

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Performance Reporting
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TO: STATE WORKFORCE AGENCIES
 STATE WORKFORCE ADMINISTRATORS
 STATE WORKFORCE LIAISONS

FROM: PORTIA WU /s/
 Assistant Secretary

SUBJECT: Negotiating or Extending Performance Goals for the Workforce Investment Act (WIA) Title IB Programs and Wagner-Peyser Act Funded Activities for Program Year (PY) 2015

1. **Purpose.** To inform states of the guidelines for the negotiations process of WIA Title IB program performance and performance levels for Wagner-Peyser Act funded activities for PY 2015. Once performance goals are agreed upon by the state and the Employment and Training Administration (ETA), they will be incorporated into the state's Strategic Plan. ETA intends to extend current PY 2014 goals into PY 2015; this guidance is provided for any state that decides to negotiate revised goals for PY 2015.

2. **References.**

- WIA Sec. 136;
- Workforce Innovation Opportunity Act (WIOA) Sec. 503;
- WIA regulations at 20 CFR Part 666 and Part 661;
- Training and Employment Guidance Letter (TEGL) No. 25-13, *Negotiating Performance Goals for the WIA Title IB Programs and Wagner-Peyser Act Funded Activities for PY 2014*;
- TEGL No. 21-11, *Requirements for 2012 State Workforce Plans*;
- TEGL No. 09-07, *Revised Incentive and Sanction Policy for WIA Title IB 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 Change 1, *Guidance on Revising WIA State Negotiated Levels of Performance*;
- TEGL No. 12-14, *Allowable Uses and Funding Limits of Workforce Investment Act (WIA) Program Year (PY) 2014 funds for Workforce Innovation and Opportunity Act (WIOA) Transitional Activities*;
- TEGL No. 15-14, *Implementation of the New Uniform Guidance Regulations*;

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- TEGL No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*;
- *State Integrated Workforce Plan Requirements for WIA Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (OMB No. 1205-0398)*; and
- *Planning Guidance for State Unified Plans and Unified Plan Modifications Submitted under Sec. 501 of the WIA (OMB No. 1205-0398)*).

3. **Background.** This guidance document: specifies the performance measures for which states will be held accountable for in PY 2015; provides an outline of the negotiation process options; and provides a description of the factors that should be considered during the negotiation of state and local performance goals. Additional information is available on ETA's performance Web site at <http://www.doleta.gov/performance/guidance/negotiating.cfm>. This TEGL also provides the most currently available national performance targets required for the Government Performance and Results Act of 1993 (GPRA) and the more recent GPRA Modernization Act of 2010 (Pub. L. 111-352), also referred to as the GPRA goals. The GPRA goals are used by Congress and the Office of Management and Budget (OMB) to manage Federal programs, including those operated by states and local areas.

On July 22, 2014, President Obama signed the Workforce Innovation and Opportunity Act (WIOA) of 2014 into law. WIOA makes changes to the performance accountability system and creates a requirement that the Secretaries of Labor and Education create a statistical adjustment model which will replace the regression-based levels that ETA currently uses in negotiations. In accordance with WIOA Sec. 116, states will implement certain provisions on July 1, 2015, followed by implementation of the performance provisions on July 1, 2016. Due to the phased in implementation of WIOA performance accountability requirements, ETA will assess state performance in PY 2015 in accordance with WIA focusing on State preparedness for transitioning to the WIOA performance accountability system.

4. **The Negotiations Process.** Sections 503 (a)-(b) and (d) of WIOA provide the Secretary of Labor (Secretary) with the authority to take such actions, as appropriate, to provide for the orderly transition from WIA to any provision of WIOA Title I and the amended Wagner-Peyser Act. The Department of Labor (Department) is applying this transition authority to the PY 2015 negotiations process to provide maximum flexibility to the states as they move to the new provisions under WIOA. This will ensure that current and potential customers of the workforce system receive effective, uninterrupted service delivery through the system transitions that will be taking place through PY 2015.

With the immediate need for states to identify and designate WIOA-compliant state Workforce Development Boards, establish staff capacity to execute WIOA service delivery requirements, identify regional and local areas, develop and implement required state policies that align and comply with WIOA, and develop the data systems that are a part of the performance accountability system established under WIOA Sec. 116, **ETA is extending all currently negotiated PY 2014 goals going forward into PY 2015.** States should notify

their respective ETA regional office of their intent to either 1.) Continue to use established PY 2014 targets, or 2.) Renegotiate targets for PY 2015 by May 15, 2015. The PY 2014 regression adjusted targets remain available at <https://sites.google.com/site/wiaexchange/home>. For further discussion about the regression adjusted targets see section 10 of this TEGL. There will be no updated regression targets established for PY 2015; the posted PY 2014 targets are to be used for reference purposes only.

5. Methodology for Assessing Performance Against Negotiated Levels. For both WIA Title 1B programs and the Wagner-Peyser Employment Service program, the floor 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 position of the outcome relative to the negotiated performance goal using the Exceeds, Meets, and Fails criteria defined below:

- **Exceeds** - When the actual performance achieved against the individual performance measure is in excess of 100 percent of the negotiated level of performance for the performance measure.
- **Meets** - When the actual performance achieved against an individual performance measure falls in the range of 80-100 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 percent goal for the employment retention 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 or equal to 90.0 percent; and
- **Fail** the goal if the actual performance level achieved was less than 72.0 percent.

Although whole percentages are used in this example, it should be noted that this is simply because 80 percent of the 90.0 percent happens to be exactly 72.0 percent. There will be no rounding up in the interpreting of performance results since negotiated performance levels and results are stated to the nearest tenth of a percent.

These categories are consistent with WIA regulations, which can be found here: (<http://www.gpo.gov/fdsys/pkg/CFR-2011-title20-vol3/pdf/CFR-2011-title20-vol3-part666.pdf>)

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));

666.230(c)(2) The extent to which 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 the negotiated levels of performance.

6. **WIA Incentive Grant Eligibility.** WIOA eliminates incentive awards for state performance; therefore ETA will not award incentive grants in PY 2015 based on PY 2014 performance. WIOA takes effect on July 1, 2015, and all Fiscal Year 2015 appropriated funding issued after that date is subject to the WIOA provisions. Although performance provisions for WIOA do not take effect until July 1, 2016, there is no provision for state incentive grants under WIOA. PY 2013 performance is the last year for incentive grant eligibility and award; these awards will be made available in PY 2014.

7. **Applicable Performance Measures for the PY 2015 Performance Negotiations Process.** For the WIA and Wagner-Peyser Act program grantees reporting statutory measures, all 20 agreed upon PY 2014 levels, which are identified in the table below, will be carried over into PY 2015 unless a state notifies their regional office of their intent to negotiate in accordance with section 4 of this TEGL. The 20 performance measures include the 17 statutory WIA indicators of performance (15 Adult, Dislocated Worker, and Youth program measures and 2 customer satisfaction indicators) and 3 Wagner-Peyser Employment Service performance measures.

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

WIA Measures				Common Measures			Wagner-Peyser Measures (All States)
Adult	Dislocated Worker	Youth	Customer Satisfaction	Adult	Dislocated Worker	Youth	
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					

All states will report on the three common measures for Wagner-Peyser. For WIA performance, only states with an approved common measures waiver will be subject to the nine common measures (WIA Adult, Dislocated Worker, and Youth programs). 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 Youth program. States without an approved waiver are subject to the 17 statutory WIA indicators of performance. When considering performance measure outcomes for sanction determinations for states with an approved common measure waiver under WIA, ETA will consider performance against these measures only.

States are no longer required to use the American Customer Satisfaction Index (whether reporting statutory or only on the common performance measures) for assessing customer satisfaction. States must still measure customer satisfaction using a rigorous methodology; however, states now have flexibility to use an approach that best suits their specific needs and data systems. States that report using the statutory measures must continue to establish and report customer satisfaction targets and results in the annual report and annual report narrative.

Below are source documents with definitions and related reporting specifications for the applicable performance measures:

- **The WIA 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>)

- *Workforce Investment Act Annual Report: General Reporting Instructions and ETA Form 9091*, Revised 2012 (OMB No. 1205-0420) (<http://www.doleta.gov/Performance/guidance/WIA/WIAAnnualReportSpecifications.pdf>)
- **The WIA Title 1 program common 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>)
 - 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/corr_doc.cfm?DOCN=2759)
 - *Workforce Investment Act Annual Report: General Reporting Instructions and ETA Form 9091*, Revised 2012 (<http://www.doleta.gov/Performance/guidance/WIA/WIAAnnualReportSpecifications.pdf>)
- **The 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
 - ETA 9002 and VETS 200 Data Preparation Handbook, ET Handbook No. 406 (OMB No. 1205-0240), (<http://www.doleta.gov/performance/guidance/wia/et-406-handbook-expiration-022809.pdf>).

States should be aware that the Veterans' Employment and Training Service (VETS) will be issuing separate guidance on negotiating PY 2015 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 American Job Center 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.** If a state chooses to negotiate any or all of their performance measures for PY 2015 they should notify their regional office no later than May 15, 2015, in accordance with section 4 of this TEGL. Targets must be agreed upon by no later than **June 30, 2015**. 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. States should also take into account the transition and implementation of the new WIOA performance accountability requirements as they consider their performance levels. However, transition activities

alone are not justification for negotiating performance goals. States must take into account changes in service mix, economic conditions, or client characteristics for requesting negotiations of PY 2015 goals.

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 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. It should also be noted that WIOA emphasizes serving these and other hard-to-serve populations. 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 2015. 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 into account the populations being served when proposing performance levels for the Youth goals. Serving a greater percentage of the neediest youth may impact outcomes. If states are serving a greater percentage of the neediest youth, they should provide data that shows how outcomes are impacted by serving this population.

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 (TANF) recipients, should provide data to show how these new efforts will impact outcomes. ETA supports efforts that will help states better tap into 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.

B. Workforce Innovation and Opportunity Act of 2014 (WIOA) Consideration

WIOA will be implemented beginning July 1, 2015 and all WIA Title I participants who are enrolled at that time must be grandfathered into WIOA, even if the participant would not otherwise be eligible for services under WIOA. Grantees do not have to complete an eligibility re-determination for participants already determined eligible and enrolled under WIA. Furthermore, these participants must be allowed to complete the WIA services specified in their individual service strategy and individual employment plan, even if the services are no longer allowable under WIOA. Grantees must continue to serve participants enrolled under WIA with either carry-in funds that become WIOA funds or with WIOA funds. Grantees must continue to enroll participants in WIA funded programs through June 30, 2015, as transition from WIA to WIOA is intended to be seamless for participants.

On and after July 1, 2015, grantees must make all eligibility determinations under the WIOA framework and must follow all applicable WIOA eligibility requirements. Participants enrolled after July 1, 2015, may only access services allowable under WIOA.

PY 2015 youth activities allotments are available beginning in April 2015. However, youth enrolled prior to July 1, 2015, must be enrolled based on the WIA eligibility requirements. On and after July 1, 2015, grantees must make youth eligibility determinations using the WIOA eligibility requirements.

For performance reports, grantees will continue reporting WIA enrolled and WIOA enrolled individuals in the current WIASRD through PY 2015 and until new performance reporting requirements are approved and the system updated. This will go through the Paperwork Reduction Act notice and comment process.

C. 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 negotiations process. If a state chooses to negotiate one or more measures, final performance levels must be negotiated and agreed upon by the state and the ETA Regional Administrator no later than June 30, 2015.

Prior to proposing levels of performance to the appropriate Regional Administrator (see section 8.D and **Attachment I** for information on the negotiations process), states should review and make use of the following

resources/tools to ensure that these factors have been considered in determining proposed levels and that there is a sound rationale for proposed levels of performance:

- I. *Past performance.* States should use historical, annual performance information (PY 2007-2013) to determine projected levels of performance for PY 2015. States should also include recent quarterly performance results to support projected performance and service populations. The Department anticipates that states that choose to negotiate goals for PY 2015 will submit proposed levels of performance that reflect continuous improvement in service provision and quality.

Although states should have ready access to their own historical performance information, various tools and resources are available to examine all states' performance data, including state by state files (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 Act exiters enter employment and obtain post-program earnings.

- II. *GPRAs goals.* Throughout the performance negotiations process, states should be aware of GPRAs goals the Department established through PY 2014. The regional offices will use GPRAs goals as one of several benchmarks by which to gauge their states' proposed performance levels in the context of these national system goals. GPRAs is an important mechanism by which Congress and OMB evaluate the success of Federal programs, including those operated by states and local areas. GPRAs goals for the Department's WIA Adult and Dislocated Workers and Wagner-Peyser Act 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) 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.

D. Process for Reaching Agreement on State Performance Levels

The process for reaching agreement on state performance goals 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 one or more of the applicable performance measures for PY 2015 by submitting these proposed levels to the Regional Administrator serving the state. Proposed performance levels should be stated to the nearest tenth of a percent (XX.X%) or to the nearest whole dollar for average earnings. Targets must be submitted to the appropriate Regional Administrator no later than May 29, 2015. Regional offices will work with states to begin the negotiation process prior to that date in order to ensure that final levels are agreed upon by June 30, 2015.

When submitting the proposed levels, states should provide the following as support for the levels:

- 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 TEGl).
- 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 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, national GPRA goals, and the regression adjusted targets.
- III. 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 a regional office determines, through their analysis, that a state could increase its proposed performance levels to more fully support continuous improvement and customer satisfaction strategies, negotiations with the state to obtain mutually agreed-upon higher performance levels will take place.

- IV. Once the performance levels are agreed upon, the Regional Administrator will send a letter to the state confirming the finalized performance 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. **Inclusion of Performance Goals in State Plans.** States are required to submit *proposed* levels of performance for PY 2015 no later than May 29, 2015. 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.

The Regional Administrator's letter advising the state 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 Web site 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.** For PY 2015, there will be no new regression model targets developed as ETA is focused on the development and dissemination of the new statistical adjustment model that will be applied for performance accountability under WIOA. (See WIOA section 116(b)(3)(A)(viii).) The Department, through the relevant regional office, may use the regression-based performance levels developed in prior years (link available in section 4 for PY 2014 regression model output) as a tool in the negotiations process with any state who requests to negotiate for PY 2015.
11. **Action Requested.** States are requested to distribute this information to the appropriate state and local staff.
12. **Inquiries.** Questions concerning this guidance should be directed to the appropriate regional office.

13. Attachment(s).

- Attachment I: Recommended Timeline for the PY 2015 Negotiations Process
- Attachment II: WIA and Wagner-Peyser Employment Service Performance Goals
Established for the Fiscal Year 2016 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 2014 and PY 2015