

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Modifications to State's Strategic Five-Year Plans
	CORRESPONDENCE SYMBOL OWS
	DATE July 29, 2002

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 4-02

TO : ALL STATE WORKFORCE LIAISONS
ALL STATE WORKER ADJUSTMENT LIAISONS
ALL STATE WORKFORCE AGENCIES
ALL ONE-STOP CENTER SYSTEM LEADS

FROM : EMILY STOVER DeROCCO 
Assistant Secretary

SUBJECT : Modifications to State's Strategic Five-Year Plans for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, Including Unified State Plans

1. **Purpose.**
 - a) To transmit guidance for submission of modifications to State Strategic Five-Year Plans for title I of the Workforce Investment Act and the Wagner-Peyser Act;
 - b) To encourage use of the modification process to add additional partners to the One-Stop System and move toward unified planning; and
 - c) To announce the reinstatement of the Planning Guidance and Instructions for Submission of the Strategic Five-Year Plan for title I of the Workforce Investment Act and the Wagner-Peyser Act, i.e., the guidance for stand-alone planning originally issued February 25, 1999.

2. **References.** The Workforce Investment Act of 1998 (WIA or the Act) (Public Law 105-220, 29 U.S.C. 2801 et seq.); WIA Final Rule, 20 C.F.R. parts 652, 660-671 (65 F.R. 49294 (August 11, 2000)); Interim Final Rule implementing the nondiscrimination and equal opportunity provision (section 188) of WIA, 29 C.F.R. part 37 (64 F.R. 61692 (November 12, 1999)); Planning Guidance and Instructions for Submission of the Strategic Five-Year

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State Plan for title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act (64 F.R. 9402 (February 25, 1999)); and Final Unified Plan Planning Guidance (65 F.R. 2464 (January 14, 2000)).

3. **OMB Reinstatement Approval and Burden Disclosure.** As required by the Office of Management and Budget (OMB), we are providing information on the reinstatement approval of the Planning Guidance and Instructions for Submission of the Strategic Five-Year State Plan for title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act (64 F.R. 9402), i.e., the guidance for stand-alone planning issued on February 25, 1999. The reporting requirements for submission of modifications using the stand-alone planning guidance are approved by OMB (OMB Approval No. 1205-0398) pursuant to the Paperwork Reduction Act of 1995, expiration date May 31, 2004.

Public reporting burden for the collection of information using the stand-alone planning guidance is estimated to average 25 hours per modification submission, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

4. **Background.** Section 112 of WIA requires that the Governor of each state submit a State Plan to the Secretary of Labor that outlines a five-year strategy for the statewide workforce investment system. The WIA regulations (20 C.F.R. part 661) provide further guidance on the submission of State Plans, including a discussion of unified planning, and the preamble to the Rule discusses benefits of unified planning (65 F.R. 49303). Section 661.220(b) of the regulations authorizes the Secretary of Labor to issue planning guidelines. The Department of Labor issued Guidance for Stand-Alone Planning, and the Departments of Labor, Education, Health and Human Services, Agriculture, and Housing and Urban Development jointly issued the Unified Plan Planning Guidance. We have approved plans for all states; twenty-two states submitted unified plans during the initial round of plan submission.

Section 112(d) of WIA provides that states may submit modifications to State Plans at any time during the five-year period covered by the plan. The WIA Regulations at 20 C.F.R. 661.230 provide additional information on when and how modifications should be submitted, and outline the circumstances under which modifications must be submitted. This section applies to stand-alone plans as well as the WIA title I portion of unified plans and provides:

§ 661.230 What are the requirements for modification of the State workforce investment plan?

(a) The State may submit a modification of its workforce investment plan at any time during the five-year life of the plan.

- (b) Modifications are required when:
 - (1) Changes in Federal or State law or policy substantially change the assumptions upon which the plan is based.
 - (2) There are changes in the Statewide vision, strategies, policies, performance indicators, the methodology used to determine local allocation of funds, reorganizations which change the working relationship with system employees, changes in organizational responsibilities, changes to the membership structure of the State Board or alternative entity and similar substantial changes to the State's workforce investment system.
 - (3) The State has failed to meet performance goals, and must adjust service strategies.
- (c) Modifications are required in accordance with the Wagner-Peyser Act provisions at 20 CFR 652.212.
- (d) Modifications to the State Plan are subject to the same public review and comment requirements that apply to the development of the original State Plan.
- (e) State Plan modifications will be approved by the Secretary based on the approval standard applicable to the original State Plan under § 661.220(e).

Wagner-Peyser Act Regulations at 20 C.F.R. 652.212 through 652.214 address modifications for the Wagner-Peyser Act portion of the State Plan. That guidance, printed below, is consistent with that in 20 C.F.R. 661.230 quoted above.

§ 652.212 When should a State submit modifications to the five-year plan?

- (a) A State may submit modifications to the five-year plan as necessary during the five-year period, and must do so in accordance with the same collaboration, notification, and other requirements that apply to the original plan. Modifications are likely to be needed to keep the strategic plan a viable and living document over its five-year life.
- (b) That portion of the plan addressing the Act [the Wagner-Peyser Act] must be updated to reflect any reorganization of the State agency designated to deliver services under the Act, any change in service delivery strategy, any change in levels of performance when performance goals are not met, or any change in services delivered by State merit-staff employees.

§ 652.213 What information must a State include when the plan is modified?

A State must follow the instructions for modifying the strategic

five-year plan in 20 CFR 661.230.

§ 662.214 How often may a State submit modifications to the plan?

A State may modify its plan as often as needed, as changes occur in Federal or State law or policies, Statewide vision or strategy, or if changes in economic conditions occur.

WIA regulations also provide guidance on states requesting revisions to state negotiated performance levels, as follows:

§ 666.130 Under what conditions may a State or DOL request revisions to the State negotiated levels of performance?

- (a) The DOL guidelines describe when and under what circumstances a Governor may request revisions to negotiated levels. These circumstances include significant changes in economic conditions, in the characteristics of participants entering the program, or in the services to be provided from when the initial plan was submitted and approved. (WIA sec. 136(b)(3)(A)(vi)).
- (b) The guidelines will establish the circumstances under which a State will be required to submit revisions under specified circumstances.

It is important to note that under 20 C.F.R. 661.230(b)(2), a change in negotiated performance levels is considered a substantial change that must be officially incorporated into the State Plan through a modification. A workgroup of Federal, state and local staff met to develop further guidelines for the renegotiation of performance levels. Guidance on the renegotiation of performance levels has been issued.

5. WIA Nondiscrimination and Equal Opportunity Provisions and Modifications.

The U.S. Department of Labor's Civil Rights Center (CRC) has responsibility for enforcement of the nondiscrimination and equal opportunity provisions of WIA. In accordance with section 188 of WIA and the implementing regulations at 29 C.F.R. part 37, each state is required to develop and implement a Methods of Administration (MOA) and submit it to the CRC for approval within 180 days from the date of full approval of the state's Strategic Five-Year Plan. The MOA is required to address the procedures and systems the state has in place to provide a reasonable guarantee of effectiveness in ensuring nondiscrimination and equal opportunity in programs and activities that are part of the One-Stop System and that are operated by the One-Stop partners listed in section 121(b) of WIA, to the extent that the programs and activities are being conducted as part of the One-Stop System.

In revising the State Plan, it is important to ensure that any proposed modification is consistent with the policies and procedures set forth in the approved MOA and the

requirements of section 188 of WIA. In those cases where the proposed modification impacts on nondiscrimination and equal opportunity issues and the State's MOA has not yet been approved, we recommend that the state officials preparing the modification consult with the State Equal Opportunity Officer. Even if the MOA has been approved by the CRC and the change(s) impact an element of the MOA, the State Equal Opportunity Officer should be consulted. Like the Workforce Investment Act/Wagner-Peyser Act (WIA/W-P) Plan, the MOA may be modified at any time to keep it a viable, living document.

6. **ETA Efforts To Promote Unified Planning.** It is the Employment and Training Administration's (ETA) position that an integrated service delivery system that provides maximum benefit to customers can best be achieved through seamless planning processes by multiple partners at the state and local level. Accordingly, we are encouraging states to add additional partners to their One-Stop delivery system. States can use the modification process at any time to move from stand-alone planning to unified planning. To support state and local efforts to successfully develop unified plans, ETA will undertake the following actions:

- a. Promote the use of the WIA/W-P Strategic Five-Year Plan for all ETA programs. For example, ETA is considering incorporating planning for grants for short-term projects, such as those for LMI core products, into the WIA/W-P Strategic Five-Year Plan; altering planning and funding schedules of those programs that do not coincide with WIA; facilitating the integration of the newly required annual plan for the Older Americans Act into the WIA/W-P Strategic Five-Year Plan; and fully incorporating the ETA Waiver and Workforce Flexibility (Work-Flex) planning processes into the WIA/W-P Strategic Five-Year Plan. Currently, Work-Flex and Waiver Plans are incorporated into the Strategic Five-Year Plan once they are approved.
- b. Continue to work collaboratively with other DOL Agencies, such as the Veterans' Employment and Training Service (VETS), the Office of Disability Employment Policy (ODEP), the Women's Bureau (WB), and the Civil Rights Center (CRC) to develop policies and procedures that facilitate seamless planning at the State and local level.
- c. Work with the Federal WIA required partners: the Departments of Education, Health and Human Services, Housing and Urban Development, and Agriculture, and other Federal partners to identify and eliminate barriers to unified planning. Examples include, providing continued support for interagency workgroups established by OMB on common definitions of performance across all Federal job training programs and the awarding of incentive grants under title V of WIA; working together on

other specific projects, such as unified planning guidance and cost allocation guidance; participating in conferences of partner agencies and encouraging participation of partner agencies in DOL conferences; facilitating the exchange of information about the programs of partner agencies; and providing federally coordinated technical assistance to states and localities as they engage in the development of a seamless One-Stop System with multiple partners.

7. **Modifying the Plan to Keep It Current**. During the life of the plan, new and different strategies will be developed to address the challenges presented by changing customer requirements and operating environments. For example, welfare-to-work practitioners, given the impending phase-out of this program, are integrating their services with other partners to ensure that welfare-to-work participants continue to receive appropriate services. To mobilize sufficient resources to be responsive to these and other changes, states need to develop partnerships with an increasingly varied organization base, including business, and community and faith-based organizations. Many states are adding new programs to the One-Stop System that focus on specific target groups, such as people with disabilities, in order to increase their capacity for serving all customers. States should revise their plans and submit modifications to reflect the addition of new programs and the adoption of new strategies that expand the capability of the One-Stop System.

8. **When is a Modification Required?** The WIA Final Regulations, at 20 C.F.R. 661.230, indicate that modifications are required when there are changes in certain areas—some rather broad, e.g., strategies and policies, and some rather specific, e.g., changes in local allocation of funds. In addition to the areas specifically mentioned, 661.230(b)(2) provides that modifications are required when "similar substantial changes" to the state's workforce investment system occur. For the Wagner-Peyser Act, 20 C.F.R. 652.212 provides additional guidance. Like the WIA Regulations, it requires that the plan be updated to reflect reorganizations, changes in service strategies, and changes in negotiated performance levels when performance goals are not met. Additionally, the regulations for the Wagner-Peyser Act also require that the WIA/W-P plan be updated to reflect any changes in services delivered by state merit-staff employees.

In general, it is substantial changes to the Strategic Five-Year Plan that require a modification, i.e., any change that significantly impacts the operation of the state's workforce investment system. For example, a change in working relationships with system employees, a change in organizational responsibilities, or a change in membership structure of the State Board requires a modification. The following are examples of when a modification is required:

State and Local Boards: Changing from a grand fathered Board to one that includes full representation by all the required members.

Changes Impacting Local Areas: Changes in local workforce investment area boundaries due to re-designation by the state and changes in formula funding allocation to local areas, including changes to factors and weights for the formula allocations.

Major Change in Program Focus: Redirection of program focus due to significant economic changes that require changes in the economic development approach of the state.

Policies: Policy decisions that substantially impact the provision of the comprehensive services or the program design framework.

Reorganization of the One-Stop System: A major reorganization of staff or change in organizational responsibilities that impacts access to services or the level of services provided.

Performance: Performance goals have been renegotiated due to unforeseen factors that impact performance such as changes in economic conditions, characteristics of participants, services to be provided, or other community-related factors.

WIA gives states authority to modify WIA/W-P Plans based on unanticipated circumstances. In the introductory comments, the Planning Guidance and Instructions for Submission of the Strategic Five-Year State Plan (64 F.R. 9407) indicate that the Department expects states to modify their Plans if changes in economic conditions seriously impact the Strategic Plan's viability. For example, if these changes are significant enough that the state's vision, strategies and performance goals as outlined in the plan are no longer relevant, the state should update its plan to reflect its new realities -- the current situation, vision, strategies and/or performance goals. The main point is to ensure that the Strategic Five-Year Plan remains relevant and drives the state's operating work plans.

Minor changes to the state workforce investment system or to the state's strategy, i.e., any change that does not significantly impact the operation of the state's workforce investment system, do not require a modification to the plan. For example, minor staff re-adjustments, the addition of new members to an existing membership category of the State Board, or changes in operational plans do not require a modification.

Initially, it is the state that must make a judgment call on when to modify its plan. If there is a question about whether a particular change in circumstance requires a modification, the state should seek assistance from the appropriate Regional Office (see Attachment III for a list of regional offices). State plans should be revisited often, at least

annually, to evaluate the state's progress. Frequent reviews of the plan, and the vision and strategies it contains, can serve to focus the energies of the partners and promote enhanced integration of services.

Modifications are needed to keep the Strategic Plan a viable, living document over its five-year life span. In at least one state, the State Workforce Investment Board is required by state law to update the strategic plan portion of the State's Unified Plan at least every two years. We anticipate that many states will be modifying their plans to add partners, enhance the integration of services, and generally improve customer services. The modification process serves as a vehicle for ensuring that all partners, at the local, state and Federal levels, have an opportunity to provide input on proposed changes to the state's workforce development system.

9. **Public Comment Requirements.** As indicated in 20 C.F.R. 661.230(d), modifications to the State Plan are subject to the same public review and comment requirements that apply to the development of the original plan. The state must provide an opportunity for public comment on and input into the development of the modification before its submission to the Department of Labor. Under 20 C.F.R. 661.220(d), the modification must describe the State's process and time line for ensuring a meaningful opportunity for public comment for each modification. See section 661.220(d) for further information on the requirements for public review and comment.

To facilitate public review and comment, states may provide the public with a summary of the proposed revisions to the plan. We encourage states to submit a copy of this summary when they submit the modification to the Federal Government for review and approval.

10. **Submission Process.** States have the option to submit modifications either in an electronic, hard copy, or diskette format. We encourage states to submit modifications in electronic format to reduce the reporting burden and to ensure timely receipt and review by the Department of Labor and other Federal agencies. The designated Federal Coordinator for the review and approval process is Maria Kniesler Flynn, E-Mail: mflynn@doleta.gov; phone: 202-693-3045; mailing address: Maria Kniesler Flynn, Division of One-Stop Operations, United States Department of Labor, 200 Constitution Avenue, NW, Room S-4231, Washington, D.C. 20210.

Electronic submission. As explained below, states can submit a modification electronically either by posting it on an Internet web site that is accessible to Federal agencies or transmitting it by electronic mail to the Federal government.

Posting Modifications on an Internet Web Site. Under this option, a state need only post its modification on an Internet web site; inform the Federal Coordinator through electronic mail of the location of the document on the web site; provide contact

information in the event of problems with accessing the web site; and certify that no changes will be made to the version of the modification posted on the web site after it is submitted, unless the changes have been approved by the reviewing Federal agency(ies). This option is available for modifications to both stand-alone and unified plans. For unified plans, in lieu of notifying only the Federal Coordinator, states may advise directly each Federal Department whose program is included in the plan of the location of the document on the web site. See Attachment II for the Departmental Contact for each Federal agency.

Transmitting Modifications Electronically. States submitting a modification to a unified plan may transmit the modification to the Federal Coordinator who will transmit it to the Federal Departments whose programs are included in the plan. The state may also transmit the modification directly to the Federal Departments whose programs are included in the plan. In this case, the modification should be sent to the designated Departmental Contact for the affected Federal agency(ies). Electronically submitted modifications to stand-alone WIA/W-P plans must be transmitted to the Federal Coordinator.

Other considerations when using electronic submission. State plan certifications with electronic signatures are acceptable. If a state does not have the capacity to produce electronic signatures (or chooses not to use this option), then the signature page must be submitted in hard copy. If a state chooses to submit its modification by transmitting it via electronic mail, the state should submit it in either WordPerfect or Microsoft Word (PC format, or an ASCII text file) to accommodate the technological capabilities of the Federal agencies that will receive the modification. Microsoft Word is the preferred format. If a state chooses to use a software program other than WordPerfect or Microsoft Word for portions of the modification (e.g., charts or graphs), the state should submit those components in hard-copy.

For information on when the 90-day review period begins for plans submitted electronically, see section 11 of this TEGL, "ETA Procedures for Review and Approval."

Hard Copy Submission. If the modification is for a unified plan, the state can submit a hard copy (with an original signature) to the Federal Coordinator, who will distribute it to the affected Federal agencies, or the state can submit copies separately to the designated Departmental Contact for each activity or program included in the unified plan. States submitting a modification to a unified plan on a diskette have the same options, i.e., submit a copy to the Federal Coordinator or separate copies to the Departmental Contacts. Modifications to stand-alone WIA/W-P plans must be submitted to the Federal Coordinator.

For information on when the 90-day review period begins for plans submitted in hard copy, see section, "ETA Procedures for Review and Approval."

Further Considerations for All Modifications. In addition to the required submission to the Federal Coordinator, we encourage states to simultaneously send one copy of the modification to the appropriate ETA Regional Administrator. For Department of Labor programs, the ETA Regional Administrator has the lead responsibility for the review and approval of modifications to the Strategic Five-Year Plan. The ETA Regional Administrator issues the letter approving modifications to the plan.

It is the responsibility of the designated state agency, i.e., the agency responsible for submitting modifications, to circulate the modification among the other state agencies that are affected by the changes to the unified plan before submitting it to the Federal Government for review and approval.

Certification. Modifications to the Strategic Five-Year State Plan must have an original (or electronic) signature of the Governor, with the name of the Governor typed below, unless the Governor has designated an appropriate state official to serve as his or her official representative. In this case, the state must provide, if it has not done so before, a formal statement in which the Governor certifies the name of the agencies and officials that he or she has designated to represent the state for the specific programs included in the State's Plan. A format for such certifications is provided in the Final Unified Plan Planning Guidance, 65 F.R. 2471 (January 14, 2000).

11. ETA Procedures for Review and Approval. As indicated in 20 C.F.R. 661.230(e), State Plan modifications will be approved by the Secretary based on the approval standard applicable to the original State Plan under section 661.220(e). Accordingly, the Secretary must approve all plan modifications within 90 days of their submission, unless the Secretary determines in writing that: (1) the plan modification is inconsistent with the provisions of title I of WIA or the WIA regulations, including 29 C.F.R. part 37; or (2) the portion of the modification impacting the Wagner-Peyser Act plan does not satisfy the criteria for approval as provided in section 8(d) of the Wagner-Peyser Act or the Wagner-Peyser Act regulations at 20 C.F.R. part 652.

If electronic submission is used (i.e., either by posting the modification on an Internet web site or by transmitting it electronically), the Federal Coordinator will confirm receipt of the modification within two workdays and indicate the date for the start of the 90-day review period. When a state submits an incomplete modification electronically and supplements it with hard copy (e.g., charts, graphs, or signature page), the 90-day period for review of the modification will not start until all components of the modification have been integrated by the Federal Coordinator and transmitted to the effected agencies. For states choosing to submit a hard copy, the Federal Coordinator will notify the state electronically within 10 working days of receipt of the modification as to the start of the 90-day period for review.

For modifications of unified plans that impact only DOL programs, the Federal Coordinator will notify all Federal partners of the receipt of a modification, identify the issues and program areas addressed, and request that each partner agency advise ETA if it would like to receive a copy for review and comment. The Federal Coordinator will promptly provide copies upon request. ETA Regional Offices will do the same with Federal partners in the Region.

The appropriate Regional Administrator will advise the state by letter, as soon as possible, that the modification is approved or disapproved. If the modification is not approved, the Regional Administrator will clearly indicate why and specify what additional information is required or what action needs to be taken for the modification to be approved.

12. **Standard for Review of Plan Modifications.** In general, when a state submits a modification to the Federal government for review and approval, ETA and other Federal partners will only review those portions of the Strategic Five-Year Plan that have been changed for conformity with the governing legislation, the corresponding regulations and the Planning Guidance. ETA and its Federal partners may, however, provide additional comments and suggestions that are advisory in nature and that may touch on other portions of the plan. These are offered as technical assistance and are not compliance matters.

13. **Lessons Learned and Helpful Tools.** States and local areas are at different stages of development in their planning and implementation. Some states were able to move along more quickly than others and benefits can be gained from the experiences of these states. Attachment I, “Seamless Planning: Lessons Learned,” is a summary of insights gathered from discussions with state and local staff.

A variety of resources are available to assist workforce development staff with the planning process. These resources can be accessed on the new Workforce Tools of the Trade website at <http://www.workforcetools.org>.

14. **Inquiries.** Questions or comments about the issues discussed in this TEGL should be directed to the appropriate ETA Regional Office. Any questions related to the nondiscrimination and equal opportunity provisions of WIA should be directed to Gregory Shaw, Chief, Office of Compliance Assistance Programs, Civil Rights Center (shaw-gregory@dol.gov); phone: 202-693-6540; fax: 202-693-6505.

15. **Attachments.**

Attachment I: Seamless Planning: Lessons Learned

Attachment II: Departmental Contacts

Attachment III: ETA Regional Administrators