients of the regression adjusted performance targets for each state in PY 2011.

5. **Methodology for Assessing Performance Against Negotiated Levels.** For both the WIA Title 1B programs and the Wagner-Peyser Act programs, the upper bound of the performance range will be the negotiated level of performance for the measure, while the lower bound of the range for acceptable performance is 80 percent of the negotiated level of performance. Performance on an individual measure will be interpreted based on the outcome's position relative to the two boundaries for a measure as follows:

- **Exceeds** - when the actual performance achieved against an individual performance measure is in excess of 100 percent of the negotiated level of performance for the measure;

- **Meets** - when the actual performance achieved against an individual performance measure falls in the range of 80 to 100 percent of the negotiated level of performance for the measure; and

- **Fails** - when the actual performance achieved against an individual performance measure is less than 80 percent of the negotiated level of performance.

For example, if a state negotiates a 90.0 percent goal for the employment retention rate indicator, the state would:

- **Exceed** the goal if the actual performance level achieved was greater than 90.0 percent;

- **Meet** the goal if the actual performance level achieved was greater than or equal to 72.0 percent and less than 90.0 percent; and,

- **Fail** the goal if the actual performance level achieved was less than 72.0 percent.

While whole percentages are used in this example, it should be noted that this is simply because 80 percent of the negotiated 90 percent happens to be exactly 72 percent; there will be no rounding in interpreting performance results. Negotiated performance levels and results are stated to the tenth of a percent. States may continue to use additional distinctions to differentiate performance within the **Meets** category.

These three categories align with WIA regulations (http://www.doleta.gov/performance/guidance/laws_regs.cfm):

- 666.220(b)(3) The State exceeded the State negotiated levels of performance for title I, the levels of performance under title II and the levels for vocational and technical programs under Carl D. Perkins Vocational and Technical Education Act (WIA sec. 503 (b)). The reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) removed the requirement that funds be reserved to carry out section 503 of the WIA which only referenced P.L. 105-332 (Perkins III); thus, DOL

and ED no longer consider States' performance levels under Perkins IV in determining eligibility for incentive grants under Section 503 of WIA;

- 666.230(a)(2) The extent to which the negotiated levels of performance were exceeded; and,

- 666.240(d) Only performance that is less than 80 percent of the negotiated levels will be deemed to be a failure to achieve negotiated levels of performance.

6. WIA Incentive Grant Eligibility. For both the WIA Title 1B programs and the Wagner-Peyser Act programs, there are two levels in measuring performance for Incentive Awards: 1) the individual measure, which must exceed 90 percent; and, 2) the average for that cluster, which must exceed 100 percent for states to be considered eligible for an incentive. In addition, states must have submitted specified quarterly (ETA form 9090) and annual reports (ETA 9091) by their due dates. Please note that for purposes of WIA incentive grant eligibility, a state must meet at least 90 percent of the negotiated level for each applicable WIA performance measure to be considered eligible for an incentive grant.

7. Applicable Performance Measures for the PY 2011 Performance Negotiations Process. The negotiations process will focus on establishing agreed-upon levels of performance for 20 performance levels for the WIA and Wagner-Peyser programs. The 20 performance measures include 17 WIA indicators of performance (15 Adult, Dislocated Worker, and Youth program measures and the two customer satisfaction indicators) and three Wagner-Peyser performance measures.

For those states that have requested a waiver to report against common performance measures only, and have received approval to do so in accordance with the waiver authority granted to the Secretary of Labor at WIA section 189(i)(4), the negotiations process will focus on establishing a total of nine agreed-upon levels of performance for the WIA Adult, Dislocated Worker and Youth programs and the three Wagner-Peyser measures. For these states, the three Adult common measures will be applied separately to the WIA Adult and Dislocated Worker programs, and the three Youth common measures will be applied to the WIA Youth program. The table below summarizes the performance measures involved in the negotiations process.

Applicable Performance Measures

WIA Measures				Common Measures			Wagner-Peyser Measures (All States)
Adult	Dislocated Worker	Youth	Customer Satisfaction	Adult	Dislocated Worker	Youth	
Entered Employment Rate	Entered Employment Rate	Older Youth Entered Employment Rate	Participant American Customer Satisfaction Index	Entered Employment Rate	Entered Employment Rate	Placement in Employment or Education	Entered Employment Rate for Total Exiters
Employment Retention Rate	Employment Retention Rate	Older Youth Employment Retention Rate	Employer American Customer Satisfaction Index	Employment Retention Rate	Employment Retention Rate	Attainment of a Degree or Certificate	Employment Retention Rate for Total Exiters
Employment and Credential Rate	Employment and Credential Rate	Older Youth Credential Rate		Average Six Months Earnings	Average Six Months Earnings	Literacy and Numeracy Gains	Average Six Months Earnings for Total Exiters
Average Six Months Earnings	Average Six Months Earnings	Older Youth Earnings Change					
		Younger Youth Skill Attainment Rate					
		Younger Youth Diploma or Equivalent Rate					
		Younger Youth Retention Rate					

The source documents with the definitions and related reporting specifications for the applicable performance measures follow:

- The 17 WIA performance measures - TEGL No. 17-05, "Common Measures Policy for the Employment and Training Administration (ETA) Performance Accountability System and Related Performance Issues" (http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf); and the Workforce Investment Act Annual Report: General Reporting Instructions and ETA Form 9091, Revised 2010 (http://www.doleta.gov/performance/guidance/WIA/WIAAnnualReportSpecifications.pdf)

  The WIA Youth program common measures - TEGL No. 17-05, "Common Measures Policy for the Employment and Training Administration (ETA) Performance Accountability System and Related Performance Issues" (http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf); TEGL No. 17-05,

Change 2, "Common Measures Policy for the Employment and Training Administration (ETA) Performance Accountability System and Related Performance Issues"(http://wdr.doleta.gov/directives/attach/TEGL17-05c2acc.pdf); and the Workforce Investment Act Annual Report; General Reporting Instructions and ETA Form 9091, Revised 2010 (http://www.doleta.gov/performance/guidance/WIA/WIAAnnualReportSpecifications.pdf)

- **The three Wagner-Peyser program performance measures** - TEGL No. 17-05, "Common Measures Policy for the Employment and Training Administration (ETA) Performance Accountability System and Related Performance Issues" (http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf); and the ETA 9002 and VETS 200 Data Preparation Handbook, ET Handbook No. 406, released in February 2009 (http://www.doleta.gov/performance/guidance/WIA/ET-406-Handbook-Expiration-022809_lookout%20on%20mar-16-07.pdf).

As required since PY 2007, all states will continue to collect and report against the three Youth common performance measures for the entire Youth population (Older and Younger Youth combined) in PY 2011. However, ETA will not consider performance against these measures in the incentive award and sanctions determinations for states that are accountable for outcomes on the 17 WIA measures. The exception is for states that have received an approved waiver to implement and report against the "WIA common performance measures only." These states will negotiate levels of performance for the Youth common measures, and ETA will use these measures in the incentive and sanctions determinations.

Please note that for purposes of WIA incentive and sanctions determinations, the applicable performance measures are listed in TEGL 9-07, "Revised Incentive and Sanction Policy for Workforce Investment Act Title IB Programs" (http://wdr.doleta.gov/directives/attach/TEGL09-07.pdf).

States also should be aware that the Veterans' Employment and Training Service (VETS) will be issuing separate guidance on negotiating PY 2011 veterans' performance targets with state workforce agencies. This negotiation of specific levels of performance for veterans includes: 1) performance targets for those veterans served by One-Stop employment services; and, 2) grant-based performance targets for those veterans served through the Jobs for Veterans state grants.

8. Reaching Agreement on State Performance Levels. States should use negotiated levels of performance to drive continuous improvement and enhanced customer satisfaction. In proposing performance targets for both the WIA Title 1B and Wagner-Peyser programs, states should negotiate their goals within the context of integrated service delivery, priority of service, economic conditions, customers served, and workforce solutions that contribute to the regional economic competitiveness of their state and sub-state areas.

A. Customers to Be Served

The customers served by the local area may have a significant impact on outcomes, depending on the type of services provided and other factors unique to the population. ETA encourages states to serve those individuals with barriers to employment and individuals more at-risk of not connecting to the labor market, including those who were formerly incarcerated, the homeless, Veterans, individuals with disabilities and out-of-school youth. States should bring appropriate information to the negotiation process that demonstrates either their past performance in serving these populations and/or their current strategy for serving these populations.

ETA will consider adjusting performance targets to accommodate states currently serving a significant number of at-risk individuals who need higher levels of service to achieve a positive labor market outcome. States that have ongoing initiatives for serving at-risk individuals may work with their respective Regional Administrator to negotiate appropriate goals for PY 2011. During the negotiation process, states must provide data to support adjustments of goals based on numbers of individuals with barriers currently being served.

When negotiating the Youth goals, states should consider the importance of serving the neediest youth, especially out-of-school youth, including youth in foster care, youth in the juvenile justice system, children of incarcerated parents, and migrant youth, as well as youth with disabilities and Native American youth. States that transition to serving a higher percentage of these more difficult to serve populations should take this into account when proposing performance levels for the Youth goals since serving a greater percentage of the neediest youth may impact outcomes. States that are serving a greater percentage of the neediest youth should provide data that shows how outcomes are impacted by serving this population.

Efforts to expand services to at-risk populations are consistent with the WIA legislation. WIA section 101(13) defines "eligible youth" as a low-income individual between the ages of 14 and 21 who is deficient in basic literacy skills, a school dropout, homeless, a runaway or foster child, pregnant or parenting, an offender, or an individual who requires additional assistance to complete an educational program or hold employment. Section 112 (b)(17)(A)(iv) requires that the State Plan describe how the state will serve the employment and training needs of dislocated workers (including displaced homemakers), low-income individuals (including recipients of public assistance), individuals training for nontraditional employment, and other individuals with multiple barriers to employment (including older individuals and individuals with disabilities). Section 134(d)(4)(E) requires that priority must be given to recipients of public assistance and other low-income individuals for intensive services and training services.

When negotiating goals for the Adult program, states proposing new efforts to increase access to services for special populations that may face significant barriers (such as veterans, older workers, individuals with disabilities, migrant or seasonal farm workers,

Indian and Native Americans, or Temporary Assistance for Needy Families recipients), should provide data to show how these new efforts will impact WIA Adult, WIA Dislocated Worker and Wagner-Peyser Act outcomes. ETA supports efforts that will help states better tap into a wider variety of available workers. Available performance data indicate that the workforce investment system's employment and training programs have positive impacts on individuals' employment, including traditionally underserved populations. ETA expects states to document how outcomes are impacted by changes in the mix of participants served.

For future negotiations, ETA invites states to suggest mechanisms for expanding services to at-risk populations within our current performance framework. Suggestions should be emailed to ETAperforms@dol.gov.

B. Tools for Proposing Levels of Performance

The following tools and process guidelines provide a uniform framework for states to use to set performance goals that demonstrate this commitment. These tools and guidelines are designed to aid the negotiation process. Final performance levels must be negotiated and agreed upon by the state and the ETA Regional Administrator no later than June 30, 2011.

Prior to proposing levels of performance for the applicable performance measures to the appropriate Regional Administrator to begin the negotiations process as discussed further in Part C of this section (and **Attachment I**), states should review and make use of the following resources/tools to ensure that these factors have been considered in determining their proposed level and that there is a sound rationale for their proposed levels of performance:

I. *Past performance*. States should use historical, annual performance information to inform projected levels of performance for PY 2011. Recent quarterly performance results also should be used to inform the performance path the state is following. The Wagner-Peyser-funded activities began reporting against the common performance measures in PY 2005 and now have five full years of data on which to base future performance projections. The Department anticipates that states will submit proposed levels of performance that reflect continuous improvement in service provision and quality. However, it is recognized that pre-PY 2009 performance levels may not be as applicable in the current economic environment, as labor market conditions remain depressed.

While states should have ready access to their own historical performance information, various tools and resources are available to examine states' historical performance data, including state by state files of the data (www.doleta.gov/Performance/results/wia_national_performance.cfm); VETS' performance data (http://www.dol.gov/vets/vetoutcomes/index.htm) and Bureau of Labor Statistics (BLS) data for employment, industries, counties, average earnings, etc. (www.bls.gov/cew/home.htm). When using BLS data as a guide,

states should be careful to consider the timeframes covered by BLS employment and wage information, and the relative time periods in which WIA and Wagner-Peyser exiters enter employment and obtain post-program earnings.

II. *GPRA goals*. Throughout the performance negotiation process, states should be aware of the GPRA goals the Department has established through PY 2011. The regional offices will use the GPRA goals as one of several benchmarks by which to gauge their states' proposed performance levels in the context of these national system goals. The GPRA is an important mechanism by which Congress and OMB evaluate the success of Federal programs, including those operated by states and localities. The GPRA goals for the Department's WIA Adult and Dislocated Workers, and Wagner-Peyser programs in addition to other national programs are listed in **Attachment II**, and more information is available at http://www.doleta.gov/Performance/goals/gpra.cfm.

III. *The effects of economic and demographic variables and other factors*. WIA Section 136(b)(3)(A)(iv) (see http://www.doleta.gov/usworkforce/wia/wialaw.htm#sec136) addresses additional factors, such as differences in economic conditions, characteristics of participants, and services to be provided, that should be considered in the negotiation process.

Attachment III contains a description of the time periods during which individuals must have exited program services to be included in the different performance measures. This attachment will assist states in their analysis of the impact of a given variable on the different measures against which the state will be negotiating levels for PY 2011 (and including in their WIA Annual Report submissions for PY 2011).

C. Process for Reaching Agreement on State Performance Levels

The process for reaching agreement on state performance levels will include the following steps, as outlined in the attached timeline (**Attachment I**):

I. After conducting their own analysis of factors that may affect performance, as discussed above (in Part A of this section), states will propose levels of performance for each of the applicable performance measures for PY 2011 by submitting these proposed levels to the Regional Administrator serving the state. Proposed performance levels should be stated to a tenth of a percent (XX.X%) and must be submitted to the appropriate Regional Administrator no later than May 31, 2011; however, regional offices will work with states to begin the negotiation process prior to that date and in parallel with the planning process in order to ensure that final levels are agreed upon by June 30, 2011.

When submitting the proposed levels, states should provide the following as support for the levels (see Part II, Section X, Subpart C, Item 1 of the Stand-Alone

Planning Guidance or State Planning Guidance or Part III, Section K, Item 1(a)(i) of the Unified Planning Guidance):

- The methodology used for developing proposed levels of performance, including a description of data sources, calculations, and additional environmental factors (such as those previously addressed in TEGL 9-07, and discussed in sections 5 - 7 of this guidance).
- How the target levels will promote continuous improvement in state performance.

When submitting the proposed levels for review, states should also include a discussion of how the proposed levels will positively impact customer satisfaction with services received and the extent to which the proposed levels ensure optimal return on investment of Federal funds. (See WIA Section 136(b)(3)(A)(iii) and (iv).)

II. The regional office will review the analyses used by the state to develop the proposed performance levels and will work with the state to set mutually agreed-upon levels of performance. Regional offices will take into account the environmental factors addressed by the state, including current and future economic conditions. The regional office will consider the proposed levels in light of previously negotiated goals, past performance results, and the national GPRA goals. Additionally, regional offices will consider the quality of the data presented by the state, including its relevance, source, the time period from which it is drawn, and whether the data is part of a trend or is anomalous.

The negotiations process will focus on whether each performance level appears appropriate in light of statutory criteria and this guidance, and the adequacy of any information the state offers to substantiate each level. If regional offices determine through their analysis that a state could increase its proposed performance levels to more fully support continuous improvement and customer satisfaction strategies, they will negotiate with the state to obtain higher mutually agreed-upon performance levels.

III. Once the performance levels are agreed upon, the Regional Administrator will send a letter to the state confirming the agreed-upon levels. This letter constitutes a modification to the State Plan and serves to incorporate the agreed upon performance goals into the State Strategic Plan.

9. <u>Inclusion of Performance Goals in State Plans</u>. States are required to submit *proposed* levels of performance to their Regional Administrator no later than May 31, 2011. States should note that the proposed levels of performance are subject to the same public review and comment requirements that apply to State Plans and Plan modifications. When the state submits the proposed levels to ETA, the state should confirm that it has made the proposed levels available to the public for review and comment.

In cases where final agreement on performance goals has not been reached until after the State Plan has been approved, the Regional Administrator's letter advising the states of the agreed-upon goals will constitute a modification to the State Plan. For subsequent revisions to performance goals during the life of the State Plan, the Regional Administrator's letter advising the state of the agreed upon goals will also constitute a modification to the State Plan. The state must ensure that the agreed-upon goals are included in the state's official copy of the State Plan, and that any published State Plan, on the state's website or through other forums, includes the agreed-upon goals. ETA will incorporate these performance goals into the Regional and National Office copies of the State Plan.

10. **State and Local Regression Analysis.** The Department will use the regression-based performance levels as a tool in the negotiations process with all states in the PY 2011 negotiation process. The Regional Administrators will receive the regression-based targets for the states in their region and will use them as a tool in negotiations with the states. In a similar manner, states are encouraged to utilize the regression-based performance levels as a tool to aid their negotiations with their local areas. Previous experience with the regression model pilot project has demonstrated that the regression-based performance levels would best serve the goal setting process as an additional tool for use in the negotiation process. Regional Administrators as well as the states are in no way precisely bound to the regression-adjusted targets. Rather, the targets should serve as a starting point or reference tool for use in negotiating PY 2011 performance targets. As such, the state and local area regression-adjusted performance targets will be distributed through the Regional Offices.

This TEGL also provides the WIA and Wagner-Peyser Employment Service Program GPRA goals. These goals support the FY 2012 Congressional Budget Justification, and were developed using a national regression model. The national GPRA goals are to serve as an additional guide for negotiations. However, ETA encourages states and local workforce boards to negotiate performance goals according to the local area labor market and economic conditions.

11. **Renegotiation of State Goals.** WIA allows for the renegotiation of performance levels if circumstances arise that result in a significant change in the factors used to develop the original performance levels. Such criteria could include significant changes in economic conditions, changes in service mix, or changes in client characteristics. States should notify their regional office of any intent to renegotiate their performance. States that renegotiate goals should note that renegotiation after the end of the second quarter (December 31, 2001) eliminates that state from being eligible to receive WIA incentive grants. TEGL 11-01, change 1, offers further guidance on renegotiating state goals.

Under 20 CFR 661.230(b)(2), a change in "performance indicators" is considered a substantial change that must be officially incorporated into the State Plan through a modification. Therefore, states must submit modifications to the State Plan reflecting the agreed upon performance levels. These plan modifications are subject to the same public review and comment requirements that apply to the development of the original State

Plan. Therefore, the state must provide an opportunity for public comment on the modification prior to submission to the regional office. The agreed upon performance levels are incorporated into the state plans when the Regional Administrator approves the state's modification of its plan. Regional Offices will monitor state progress toward achievement of the targets and may request a corrective action plan if a state does not appear on track to achieve its negotiated levels.

12. **Action Requested**. States are requested to distribute this information to the appropriate state and local staff. To see the GPRA performance goals for the WIA and Wagner-Peyser programs, please refer to **Attachment II**. More information is available at: http://www.doleta.gov/Performance/goals/gpra.cfm.

13. **Inquiries**. Questions concerning this guidance may be directed to the appropriate regional office.

14. **Attachments**.

Attachment I:	Recommended Timeline for the Negotiation Process
Attachment II:	Workforce Investment Act and Wagner-Peyser Employment Service Performance Goal Levels Established for the Fiscal Year (FY) 2012 Congressional Budget Justification and the Government Performance and Results Act
Attachment III:	Time Periods for Reporting Performance Information in the WIA Annual Report for PY 2010 to PY 2011

ATTACHMENT I
RECOMMENDED TIMELINE FOR THE NEGOTIATION PROCESS

[illegible]	[illegible]
March 2011	• ETA regional offices provide technical assistance on strategic planning as requested by state, including procedures for negotiating performance goals
April 30, 2011	• States formally submit state plans to ETA
No later than May 31, 2011	• States send proposed performance levels to regional offices
May 2011	• Regional offices review states' proposed performance levels and work with states to arrive at mutually agreed upon levels
June 2011	• Negotiation continues if necessary
June 30, 2011	• Regional Administrators send approval letter to states regarding the final performance levels • ETA incorporates final performance levels into state plans
December 31, 2011	• States must notify their Regional Offices by the end of the second quarter if they plan to renegotiate their performance goals and still be included in that Program Year's incentive funds
March 31, 2012	• State may renegotiate their Performance goals through the end of the third quarter. **States renegotiating their goals after the end of the second quarter are not eligible for that Program Year's WIA incentive funds.**

ATTACHMENT II

WORKFORCE INVESTMENT ACT AND WAGNER-PEYSER EMPLOYMENT SERVICE PERFORMANCE GOAL LEVELS ESTABLISHED FOR THE FISCAL YEAR (FY) 2012 CONGRESSIONAL BUDGET JUSTIFICATION AND THE GOVERNMENT PERFORMANCE AND RESULTS ACT

Program	Measure	Results	TARGETS		
		2009	2011	2012	2013
WIA Adults	Entered Employment	54.0	53.1	53.7	54.6
	Retention	77.7	73.1	73.7	75.0
	Earnings	13,712	12,865	13,178	13,701
WIA Dislocated Workers	Entered Employment	51.0	49.7	50.6	51.9
	Retention	79.7	78.0	78.3	78.7
	Earnings	16,804	15,418	15,840	16,567
WIA Youth	Placement	53.7	53.3	53.6	54.0
	Attainment	52.9	54.7	53.4	51.4
	Literacy	38.1	40.4	39.7	38.6
National Emergency Grants (NEGs)[a]	Entered Employment	62.5	61.0	62.0	63.6
	Retention	78.5	77.1	77.5	78.1
	Earnings	14,118	12,953	13,308	13,919
Wagner-Peyser Employment Service[b]	Entered Employment	47.8	46.6	47.4	48.7
	Retention	75.2	70.6	71.0	72.0
	Earnings	12,798	12,602	12,824	13,159

Targets were set based on the estimated effect of unemployment rates on program performance outcomes and OMB's assumptions about future unemployment rates and the Consumer Price Index-Urban Consumers (CPI-U). The base for setting performance targets is the performance results for PY 2009, the most recent program year for which performance results are available. Performance outcomes are aligned with the unemployment rates and CPI-U within the quarters for which each measure is derived for the outcome in each program year.

(a) Estimates from WIA Dislocated Worker were used to set targets for these programs, since Workforce Investment Board area Identifications Numbers were not available for National Emergency Grants-only records.

(b) These estimates are based on Wagner-Peyser Employment Service (WPES) individual records from Pennsylvania and Texas. Individual record data for WPES are not a required collection; however, this data is collected in these two states through Workforce Investment Standardized Performance Reporting System.

ATTACHMENT III

TIME PERIODS FOR REPORTING PERFORMANCE INFORMATION IN THE WIA ANNUAL REPORT FOR PY 2010 AND PY 2011

	Annual Report PY 2010	**Annual Report PY 2011**
Reporting Item	**Time Period (Exit Cohort) to Be Reported**	
Total Participants	7/1/10 to 6/30/11	7/1/11 to 6/30/12
Total Exiters	4/1/10 to 3/31/11	4/1/11 to 3/31/12
Employer Customer Satisfaction	1/1/10 to 12/31/10	1/1/11 to 12/31/11
Participant Customer Satisfaction	1/1/10 to 12/31/10	1/1/11 to 12/31/11
Adult and Dislocated Worker Performance Measures		
Entered Employment Rate	10/1/09 to 9/30/10	10/1/10 to 9/30/11
Employment Retention Rate	4/1/09 to 3/31/10	4/1/10 to 3/31/11
Six Months Average Earnings	4/1/09 to 3/31/10	4/1/10 to 3/31/11
Employment and Credential Rate	10/1/09 to 9/30/10	10/1/10 to 9/30/11
Older Youth Performance Measures		
Entered Employment Rate	10/1/09 to 9/30/10	10/1/10 to 9/30/11
Employment Retention Rate	4/1/09 to 3/31/10	4/1/10 to 3/31/11
Earnings Change	4/1/09 to 3/31/10	4/1/10 to 3/31/11
Employment and Credential Rate	10/1/09 to 9/30/10	10/1/10 to 9/30/11
Younger Youth Performance Measures		
Skill Attainment Rate	4/1/10 to 3/31/11	4/1/11 to 3/31/12
Youth Diploma or Equivalent Rate	4/1/10 to 3/31/11	4/1/11 to 3/31/12
Retention Rate	4/1/09 to 3/31/10	4/1/10 to 3/31/11

ANEJO 14

Estado Libre Asociado Puerto Rico

Departamento del Trabajo y Recursos Humanos

Desarrollo Ocupacional

MEMORIAL ADMINISTRATIVO WIA-4-2007

Fecha : 30 de noviembre de 2007

A : Presidentes de Juntas de Alcaldes, Presidentes de Juntas Locales, Directores Ejecutivos de las Áreas Locales de Inversión en la Fuerza Trabajadora y sub- recipientes de fondos bajo la Ley Pública 105-220 de 8 de agosto de 1998, Ley de Inversión en la Fuerza Trabajadora (WIA, por sus siglas en inglés).

Asunto : Requisitos y política pública para las actividades de Adiestramiento en el Empleo (On the Job Training) y Adiestramiento a la Medida (Customized Training).

Base Legal : Sección 101 (8) y (31) de WIA
Sección 134 (d)(4) de WIA
Sección 181 (a) (b) y (d) de WIA
Secciones 663.310, 663.700, 663.705, 663.710, 663.715, 663.720, 663.730, 667.270, 667.272, 667.274 y 669.420 de 20 CFR Parte 652

Jurisdicción : Este Memorial aplica a las Áreas Locales y sub-recipientes de fondos del Título I de WIA, como directriz de política pública y referencia interpretativa para la planificación, desarrollo e implantación de las actividades de Adiestramiento en el Empleo y de Adiestramiento a la Medida bajo el Programa de Adultos y Trabajadores Desplazados y en actividades a Nivel Estatal.

Derogaciones : Ninguna

I. Adiestramiento en el Empleo

A. Definición

El término Adiestramiento en el Empleo "on the job training" (OJT) significa el adiestramiento estructurado provisto por un patrono del sector público o privado

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con o sin fines de lucro, a un participante que devenga un salario mientras realiza una labor productiva en un trabajo que:

1) provee conocimiento o destrezas esenciales para un pleno y adecuado desempeño del trabajo;
2) provee un reembolso al patrono de hasta un 50% del salario devengado por el participante, por los costos extraordinarios de proveer el adiestramiento y la supervisión adicional relacionada al adiestramiento; y
3) es limitado en duración, según sea apropiado para la ocupación en la cual el participante está siendo adiestrado, tomando en consideración las destrezas requeridas para la ocupación, el contenido del adiestramiento, el nivel de destrezas académicas y ocupacionales del participante, la experiencia de trabajo previa y el plan de estrategia individual del participante.

B. Requisitos para la actividad de Adiestramiento en el Empleo

1) La actividad de OJT se provee bajo un contrato con un patrono del sector público, del sector privado con o sin fines de lucro. El contrato se establecerá con el patrono para proveer adiestramiento ocupacional a participantes del Programa de Adultos y Trabajadores Desplazados, por el cual, se reembolsará hasta un 50% del salario del participante para compensar los costos extraordinarios del patrono de proveer el adiestramiento, la supervisión relacionada y por la baja productividad del participante mientras se adiestra. Los patronos no vienen obligados a documentar estos costos extraordinarios. (20 CFR 663.710)

2) El contrato de OJT debe limitarse al periodo de tiempo que requiera el participante para convertirse diestro o hábil en la ocupación para la cual se provee el adiestramiento. Para determinar la duración del contrato se debe tomar en consideración las destrezas requeridas para la ocupación, el contenido del adiestramiento, el nivel de destrezas académicas y ocupacionales del participante, experiencia de trabajo previa y el plan individual de empleo del participante.

3) No se debe contratar con un patrono que haya exhibido previamente un patrón de fallas en proveer a los participantes de OJT empleo continuo por largo periodo con salarios, beneficios y condiciones de empleo iguales a aquellas que se les provee a sus empleados regulares.

4) Los contratos de OJT pueden ser suscritos para personas empleadas elegibles si el empleado no devenga un salario que le permita ser autosuficiente, según determinado por la política de la Junta Local[1]; y el adiestramiento en el empleo esté relacionado a la introducción de nueva tecnología, de nuevos productos o procedimientos de servicios, ascensos a nuevos empleos que requieran destrezas adicionales, literacia[2] en el lugar de empleo o para otro propósito apropiado identificado por la Junta Local. *(20 CFR 663.705)*

C. Requisitos para la Ocupación

Para determinar si el adiestramiento para una ocupación es elegible para llevarse a cabo mediante un OJT, se deberá considerar lo siguiente:

1) La ocupación debe formar parte del mercado en demanda ocupacional.

2) La ocupación debe ser una que requiera altas destrezas (*Standard Vocational Profile* (*SVP*) de 2 o más)

3) La ocupación debe proveer un potencial de crecimiento en la profesión.

4) La ocupación debe proveer al menos 20 horas de empleo semanales y cumplir con la medida de ejecución relacionada al salario promedio, independientemente del total de horas trabajadas por semana en un empleo no subsidiado.

5) La ocupación no debe estar relacionada a actividades políticas ni religiosas.

6) La ocupación debe proveer al cliente cuando es una persona empleada, un aumento en las ganancias y destrezas adicionales.

7) Las ocupaciones no deben ser de temporadas o que tengan un porciento alto de transferencia "turnover".

8) No deben ser ocupaciones en las que el principal recurso de ingresos sean propinas o comisiones.

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[1] Cuando se trata de "trabajadores incumbentes" en actividades a nivel estatal no es necesario cumplir con el criterio de autosuficiencia. 20 CFR 665.220

[2] El término 'literacy" se define como la capacidad de un individuo de leer, escribir y hablar en inglés, realizar cálculos y resolver problemas con la destreza necesaria para desempeñarse en el trabajo, en su familia y en la sociedad. Sección 101 (19) y 203 (12) de WIA

D. Requisitos para el Reclutamiento

Antes de referir a un participante para una actividad de OJT se deberá considerar lo siguiente:

1) El participante tiene que haber cumplido con los requisitos de elegibilidad para los servicios intensivos, haber recibido al menos un servicio intensivo y haber determinado un manejador de casos, que el participante no está apto para obtener o retener un empleo a través de los servicios provistos.[3] *(663.310 (a))*

2) En la evaluación del participante y en el desarrollo de la estrategia individual de servicios realizada por el manejador de casos, se identificará conjuntamente con el participante, cuan adecuada es la actividad de OJT para este. Se deberá considerar si el cliente tiene:

   a) una meta real y compromiso de obtener un empleo regular y por largo periodo;
   b) interés en la ocupación en que se adiestrará;
   c) las destrezas básicas necesarias en la ocupación para comenzar el OJT;
   d) conocimientos necesarios en el lugar de empleo, tales como:
      - asistencia y puntualidad
      - vestimenta adecuada
      - relaciones con otros empleados
      - resolución de conflictos
      - deberes y responsabilidades
      - actitudes positivas en el empleo
   e) las destrezas de pre-empleo y requisitos necesarios identificados por el patrono antes del OJT;
   f) certificaciones de destrezas ocupacionales
   g) cualquier barrera que pudiera interferir en completar exitosamente el OJT (transportación, cuido de niños, salud)

E. Cláusulas mínimas que debe contener un contrato de OJT

Los contratos que se suscriban con los patronos para Adiestramiento en el Empleo (OJT) deben contener como mínimo lo siguiente:

[3] Los" trabajadores incumbentes" en actividades a nivel estatal no tienen que cumplir con los criterios de elegibilidad para servicios intensivos. 20 CFR 665. 220

1) la ocupación para la cual se esta ofreciendo el adiestramiento y descripción de la misma, destrezas y competencias a ser aprendidas o adquiridas;

2) el bosquejo de adiestramiento que refleje las destrezas ocupacionales requeridas para la posición, incluyendo las horas de adiestramiento para cada destreza o tarea. La descripción de la ocupación y el bosquejo deben ser lo suficientemente específicos que permitan la verificación de que el adiestramiento se esta ofreciendo de acuerdo a lo estipulado en el contrato;

3) la cantidad de participantes que van a ser adiestrados;

4) el pago por hora de los participantes;

5) el método de pago y la cantidad máxima a ser reembolsada al patrono;

6) las correspondientes garantías y certificaciones que incluyan la compensación del participante al mismo salario de los empleados de la empresa que ocupan la misma posición;

7) el acuerdo del patrono de mantener y hacer disponible los records de tiempo, asistencia, nómina u otros para sustentar las cuantías de reembolso a ser reclamadas bajo el contrato de OJT;

8) el compromiso del patrono de emplear o retener en el empleo aquellos individuos que hayan completado exitosamente el adiestramiento;

9) el deber del patrono de mantener, retener y dar acceso a los expedientes al Área Local, al Consejo de Desarrollo Ocupacional y Recursos Humanos, al Contralor y al Departamento del Trabajo estatal y federal, donde se evidencie los costos asociados a la actividad de adiestramiento y los correspondientes reembolsos, tales como registros de asistencia, nómina, facturas y otra información necesaria para responder durante procesos de monitoria o auditoria;

10) prohibición del uso o uso propuesto de los fondos WIA para inducir a que un negocio o parte de un negocio se relocalice y que los resultados de dicha relocalización resulten en que cualquier empleado(a) pierda su empleo en la localización original;

11) prohibición en el uso o uso propuesto de los fondos de adiestramiento WIA en cualquier negocio o parte de un negocio que se haya relocalizado en los Estados Unidos, hasta que la compañía haya operado en la nueva localidad por 120 días, si la relocalización resulta en que cualquier empleado pierda su empleo en la localización anterior;

12) prohibición de desplazamiento total o parcial de empleados del patrono por participantes WIA;

13) provisión de beneficios y condiciones de trabajo al mismo nivel y extensión que a otros empleados trabajando por un periodo similar de tiempo y que realicen el mismo tipo de trabajo;

14) disposición sobre no-discriminación y prohibición de actividades sectarias;

15) prohibición del uso de fondos para asistir, promover o detener la organización de uniones;

16) prohibición de utilización de fondos WIA para viajes al extranjero;

17) prohibición de actividades políticas y de cabildeo;

18) cumplimiento con los requisitos y restricciones que se establecen en la Sección 181 (a) (b) y (d) relacionadas a los beneficios y estándares laborales que aplican a los participantes bajo las actividades del Título I de WIA y a las prohibiciones en el uso de fondos para fomentar la relocalización de empresas o negocios;

19) cláusula relativa a la disponibilidad o existencia de un Procedimiento de Querellas a tenor con lo dispuesto en la Sección 181 (c).

II. Adiestramiento a la Medida

A. Definición

El Adiestramiento a la Medida "*customized training*" es un adiestramiento diseñado y desarrollado para satisfacer las necesidades particulares de un patrono o grupo de patronos, con el compromiso del patrono de emplear o en el caso de personas empleadas- trabajadores incumbentes, de retener en el empleo, aquellos individuos que completen satisfactoriamente el adiestramiento, por el cual el patrono paga no menos del cincuenta por ciento (50 %) del costo de adiestramiento.

B. Requisitos para la actividad de Adiestramiento a la Medida

1) El Adiestramiento a la Medida (al igual que el OJT) es una excepción al requisito de cuentas individuales de adiestramiento para financiar los servicios de adiestramiento a participantes.

2) El participante tiene que haber cumplido con los requisitos de elegibilidad para los servicios intensivos, haber recibido al menos un servicio intensivo y haber determinado un manejador de casos, que el participante no está apto para obtener o retener un empleo a través de los servicios provistos.[4] (20 CFR *663.310 (a))*

3) Es requerido que el patrono se comprometa a emplear al participante o a retenerle en el empleo una vez éste finalice exitosamente el adiestramiento. (20 CFR 663. 715 (b))

4) Los costos de adiestramiento que pueden ser reembolsados en hasta un 50% bajo la actividad de Adiestramiento a la Medida son los siguientes: costos relacionados a la matrícula del adiestramiento; salarios de los instructores o adiestradores; costos relacionados al desarrollo de currículo; materiales didácticos; certificaciones, licencias y credenciales; gastos de viajes de los instructores o adiestradores en Puerto Rico, Estados Unidos y sus territorios.

5) Al igual que en la actividad de Adiestramiento en el Empleo (OJT), la duración del Adiestramiento a la Medida dependerá de la evaluación de las destrezas requeridas para la ocupación, las destrezas y educación del participante y su experiencia previa.

6) En el caso de que la actividad de Adiestramiento a la Medida se lleve a cabo con personas ya empleadas elegibles, el mismo es permisible siempre y cuando el empleado no devenge un salario que le permita ser autosuficiente, según determinado por la política de la Junta Local[5]; y el adiestramiento esté relacionado a la introducción de nueva tecnología, de nuevos productos o procedimientos que requieran readiestramiento para la adquisición de nuevas destrezas. ascensos a nuevos empleos que requieran destrezas adicionales, literacia en el lugar de empleo o para otro propósito identificado por la Junta Local. (20 CFR 663.720)

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[4] Vease Nota al calce3
[5] Véase Nota al calce 1

C. Cláusulas mínimas que debe contener un contrato de Adiestramiento a la Medida

Los contratos que se suscriban con los patronos para el desarrollo de Adiestramiento a la Medida deben especificar lo siguiente:

1) la ocupación para la cual el participante se estará adiestrando y descripción de la ocupación;

2) bosquejo de adiestramiento; la descripción de la ocupación y el bosquejo del adiestramiento deben ser lo suficientemente específicos que permitan la verificación de que el adiestramiento se esté proveyendo de acuerdo a lo acordado;

3) cantidad de participantes que van a ser adiestrados;

4) costo de adiestramiento por participante

5) método de pago y cantidad máxima a ser reembolsada

6) Como mínimo deberán contener cláusulas relacionadas a lo siguiente:

- las correspondientes garantías y certificaciones que incluya la compensación del participante al mismo salario de los empleados de la empresa que ocupan la misma posición;

- el compromiso del patrono de emplear o retener en el empleo aquellos individuos que hayan completado exitosamente el adiestramiento.

- el deber del patrono de mantener, retener y dar acceso a los expedientes al Área Local, al Consejo de Desarrollo Ocupacional y Recursos Humanos, al Contralor y al Departamento del Trabajo estatal y federal, donde se evidencie los costos asociados a la actividad de adiestramiento y los correspondientes reembolsos, tales como: registros de asistencia, nómina, facturas y otra información necesaria para responder durante procesos de monitoria o auditoría;

- prohibición del uso o uso propuesto de los fondos WIA para inducir a que un negocio o parte de un negocio se relocalice y que

los resultados de dicha relocalización resulten en que cualquier empleado(a) pierda su empleo en la localización original;

- prohibición del uso o uso propuesto de los fondos de adiestramiento WIA en cualquier negocio o parte de un negocio que se haya relocalizado en los Estados Unidos, hasta que la compañía haya operado en la nueva localidad por 120 días, si la relocalización resulta en que cualquier empleado pierda su empleo en la localización anterior;

- prohibición de desplazamiento total o parcial de empleados del patrono por participantes WIA;

- provisión de beneficios y condiciones de trabajo al mismo nivel y extensión a otros empleados trabajando por un periodo similar de tiempo y que realicen el mismo tipo de trabajo;

- disposición sobre no-discriminación y prohibición de actividades sectarias;

- prohibición del uso de fondos para asistir, promover o detener la organización de uniones;

- prohibición de la utilización de fondos WIA para viajes al extranjero;

- prohibición de actividades políticas y de cabildeo;

- disposición sobre la aplicación de los mismos beneficios y condiciones de trabajo a todos los participantes;

- cumplimiento con los requisitos y restricciones que se establecen en la Sección 181 (a) (b) y (d) relacionadas a los beneficios y estándares laborales que aplican a los participantes bajo las actividades del Título I de WIA y a las prohibiciones en el uso de fondos para fomentar la relocalización de empresas o negocios;

- cláusula relativa a la disponibilidad o existencia de un Procedimiento de Querellas a tenor con lo dispuesto en la Sección 181 (c).

III. Disposiciones Generales

1) El Adiestramiento en el Empleo y el Adiestramiento a la Medida solo será provisto a participantes que tengan menos destrezas que el nivel de destrezas de entrada requeridas para la ocupación para la que está siendo reclutado.

2) Para determinar la duración del Adiestramiento en el Empleo se utilizarán como guías de referencia la red (sistema) de información ocupacional O* Net[6] y el "Standard Vocational Profile" (SVP). Además, se considerarán las destrezas requeridas para la ocupación, el nivel de destrezas académicas y ocupacionales del participante, experiencias de trabajo previas y el plan individual de empleo del participante.

3) El mínimo de horas semanales para un OJT es 20 horas. El tiempo extra no es permitido; por lo cual un participante en adiestramiento no podrá trabajar más de 8 horas diarias o exceder las 40 horas semanales.

4) Se reembolsará solamente por aquellas horas que se utilicen mientras se adiestra al participante en el empleo. No se reembolsará por el pago de trabajos realizados fuera de los términos del contrato, ni durante periodos de receso o periodos no trabajados (ej. huelgas, días feriados, vacaciones, licencia por enfermedad, cierres de emergencia).

5) Una vez completado el Adiestramiento en el Empleo como el Adiestramiento a la Medida, el patrono deberá emitir un Informe de Ejecución y una Certificación de Terminación a los participantes WIA, que declare formalmente que el participante es competente en las destrezas ocupacionales adquiridas.

6) La sección 667.272 de la reglamentación final de WIA establece cuales son las normas salariales que aplican a los participantes bajo las actividades del Título I. De acuerdo a dicha Sección las normas aplicables son:

   a) Los individuos participando en OJT o empleados bajo actividades del Título I de WIA deberán ser compensados en la misma proporción incluyendo los aumentos periódicos, que aquellos en adiestramientos o empleados que se encuentran en

[6] El Sistema O* Net reemplaza el Diccionario de Términos Ocupacionales (DOT), cuya última actualización fue en el año 1991.

situaciones y condiciones similares. La compensación salarial nunca será menos que la establecida por el *"Fair Labor Standards Act"* o el salario mínimo federal estatal o local.

b) Los participantes de OJT o empleados bajo actividades del Título I de WIA deberán recibir beneficios marginales y condiciones de trabajo al mismo nivel y en la misma medida que aquellos adiestrados o empleados regulares que se desempeñan realizando tareas similares y que han estado realizando las funciones por el mismo periodo.

c) Los salarios, ingresos y pagos a participantes de actividades de Título I de WIA no serán considerados como ingreso para propósito de ser elegibles bajo otros programas federales para y la cuantía de ingresos a transferir y las ayudas "in kind" provistas por otros programas federales basados en necesidad salvo para propósitos de la Ley de Seguro Social. (20 CFR 667. 272 (c))

VIGENCIA : Este Memorial Administrativo tendrá efectividad inmediata.

Para información adicional, favor de comunicarse con la Oficina de Asesoramiento Legal del Consejo, o la Oficina de Asistencia Técnica y Enlace al teléfono (787) 754-5504 extensiones 340, 300 ó 235, respectivamente.

Alejandro J. Riefa Fernández
Director Ejecutivo

ANEJO 15

MEMORIAL ADMINISTRATIVO NÚMERO WIA 1-2006

ACTIVIDAD EXPERIENCIA DE TRABAJO

27 DE DICIEMBRE DE 2005

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Estado Libre Asociado de Puerto Rico — Departamento del Trabajo y Recursos Humanos

Consejo de **Desarrollo Ocupacional** y Recursos Humanos

Memorial Administrativo Número WIA 1-2006

Fecha	:	27 de diciembre de 2005
A	:	Presidentes Junta de Alcaldes, Presidentes Juntas Locales, Consejo de Jóvenes, Directores Ejecutivos de las Áreas Locales y sub-concesionarios de fondos bajo la Ley Públ. 105-220 de 8 de agosto de 1998, Ley de Inversión en la Fuerza Trabajadora (WIA).
Asunto	:	Actividad Experiencia de Trabajo
Base Legal	:	a. Sección 129 (c)(2)(D) de WIA b. Sección 134 (d)(3) de WIA c. 20 CFR Secciones 663.200, 664.460 y 664.470 d. Plan Estatal para Dos Años, aprobado en Mayo 2005
Jurisdicción	:	Este Memorial aplica a las Áreas Locales y sub-concesionarios de fondos del Título I de WIA, como directriz de política pública y referencia interpretativa para la planificación, desarrollo e implantación de la Actividad de Experiencia de Trabajo bajo el Programa de Adultos y Trabajadores Desplazados, el Programa de Jóvenes y en Actividades a Nivel Estatal.
Derogaciones	:	Ninguna.

I. Definición:

La Experiencia de Trabajo es una actividad programática que puede ser ofrecida a los participantes, la cual se identifica como un servicio intensivo en el Programa de Adultos y Trabajadores Desplazados y como un elemento dentro del Programa de Jóvenes. La misma se concibe como **una experiencia de aprendizaje planificada y estructurada, que se ofrece en un área de trabajo por un periodo limitado de tiempo,** justificada a base de una evaluación comprensiva y Plan de Empleo Individual desarrollado por el Manejador de Casos.

Esta actividad está dirigida principalmente a desarrollar en los participantes buenos hábitos y destrezas básicas necesarias para el mundo del trabajo, facilitándole su integración al mercado laboral. Por lo que, deberá estar diseñada con el objetivo de incrementar la empleabilidad de los individuos.

La Experiencia de Trabajo puede ofrecerse en el sector privado con o sin fines de lucro o en el sector público, con o sin subvención de fondos WIA.

II. Directrices Interpretativas de la Experiencia de Trabajo

A. Programa de Adultos y Trabajadores Desplazados

1. Por tratarse de un servicio intensivo, para poder participar del mismo el participante debe haber recibido al menos un servicio básico y haber llevado a cabo, sin éxito, búsqueda de empleo. Esta gestión de búsqueda de empleo, debe ser verificable por el Manejador de Casos.

2. Es requisito indispensable que previo a la Experiencia de Trabajo, la persona elegible haya sido objeto de una evaluación comprensiva, especializada y objetiva sobre sus niveles de destreza(s) y necesidad(es) de servicios. La

determinación de necesidad de servicios intensivos, en este caso de Experiencia de Trabajo, debe estar razonablemente sustentada en el expediente del participante.

3. Por constituir una actividad eminentemente de aprendizaje de buenos hábitos y destrezas básicas en un lugar de trabajo, la Experiencia de Trabajo no debe exceder de seis (6) meses. Se puede hacer excepciones a esta limitación en la duración de la actividad, **no obstante, toda excepción deberá estar razonablemente sustentada en el Plan de Empleo Individual.**

   De otra parte, las Juntas Locales de Inversión, a la luz de la experiencia de los Manejadores de Caso, podrán establecer límites o expandir los términos de duración aquí dispuestos, sujeto a las necesidades de la clientela a servir en su respectiva Área Local y a las destrezas (básicas) que han de adquirir los participantes mediante la Experiencia de Trabajo, disponiéndose que en ningún caso el término de duración de la Experiencia de Trabajo podrá exceder de un año.

4. Una vez finalizada la Experiencia de Trabajo, se espera que el participante esté preparado para obtener un empleo no subsidiado. Se determinará mediante una evaluación si el participante desarrolló las destrezas esperadas, según concebidas en el Plan de Empleo Individual, tras lo cual, éste será ubicado en el empleo. [1]De no ser así, éste podrá pasar a participar de otro servicio intensivo (distinto) o de servicios de adiestramiento. En dicho caso tanto la necesidad de otro servicio intensivo o la necesidad de adiestramiento deberá estar razonablemente sustentada en el expediente del participante. No será permitido volver a participar en la actividad de Experiencia de Trabajo.

A tenor con el objetivo de obtención de un empleo no subsidiado para el participante, el Área Local, en una evaluación caso a caso, determinará si es razonable, incluir en el Contrato de Experiencia de Trabajo de que se trate, una cláusula de compromiso de colocación y retención en el empleo y el por ciento (%) de colocación que ha de requerirse.

5. La Experiencia de Trabajo, como norma general, debe ser con paga de salario para los participantes siempre que se configure la relación patrono-empleado en la actividad, en cuyo caso es de aplicación la Ley Federal de Normas Razonables del Trabajo ("Fair Labor Standards Act")[2]. No obstante, las Experiencias de Trabajo sin paga pueden ser planificadas y se pueden combinar con otros servicios identificados en la Especificación de Trabajo o Propuesta de Trabajo.

6. La Experiencia de Trabajo no puede sustituirse por la actividad de Adiestramiento en el Empleo (OJT), ya que van dirigidas a personas elegibles con diferentes necesidades ocupacionales y persiguen distintos propósitos.[3]

7. La Experiencia de Trabajo no podrá utilizarse como un subterfugio y/o sustituto para el empleo en el Servicio Público, subvencionado con fondos del Título I de WIA.

B. <u>Programa de Jóvenes</u>

A tenor con lo dispuesto en 20 CFR 664.460, la Experiencia de Trabajo para Jóvenes constituye una experiencia de aprendizaje estructurada y planificada, por un período limitado de tiempo, que se puede ofrecer en los sectores público

privado, con o sin fines de lucro, subsidiada o no dependiendo de la actividad diseñada. El pago o subsidio de salarios y otros beneficios relacionados podrán hacerse de fondos de Título I de WIA, siempre y cuando ello esté razonablemente sustentado en la evaluación objetiva y en la estrategia individual de servicios desarrollada por el Manejador de Casos y documentado, de conformidad.

El fin primordial de la Experiencia de Trabajo es exponer al joven al mundo del trabajo y proveerle la oportunidad de adquirir los atributos personales, conocimientos y destrezas necesarias para obtener, mantener o mejorar en un empleo. No persigue beneficiar al patrono aunque de hecho, éste se beneficie en alguna medida de las actividades ejecutadas.

1. <u>Actividades Incluidas en la Experiencia de Trabajo para Jóvenes</u>

   En la Experiencia de Trabajo para jóvenes podrán incluirse, entre otras, las siguientes actividades:

   a. Instrucción relacionada con las destrezas de empleabilidad y destrezas básicas del lugar de trabajo, tales como las contenidas en el documento titulado "SKILLS and TASKS for JOBS, A SCANS REPORT for AMERICA 2000", preparado por THE SECRETARY'S COMMISSION ON ACHIEVING NECESSARY SKILLS, del Departamento del Trabajo federal;

   b. Exposición a aspectos variados y requerimientos de una industria en específico;

   c. Exposición a tareas progresivamente más complejas;

   d. Internados y Exposición al Mundo del Trabajo ("Job shadowing");

e. Integración de destrezas académicas básicas a las actividades de empleo;

f. Empleo sostenido, ajuste al trabajo y otras actividades de transición;

g. Desarrollo de destrezas empresariales;

h. Destrezas de servicio, incluyendo actividades de servicio comunitario con o sin paga; y

i. Cualquier otro elemento diseñado para lograr las metas de las Experiencias de Trabajo para jóvenes.

Es importante puntualizar que, la Experiencia de Trabajo y el Adiestramiento en el Empleo (OJT) constituyen dos actividades autorizadas por WIA para circunstancias individuales diferentes y persiguen objetivos distintos, aunque no contradictorias entre sí. En este contexto, instruimos a las Juntas Locales para que establezcan guías normativas y de política pública, cónsonas con, y suplementarias a este Memorial Administrativo.

2. <u>Experiencias de Trabajo con o sin Paga de Salarios</u>

a. Las Áreas Locales podrán subvencionar con fondos WIA las actividades de Experiencia de Trabajo para los jóvenes. El uso estos de fondos para tales propósitos deberá estar justificado en la estrategia individual del participante y en lo posible, coordinados con otros programas federales, tales como Carl D. Perkins.

b. En los casos de Experiencia de Trabajo para jóvenes subvencionadas por patronos, el principio básico que gobierna la relación entre el patrono y el joven se encuentra en la Ley Federal de Normas Razonables del Trabajo, según enmendada (FLSA, por sus siglas en inglés). No obstante, bajo el

FLSA los aprendices en entrenamiento ("trainees") no son considerados empleados. Por lo que, la relación no estará cubierta por dicha ley si la Experiencia de Trabajo reúne las condiciones siguientes:

i. El entrenamiento, aunque incluya la fase práctica en las facilidades y con equipo del patrono, es similar a los adiestramientos que se ofrecen en las escuelas vocacionales;

ii. El entrenamiento es para el beneficio del joven o participante;

iii. El patrono que ofrece el entrenamiento no recibe beneficios inmediatos por las actividades del participante;

iv. El participante no desplaza a empleados regulares del patrono y trabaja bajo la estrecha supervisión de éstos;

v. El participante no necesariamente tiene derecho a obtener un empleo a la terminación del período de entrenamiento;

vi. El participante no tiene derecho a recibir un salario por el tiempo en entrenamiento.

Las Juntas Locales deberán establecer normas de política pública en cada Área Local para determinar el alcance de la Experiencia de Trabajo y su posible combinación con actividades de enriquecimiento académico, tales como: tutorías, clases especiales para el mejoramiento en materias básicas del español, inglés, matemáticas, ciencia, lectura y escritura en inglés y español que se consideren apropiadas de acuerdo al nivel de destrezas básicas del joven. A su vez, las Áreas Locales deberán examinar las circunstancias particulares de cada caso para determinar si la Experiencia de Trabajo para jóvenes será con o sin paga de salarios, atendiendo a lo dispuesto bajo el FLSA.

III. Disposiciones Generales:

A. La Experiencia de Trabajo se provee con el propósito de desarrollar buenos hábitos y destrezas básicas de trabajo. A su vez, la Sección 195 de WIA instruye a proveer las oportunidades de adiestramiento y empleo a aquellos quienes se puedan beneficiar de ello y en la medida en que más lo necesiten, por lo que la actividad de Experiencia de Trabajo deberá estar dirigida a individuos que nunca han trabajado (los que han trabajado ya deben tener destrezas básicas y buenos hábitos de empleo); que no han tenido una participación significativa en la Fuerza Laboral o que han estado sin trabajar por un período largo de tiempo y sus destrezas básicas y buenos hábitos de empleo se han visto afectados. Cualquier excepción deberá estar justificada adecuadamente por el Manejador de Caso, tomando en consideración la ocupación u ocupaciones en las cuales se ha desempeñado, hábitos de trabajo y destrezas desarrolladas en dichas ocupaciones o empleos, razones de terminación de empleo, entre otros.

B. La Experiencia de Trabajo se ha de llevar a cabo en un ambiente de trabajo. El patrono deberá proveer al participante un ambiente apropiado de trabajo el cual incluya, sin limitarse a: condiciones de salud apropiadas, seguridad, equipo, materiales, etc.

C. El patrono deberá garantizar que tiene suficiente trabajo para el participante, que proveerá supervisión adecuada a éste y cooperará con el Área Local o sub-concesionario de Fondos WIA para el logro de las metas trazadas respecto al participante.

D. A los individuos empleados en actividades bajo el Título I de WIA se les deberá proveer beneficios y condiciones de trabajo al mismo nivel y en el mismo grado

que a otros aprendices o empleados trabajando por un período similar de tiempo y realizando el mismo tipo de trabajo que éstos.

E. Los patronos deben observar lo dispuesto en la Sección 188 sobre No Discriminación y la prohibición sobre actividades políticas contenida en la Sección 195 de WIA.

F. Las normas de salud y seguridad establecidas bajo leyes estatales o federales aplicables a las condiciones del patrono son igualmente aplicables a los participantes de programas y actividades bajo el Título I de WIA.

En la medida que una ley estatal de compensación a trabajadores aplique, esta compensación deberá ser provista a los participantes de programas y actividades bajo el Título I de WIA en la misma forma que le es provista a otros individuos del estado en empleos similares.

Si una ley estatal de compensación a trabajadores aplicare a los participantes de Experiencia de Trabajo, los beneficios de compensación a trabajadores deberán estar disponibles para lesiones sufridas por éstos durante la experiencia de trabajo.

Si la ley estatal de compensación a trabajadores no le aplicare al participante de la Experiencia de Trabajo, el patrono deberá proveer una cubierta de seguro para lesiones sufridas por éste en el curso de dicha actividad.

G. Los empleados del patrono no podrán ser reemplazados ni total ni parcialmente por participantes de Experiencia de Trabajo.

H. El Área Local o sub-concesionario de Fondos WIA deberá efectuar Monitorías para evaluar las actividades de Experiencia de Trabajo, las cuales han de responder a las necesidades de los participantes y seguir las directrices contenidas

en WIA, su reglamentación interpretativa, las Especificaciones de Trabajo o las Propuestas de Trabajo para la obtención de los resultados esperados.

Acción Requerida : Todas las Áreas Locales y sub-concesionarios administradores de los programas WIA, deberán adoptar medidas para asegurar que en las actividades de Experiencia de Trabajo se cumpla con las disposiciones de WIA, la Reglamentación Federal, normas de trabajo vigentes y lo establecido en este Memorial.

Efectividad : Este Memorial Administrativo será efectivo al 1ro de enero de 2006.

Para información adicional, favor de comunicarse con la Oficina de Asesoramiento Legal del Consejo al teléfono (787) 754-5504 extensiones 261 ó 227.

27 diciembre 2005
Fecha

Joe Alvarez Nazario
Director Ejecutivo

ANEJO 16

CONSEJO DE DESARROLLO OCUPACIONAL Y RECURSOS HUMANOS
DEPARTAMENTO DEL TRABAJO

Aurelio González Cubero
Director Ejecutivo del Consejo de Desarrollo Ocupacional y Recursos Humanos

Hon. Miguel Romero
Secretario del Departamento del Trabajo y Recursos Humanos

22 de noviembre de 2010

Presidentes de Juntas de Alcaldes, Presidentes de Juntas Locales, Directores Ejecutivos de Áreas Locales de Inversión en la Fuerza Trabajadora

Aurelio González Cubero
Director Ejecutivo

Actividad – Grado Asociado en Ciencias Policiales – Colegio Universitario de Justicia Criminal de Puerto Rico

Esta comunicación se emite con el propósito de proveer clarificación sobre el desarrollo de la actividad de **Academias de la Policía** subvencionada con fondos de la Ley de Inversión en la Fuerza Trabajadora (WIA), como consecuencia de hallazgos relacionados del reciente *Compliance Review* realizado por la Región I de Boston de la Administración de Empleo y Adiestramiento (RO-ETA, por sus siglas en inglés).

Basada en el inciso (10) de la sección 195 *General Program Requirements* de WIA, la Región I de Boston ha identificado como potencialmente no permisible el costo de adiestramientos a la medida ("customized training") de academias a cadetes de las agencias municipales de policía, por ser desarrolladas por patronos provenientes del sector público y a individuos considerados o con potencial real de convertirse en empleados públicos. La sección de referencia establece la prohibición del uso de fondos WIA para empleo en el servicio público, con excepción de empleo de alivio en caso de desastres, conforme definido en WIA §173(d) ***National Emergency Grants: Disaster Relief Employment Assistance Requirements***, y en su Reglamentación Interpretativa, 20 Código de Reglamentación Federal, sección 667.264(2).

Debido al alcance limitado de la revisión efectuada por la RO-ETA de documentos relacionados con el hallazgo y la provisión de una violación a WIA §195(10), esta oficina recomienda al Consejo de Desarrollo Ocupacional y Recursos Humanos (CDORH), realizar un análisis a fondo del asunto, el que se presenta a continuación.

<u>INTERPRETACIÓN DEL CDORH</u>

1. **PREMISA: Los cadetes, para propósitos de WIA, deberían ser considerados empleados del servicio público."** (RO-ETA *Compliance Review*)

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La RO-ETA indica en su hallazgo: "*...Admissions to police academy programs are limited to individuals sponsored by a municipality. Cadets would be, for purposes of WIA, considered to be public service employees.*"

En términos generales, un cadete se considera un alumno de una academia que, en el caso de las agencias municipales de seguridad, ha sido pre-cualificado por dicha entidad para poder ser admitido a la academia. No obstante se reconoce que la intención del patrono (agencias municipales de policía) es el eventual reclutamiento, el sólo hecho de que un individuo esté participando de un adiestramiento a la medida, no lo convierte en empleado hasta tanto se materialicen tres condiciones: 1) haya completado exitosamente el mismo; 2) el patrono haga una oferta formal de empleo; 3) el individuo adiestrado acepte la misma.

Se hace referencia al **Training and Employment Guidance Letter No. 12-09: Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers**, del cual se obtiene la distinción entre un empleado y un aprendiz ("trainee"). El TEGL No. 12-09 presenta modelos que viabilizan el desarrollo de estrategias innovadoras para el ofrecimiento de adiestramiento a trabajadores desempleados, basados en el trabajo y ofrecidos por el patrono. A pesar de que los modelos se acercan más a la modalidad de adiestramiento en el empleo ("on the job training"), el que presupone una relación laboral más directa entre el trabajador y el patrono, todos hacen necesario establecer la distinción entre un empleado y un aprendiz ("trainee"), a los efectos de determinar la aplicabilidad de requerimientos de la *Fair Labor Standards Act (FLSA)*, de referencia en el TEGL No. 12-09, respecto a los individuos que van a participar de estos adiestramientos.

Conforme el FLSA, la definición de empleado es muy amplia/abarcadora bajo dicho estatuto, por lo que más bien presenta circunstancias excluyentes de lo que no es un empleado. La División de Salario y Hora (Wage and Hour Division) del Departamento del Trabajo Federal (WHD-DOL, por sus siglas en inglés), ha desarrollado seis factores para evaluar si un trabajador es un empleado o un aprendiz ("trainee") para propósitos de la FLSA, los que resultan pertinentes al análisis del CDORH, y útiles a las instrucciones que más adelante se emiten sobre la actividad de academias de policías. La WHD-DOL ha determinado que si se reúnen los seis factores, entonces el trabajador es un aprendiz y no existe una relación de trabajo bajo la FLSA:

1. El adiestramiento, aún si incluye la operación práctica de las facilidades del patrono, es similar al que pudiera ofrecerse en una escuela vocacional o instrucción educativa académica;

2. El adiestramiento es para beneficio del aprendiz ("trainee");

3. Los aprendices ("trainees") no desplazan empleados regulares, pero pueden trabajar bajo su observación cercana;

4. El patrono que provee el adiestramiento no deriva beneficio inmediato de las actividades de los aprendices ("trainees"), y en ocasiones las operaciones del patrono pudieran ser impedidas u obstaculizadas;

5. Los aprendices ("trainees") no necesariamente tienen derecho a un empleo con el patrono una vez concluido el adiestramiento;

6. El patrono y los aprendices ("trainees") entienden que los aprendices no tienen derecho a salarios por el tiempo utilizado en adiestramiento.

El CDORH reconoce que los seis factores estén implícita o explícitamente presentes en requerimientos de WIA para el desarrollo de la actividad de adiestramiento a la medida, con excepción del énfasis de WIA al compromiso requerido al patrono de emplear a aquellos individuos que completen exitosamente el adiestramiento. No obstante, aún así, el cumplimiento de este compromiso está sujeto a los resultados esperados.

Una de las secciones de Preguntas y Respuestas ("Questions and Answers") publicadas por ETA confirman la interpretación del CDORH respecto a la condición ("status") del individuo como aprendiz ("trainee"), y no como empleado, mientras participa de un adiestramiento ofrecido por un patrono.

Pregunta: *"Un patrono garantiza emplear a los individuos que completen exitosamente un curso de adiestramiento a la medida. ¿En qué momento se consideran empleados dichos individuos?"*

Respuesta: *"Debido a que el patrono condiciona el reclutamiento de estos individuos a que completen exitosamente el adiestramiento, los individuos no se consideran empleados durante el adiestramiento. Terminado el adiestramiento, los individuos que completen exitosamente el mismo recibirán una oferta de empleo de parte del patrono, y cuando dicha oferta sea aceptada y formalizada mediante nombramiento (añadido del CDORH), entonces los individuos se convertirán en empleados."*

2. **PREMISA: Es la intención del adiestramiento bajo WIA proveer a los participantes acceso a empleos en el sector privado.** (RO-ETA *Compliance Review*)

RO-ETA señala en su hallazgo: *"Training under WIA is intended to provide participants with access to jobs in the private sector. This is evident in the requirement that the majority of local and state board members be from the private sector..."*

El CDORH reconoce el énfasis de WIA en asegurar un rol fuerte y determinante del sector privado en mejorar la calidad del sistema de inversión en la fuerza trabajadora. No obstante, no es la expectativa de WIA que la participación del sector privado se limite a hacer disponible oportunidades de empleo. La inserción activa de este sector es crítica para la provisión de información esencial sobre las destrezas en demanda, los empleos disponibles, las disciplinas y profesiones en crecimiento y la identificación, conceptualización y desarrollo de programas que mejor llenen las necesidades patronales. (20 CFR, Resumen) Entiéndase, el sector privado es fuente primaria de información relevante al diseño de política pública de empleo y adiestramiento para el uso de los fondos WIA.

La prohibición de WIA §195(10) que ha generado los comentarios y el potencial cuestionamiento de costos por parte de RO-ETA en su ***Compliance Review***, se limita a la subvención de empleo en el sector público. No se identifican otras prohibiciones que condicionen el desarrollo de actividades de adiestramiento, lo que está en armonía con la política pública intrínseca de WIA referente a la universalidad de los servicios y el empoderamiento de los individuos en el que se basa la reforma del sistema de la fuerza trabajadora. Además, WIA explícitamente dispone el desarrollo de todas las actividades y servicios con varios sectores, entre éstos, el sector público, con excepción de la prohibición de referencia.

De otra parte, RO-ETA señala que la representatividad mayoritaria del sector privado requerida en las juntas estatales y locales constituye evidencia de la intención de WIA de que los adiestramientos que se desarrollen provean a los participantes el acceso a empleos en el sector privado. El requisito WIA de una mayoría de miembros del sector privado en las juntas estatales y locales está relacionado con uno más amplio que define la composición de las juntas estatales, en especial, de las juntas locales, en términos de la representación de varios sectores: educativo, desarrollo económico, laboral, comunitario y de socios obligatorios y adicionales del sistema de gestión única, éstos últimos provenientes del sector público. (WIA §121(b) (1) y (2)), lo que garantiza un sistema integrado y abarcador de inversión en la fuerza trabajadora.

ASISTENCIA TÉCNICA DE LA REGIÓN I: BOSTON DE ETA

El CDORH ha hecho planteamientos a la Región I de Boston respecto al asunto de referencia con el propósito de obtener asistencia técnica que armonice ambas interpretaciones de la base legal y reglamentaria y permita emitir directrices específicas para el desarrollo de la actividad de **academias de la policía** mediante la modalidad de adiestramiento a la medida ofrecidos por patronos del sector público, en específico, las agencias municipales de policía. Como resultado, RO-ETA recomendó el análisis que se acompaña y presentó varias recomendaciones/condiciones que han sido incorporadas a las instrucciones que se imparten:

1. Los participantes del adiestramiento deberán ser nuevos en el nivel de ingreso ("entry level") y haber cumplido con los requisitos de elegibilidad bajo los programas de Adultos o Trabajadores Desplazados.

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2. Los participantes no podrán ser trabajadores incumbentes en el sistema municipal de recursos humanos.

3. El costo de la actividad de adiestramiento a la medida estará sujeto a las disposiciones WIA y su Reglamentación Interpretativa 20 CFR, así como a las dispensas vigentes relacionadas a la porción de pago por parte del eventual patrono.

4. Se requerirá al patrono un compromiso de reclutamiento de aquellos individuos que completen exitosamente el adiestramiento y deseen trabajar con el patrono.

5. Las actividades de adiestramiento a la medida con patronos del sector público deberán ser aprobadas por las juntas locales. Dicha aprobación deberá estar evidenciada en minutas.

ACCIÓN REQUERIDA

Las Áreas Locales podrán contratar actividades de adiestramiento a la medida con patronos del sector público para el desarrollo de las **Academias de la Policía**, en conformidad con el ***Memorial Administrativo WIA-4-2007: Requisitos y política pública para las actividades de Adiestramiento en el Empleo (On the Job Training) y Adiestramiento a la Medida (Customized Training)***, con las excepciones que a continuación se enumeran y que próximamente serán incorporadas mediante una modificación al Memorial de referencia:

1. Asegurarse que los seis factores que distinguen un empleado de un aprendiz, según establecidos por la Wage and Hour Division, Departamento del Trabajo Federal se satisfacen antes de formalizar el contrato.

2. Cumplir con las condiciones requeridas por la Región I: Boston de la Administración de Empleo y Adiestramiento Federal enumeradas en el Tópico de Asistencia Técnica de la Región I: Boston de ETA.

VIGENCIA

Esta comunicación tiene vigencia inmediata. La misma no es de carácter retroactivo.