

**Workforce Innovation and Opportunity Act
Frequently Asked Questions, Round 2
February 27, 2015**

The following Frequently Asked Questions are drafted in the context of the Workforce Innovation and Opportunity Act (WIOA) programs that are administered by the Department of Labor (DOL).

Advisory Committees

Q. What is the purpose of the Workforce Information Advisory Council, and what is the timeline for appointing members?

A. The purpose of the Workforce Information Advisory Council is to convene subject matter experts to advise the Department of Labor on the evaluation and improvement of the nationwide workforce and labor market information system and the statewide workforce and labor market information systems that comprise the nationwide system, and how the Department of Labor and the States will cooperate in the management of such systems. The Secretary, through the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training will formally consult at least twice annually with the Workforce Information Advisory Council, and the Council will provide written recommendations.

Evaluation

Q. Where can I access evaluation findings to support evidence-based implementation of Workforce Innovation and Opportunity Act (WIOA)?

A. The Department's Workforce System Strategies resource (<http://strategies.workforce3one.org>) serves as a starting point for research-based information about workforce investment strategies. All resources posted meet the following criteria: 1) are a third-party evaluation, performance report, or strategy brief such as a peer-affirmed model (see Methodologies); 2) Have a primary focus on one or more workforce development topics in the list of ETA's search terms (see [Search Terms Overview](#)); 3) Provide insights relevant to decisions typically made at the state or local level of the workforce system; and 4) Be published, generally, within the last five years except for experimental or quasi-experimental (Level 1) studies which are included for the last ten years and sometimes more. In addition, we encourage you to read our recent report, "What Works in Job Training: a Synthesis of the Evidence" available at <http://www.dol.gov/asp/evaluation/jdt/>.

Fiscal

Q. What guidance will DOL provide to support the implementation of Pay for Performance contract strategy allowed in the law?

A. Under WIOA, local areas may use up to 10 percent of adult and dislocated worker funds for pay-for-performance contract strategies. The law defines pay-for-performance contract strategies as "a procurement strategy that uses pay-for-performance contracts in the provision of training services described in section 134(c)(3) or activities described in section 129(c)(2), and includes: (A) contracts...that specify a fixed amount that will be paid to an eligible service provider (which may include a local or national community-based organization or intermediary, community college, or other training provider, that is eligible under section 122 or 123, as appropriate) based on the achievement of specified levels of performance on the primary indicators of performance described in section 116(b)(2)(A) for target populations as identified by the local board (including individuals with barriers to employment), within a defined timetable, and which may provide for bonus payments to such service provider to expand capacity to provide effective training; (B) a strategy for independently validating the achievement of the performance described in subparagraph (A); and (C) a description of how the State or local area will reallocate funds not paid to a provider because the achievement of the performance described in subparagraph (A) did not occur, for further activities related to such a procurement strategy, subject to section 189(g)(4)." Local areas that use pay-for-performance contracts will be subject to provisions of the Uniform Guidance at 2 CFR Part 200. 2 CFR Part 200.323 prohibits the use of cost-plus percentage contracts. Additionally, performance-based contracting is discussed in Subpart 37.6 of the Federal Acquisition Requirements (FAR). In general, performance based contracting establishes benchmarks for the contractor to achieve in order to receive payment for services. The Department will propose further provisions for Pay for Performance contracts in the Notice of Proposed Rulemaking (NPRM) anticipated to issue Spring 2015 and anticipates issuing additional guidance on the appropriate use of pay-for-performance contract strategies.

General

Q: Is there a plain language, dot pointed presentation of WIOA?

A. ETA is currently developing plain language materials to support implementation and anticipates making them available shortly. The Department of Labor official Website for additional information on WIOA is www.doleta.gov/wioa. In addition, ETA has created a new WIOA collection page at wioa.workforce3one.org which will initially house technical assistance resources in existence prior to WIOA, and are relevant for WIOA implementation, and will continue to be updated to house WIOA technical assistance resources and guidance documents. A WIOA 101 webinar series is current available through the collection page. These pages will be updated as new information is available.

Governance

Q. How will strategic planning be conducted under WIOA?

A. Under WIOA, each state will engage in collaborative planning across the core programs

(Adult, Dislocated Worker and Youth, Wagner-Peyser, Adult Education and Family Literacy and Vocational Rehabilitation) to create a single, integrated, strategic Unified State plan. Further, states may include, along with the core programs, collaborative planning with the other Federal education and training programs specified in WIOA (generally, the One-Stop partners that are in addition to the core programs) to develop Combined State plans. At the local workforce development area level, local boards will develop regional and local plans that align education, training, and other workforce services; align workforce policies and services with regional economies; and support sector strategies tailored to their needs.

State and local leaders should engage partners, reinforce and build new partnerships, and prepare to develop robust, joint, strategic plans. It is vital to understand the new unified and combined state plan requirements, assess whether the right partners are at the table, and assess whether appropriate information is available and utilized to effectively support this planning process.

Q. What is the difference between the required youth council under WIA and the standing committee overseeing youth issues and programs under WIOA?

A. While WIOA eliminates the requirement for local boards to establish a youth council, the local board may choose to establish, “a standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.” Sec. 107 (b)(4)(A)(ii). WIOA further clarifies that an existing youth council may be designated as the youth standing committee if they meet the requirements of a standing committee. Sec. 107 (b)(4)(C)). The Department will provide additional clarification on this issue in the NPRM and guidance.

Youth councils will remain in operation through June 30, 2015, and ETA recently made available a comprehensive youth council database consisting of 98% percent of the youth councils across the country at www.servicelocator.org. Many existing youth councils are already in a strong position to become standing youth committees. Still, ETA recognizes that some Local Workforce Development Boards (the successor to LWIBs) may need support to help build effective youth committees. ETA will disseminate technical assistance resources that promote and share high-performing youth council models, and tools to address specific topics that are critical to building strong youth committees.

Q. What conditions apply under WIOA to the initial designation of local areas that were designated under WIA?

A. If a local area designated under WIA wishes to continue to operate as a local area under WIOA, the chief elected official may request initial local area designation from the Governor. If the local area performed successfully and sustained fiscal integrity for the two year period preceding enactment of WIOA, the Governor must approve the request for initial designation. Governors may immediately begin consideration of such local area designation requests.

States and local areas are encouraged to consider local area designation in the context of the regional alignment strategies highlighted in the law, with the goal of creating local and regional structures that maximize opportunities for effective regional collaboration. Local areas that are part of a designated region that includes other local areas must collaborate with the other local areas in the region in developing regional plans and providing regional service delivery.

Q. What is the impact of WIOA on local area redesignation?

A. Since FY 2006, the Department's annual appropriation prohibited the Department from modifying the local area designation requirements. The appropriations rider effectively prevented the Governor from redesignating local areas that were designated as 'automatic' or 'temporary and subsequent' without the consent of those areas. While the enactment of WIOA invalidated this rider, WIOA Section 106(b)(2) allows any local area designated under WIA to continue to operate as a local area under WIOA upon the request of the chief elected official as long as the local area sustained fiscal integrity and performed successfully from for the two year period preceding enactment of WIOA.

Consistent with the process at WIOA Section 106(b)(1)(A) and the considerations at Section 106(b)(1)(B), the Governor may redesignate local areas at any time upon the request of the chief elected officials in any unit of local government or combination of units of local government with the agreement of the State board. Local area redesignation efforts that are currently underway and in cooperation with the local chief elected official may proceed.

However, as noted with respect to the preceding question, if a local area is part of a designated region that includes more than one local area, the local area must collaborate with the other local areas in the region in developing regional plans and providing regional service delivery.

Q. Is there a salary maximum for Workforce Investment Board Directors with WIOA?

In accordance with WIOA sections 101(h)(3) and 107(f)(3), the State and local board director (and staff) are subject to the limitations on the payment of salary and bonuses described in WIOA section 194(15). This means that payment to a State or local board director, including salary and bonuses, either as direct costs or indirect costs, may not exceed the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code. These limitations have already been in effect for several years through provisions in the DOL appropriations acts.

Implementation

Q. Our state law currently makes reference to The federal Workforce Investment Act of 1998 (Public Law No. 105-220; 29 U.S.C. Sec. 2801 et seq.). Has WIOA deleted that act? Should we amend State law accordingly?

A. WIOA supersedes the Workforce Investment Act of 1998 (WIA), which is repealed by section 511(a) of WIOA. The citation for WIOA is Public Law 113-128 (29 U.S.C. Sec. 3101, et. seq.), .

We encourage States to review state legislation and identify areas that may conflict with WIOA to develop plans and strategies that resolve these conflicts.

Q. Once the law takes effect on July 1, 2015 is there any transition period for states to come into compliance with the law since the rules that are not yet promulgated?

A. ETA will issue implementation guidance in early 2015 that will provide states and local areas with this information. For example, in addition to implementation of requirements in PY 2015, it may be noted that the provisions relating to unified and combined plans and the performance accountability system do not take effect until PY 2016.

Q. I'm interested in being an early implementer. What does that entail?

A. The early implementation provision in the Act pertains only to early submission of the unified plan. The Departments of Labor and Education plan to issue joint guidance on the contents of the plan, and will develop a joint submission and review process. ETA is currently developing general implementation guidance, which will advise states on timelines for implementation of provisions of the Act.

Q. What is a Notice of Proposed Rulemaking (NPRM) and how does it impact implementation?

Consistent with the Administrative Procedure Act, a NPRM generally announces an agency's intention to establish regulations governing the administration and operation of a program, provides the proposed text of the regulations, and provides the public an opportunity to comment on the proposal. The WIOA NPRM will be published in the Federal Register Spring 2015, and available at www.regulations.gov, consistent with other regulations published by the Department.

Q. What is the timeline for issuing regulations for the new WIOA provisions?

A. DOL and Department of Education will issue regulations governing the implementation and operation of the programs authorized by WIOA. The Departments continue to work diligently to publish a NPRM in Spring of 2015. This NPRM will provide the public with an opportunity to comment on the proposed regulatory provisions. DOL and Education will analyze these public comments, and anticipate issuing Final Regulations in early 2016.

Q. Should I continue my implementation efforts without the Final Rule?

A. The workforce system should be working towards implementation. ETA will issue guidance and technical assistance to support the system through such a transition. States are encouraged to take action now, on areas such as: developing goals and a vision for the workforce investment system, including the one-stop center delivery system; identifying and allocating funding for transition; assessing the system: developing and carrying out transition plans that include provisions for fiscal and program changes across programs; ensuring proper

partnerships are in place; and taking action to begin the strategic planning process for state, local and regional plans.

Q. The WIA dislocated worker and adult programs for the Program Year have been split-funded with a small portion becoming available on July 1 and the second portion is available beginning on October 1 of each year. Do you anticipate that the appropriation process for WIOA will remain the same or will it be appropriated in a single fiscal year?

A. We anticipate that the appropriation process will remain the same.

One Stop Service Delivery System

Q. Will there be guidance in the near future with regard to the determination of One-Stop partner program contributions to the infrastructure costs?

A. ETA will be addressing infrastructure funding requirements as part of the rulemaking process, as well as in upcoming guidance. However, we note that the law calls for shared and infrastructure costs to be worked out by the local workforce investment area, which should be done through a cost sharing agreement as part of the memorandum of understanding between the chief elected official and the one-stop partners. Please note that the new infrastructure funding requirements in the law will impact the funding contributions only when the partners in the local area cannot come to agreement on their own.

Q. Does WIOA require all Wagner-Peyser funded staff to be co-located with the one-stop center(s)? What about VETS staff?

A. WIOA requires that employment service offices within each State be co-located with one-stop centers. ETA will be providing transition guidance related to this provision that will also address requirements associated with VETS staff and staff that are partially funded by both Wagner-Peyser and VETS's grants.

Q. How will one-stop operators be selected under WIOA?

A. WIOA requires that all One-Stop operators must be certified or designated through a competitive process. This requirement will be further addressed in implementation guidance and the rule making process.

Q: Do I have to have a competitively awarded one-stop operator in place on July 1, 2015?

A: Competitively awarded One-Stop operators under WIOA do not have to be in place by July 1, 2015. While States are advised to plan for competition, ETA is in the process of developing guidance and proposed regulations related to this issue. In Spring 2015, ETA will issue operating guidance for PY 2015, which will provide stakeholders with the guidance necessary to implement WIOA for that program year. We anticipate that this guidance will address this

matter. Stakeholders also are encouraged to watch for the publication of the WIOA Notices of Proposed Rulemaking (NPRMs) this spring, and to submit comments in accordance with comment procedures set forth in the NPRMs.

Q. WIOA requires that one-stop operators be an entity, or a consortium of entities of three or more one-stop partners. Would an agency that carries out multiple one-stop partner programs be considered a consortium?

A. The WIOA regulations will address one-stop operators. Please note that the WIOA statute allows for local workforce development boards to designate or certify a single entity or a consortium of entities as a one-stop operator through a competitive process, and does not establish different rules for single entities versus consortia. Whether an operator is a single agency or a consortium is not relevant to how the one-stop operator is selected.

Q. WIOA indicates that TANF is a required one stop partner. What does this mean for state TANF programs?

A. Under WIOA, TANF is a required one-stop partner, unlike in the Workforce investment Act of 1998 which made TANF an optional partner, unless the State opts out for inclusion in a local area. The inclusion of TANF as a required one-stop partner means that TANF clients will benefit from access to the array of employment and training services available in one-stop career centers. Under WIOA, State TANF programs also will also provide access to TANF services at comprehensive one-stop centers, particularly making accessible the applicable WIOA career services. Career services include initial assessment of skill levels, job search and placement assistance, providing information about and referrals to support services like child care, development of individual employment plans, and work experience. Several state TANF programs successfully deliver their services in one-stop centers already, and may have shared intake/enrollment, integrated case management, shared client tracking, or shared performance measurement. Additionally, all one-stop partners contribute to the maintenance of the one-stop delivery system, which provides for a cost-effective way of delivering services to a wider range of people. One-stop partners enter into a memorandum of understanding with the local workforce development boards to formalize their participation in the one-stop system.

Participant Impact

Q. How will WIOA affect individuals with significant disabilities in facility-based employment (sheltered workshops) receiving minimum wages?

A. WIOA provides increased emphasis on service to persons with disabilities throughout the law. Individuals with disabilities, including those with significant disabilities, may access the same services available to all job seekers under WIOA. The workforce investment system is obligated under Title II of the Americans with Disabilities Act to provide services to individuals

with disabilities in the most integrated setting, thus assuring that job training services be focused on typical community settings as opposed to facility-based segregated employment (sometimes referred to as sheltered workshops). WIOA contains several additional provisions intended to increase competitive, integrated employment for youth and adults with disabilities which specifically address the use of certificates under Section 14(c) (authorized under the Fair Labor Standards Act to allow payment of subminimum wage to certain individuals with disabilities). These provisions include establishing a new Advisory Committee on Increasing Competitive integrated Employment for Individuals with Disabilities, authorized under Section 609 of Title IV of WIOA, to study and prepare findings, conclusions and recommendations for the Secretary on: (1) ways to increase employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive, integrated employment; (2) the use of the certificate program carried out under section 14(c)); and (3) ways to improve oversight of the use of such certificates.

WIOA also includes new requirements for pre-employment transition services for youth with disabilities (Section 113) which must be coordinated with local workforce development boards and American Job Centers to create work opportunities, including internships, summer employment and apprenticeships for youth with disabilities, including youth with significant disabilities. WIOA Section 511 provides limitations on the use of subminimum wage programs for youth transitioning from school, intended to insure that transition to competitive, integrated employment or post-secondary activities is the primary goal for youth in transition, including youth with significant disabilities. In total, these new provisions are intended to promote and increase competitive, integrated employment and wages for youth and adults with significant disabilities.

Q. How does WIOA work with the Ticket to Work Program to offer the job skills training individuals with significant disabilities need?

A. WIOA strengthens the provisions for promoting competitive, integrated employment for individuals with significant disabilities, including those receiving Social Security disability benefits. Ticket to Work is an excellent example of how state and local workforce programs can leverage resources for people with disabilities to support their entry and advancement in competitive, integrated employment and advance their economic self-sufficiency. One-stop career centers, workforce development boards, and state workforce agencies are eligible Employment Networks under the Ticket to Work program administered by the Social Security Administration (see http://www.dei-ideas.org/chapter6/page00m_enttw_public.cfm.) and some are already functioning in this capacity. Section 412 J of the WIOA now includes a state plan provision requiring coordination of activities among State agencies functioning as an employment network under the Ticket to Work and Self-Sufficiency Program. The Department of Labor will continue to partner with SSA to provide technical assistance to states and local areas to become Employment Networks and to serve Ticket holders.

Q. How can libraries find out more about what kind of workforce, job training, digital literacy and literacy programs qualify for funding under WIOA?

A. WIOA includes libraries as optional partners in the one-stop service delivery system, and allows Governors to use statewide funds to improve coordination of employment and training activities with libraries. Libraries are also included as eligible providers of adult education and literacy activities under Title II of the Act (AFELA).

Program Impact

Q. Is the Youth formula-funded program structured similar to the youth program under WIA?

A. While the focus of the youth formula-funded program has changed under WIOA to focus more on out-of-school youth (from a minimum of 30 percent to a minimum of 75 percent of funding for OSY), work experience opportunities (a minimum of 20 percent of local funds), and additional program elements, the structure of the program is similar to the structure under WIA in that comprehensive youth services are provided by competitively-selected youth service providers where each youth receive an objective assessment and an individual service strategy and the objective is to prepare youth for post-secondary education and employment. The five new youth program elements are: financial literacy; entrepreneurial skills training; Services that provide labor market and employment information in the local area; activities that help youth transition to postsecondary education and training; and education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster.

Q. Will WIOA youth funds be made available on April 1 as under WIA? Will the fiscal year 2015 funds for the youth programs be available on April 1, 2015 using WIA or WIOA regulations?

A. Youth funds will be available April 1 consistent with WIOA section 189(g)(1)(B). This provision allows the Secretary to make Youth Activities funds available for obligation beginning April 1 of any fiscal year to carry out youth activities. The Department anticipates releasing further guidance on implementation of the youth provisions.

Q. Can you clarify if stand-alone summer employment programs for youth are now allowable under WIOA?

A. Under WIOA summer employment is allowable under the paid and unpaid work experiences program element found in Section 129(c)(2)(C), but as one program element and not as a stand-alone program. Under WIA, funding summer employment was allowed only for year-round program participants. While stand-alone summer employment programs were allowable under the predecessor to WIA, the Job Training Partnership Act, and allowed under the American Recovery and Reinvestment Act of 2009 WIA Youth funding, WIA and now WIOA require that all youth participants receive comprehensive services.

Q. Under WIOA, what are the ages of youth that can be served?

A. For in-school youth, programs may serve youth aged 14 through 21. For out-of-school youth, programs may serve youth aged 16 through 24.

Q. How should local workforce boards approach the procurement of youth program providers this year given the new requirements of WIOA, including the requirement to expend 75 percent of funds on out of school youth?

A. Under WIOA, local Workforce Development Boards (WDBs) are required to award contracts on a competitive basis to provide WIOA services to eligible youth. DOL is aware that many local boards have to begin the RFP process now to prepare for program year 2015, and is aware of the complexities that may accompany the transition to spending not less than 75 percent of funding for the Title I youth formula program to help out-of-school youth achieve education and career success. The Department intends to implement this provision in a way that does not impact currently enrolled in-school youth receiving services under the WIA youth formula program. The Department is developing guidance for the WIOA youth formula-funded program on transitioning from WIA youth services to WIOA youth services, and plans to issue that guidance in early 2015. We are also committed to providing technical assistance to states and local workforce areas during the transition.

Q. As a local area and/or one-stop operator - What should we be doing to be ready to operate Youth Services and Programs on July 1, 2015?

A. At minimum local areas should create awareness in your community and especially with current or potential youth service providers that WIOA includes a minimum expenditure rate of 75 percent for services to out-of-school youth. In addition, WIOA includes a work experience priority where a minimum of 20 percent of local area funds must be spent on work experience. There are also five new youth program elements that local areas will need to implement including financial literacy and entrepreneurship.

We want to point you to several resources on the <http://www.doleta.gov/wioa> page including the WIOA 101 series on the youth program that provides more detail on the new eligibility requirements as well as a youth fact sheet summarizing the major changes. Finally, we anticipate publishing WIOA youth operating guidance in the coming months to support implementation of the WIOA youth program.

Q: Page 6 of TEGL No. 19-14 implies that full implementation of the WIOA youth program begins in April when the WIOA youth allotments are distributed. Does WIOA youth implementation begin in April or on July 1, 2015?

A: While TEGL No. 19-14 says “States will receive their first WIOA allotment for the youth programs in April 2015 and will begin full implementation of WIOA for the Youth Program at that time,” full implementation of the WIOA youth program begins on July 1, 2015. The PY 2015 WIOA youth allotment is distributed and available in April 2015; states are able to use

those resources to begin preparation for WIOA youth implementation on July 1, 2015. ETA will be issuing further guidance and providing technical assistance to assist in this effort.

Q. There are several times in the law that it addresses the provision of financial literacy services, at both a state and local level. What will DOL do to provide guidance to states and local workforce investment areas to provide financial literacy activities for youth and adults with and without disabilities?

A. WIOA adds financial literacy services as a program element in the youth formula program, and includes as an allowable youth statewide activity supporting financial literacy, including— (i) supporting the ability of participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals; (ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively; (iii) increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, including determining their accuracy (and how to correct inaccuracies in the reports and scores), and their effect on credit terms; (iv) supporting the ability to understand, evaluate, and compare financial products, services, and opportunities; and (v) supporting activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials. The Department anticipates providing resources and technical assistance to support states and local areas in providing financial literacy activities for youth and adults..

Q. What is the minimum age requirement for migrant/seasonal farmworkers or their dependents to be eligible for WIOA Section 167 services?

A. WIOA Section 167 does not specify a minimum age requirement for eligible migrant seasonal farmworkers or their dependents.