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NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

Workforce Development System Technical Advisory #10-13

TO: Workforce Development Community
DATE: July 1, 2010
SUBJECT: **REVISED** New York State Program Year (PY) 2010 Incentive and Sanction Policy for Local Workforce Investment Area (LWIA) Performance for the Workforce Investment Act (WIA) Title 1B Program and the Wagner-Peyser Act (W-P) Program.

Purpose:

To inform Local Workforce Investment Boards (LWIBs) of the State's Incentive and Sanction policy for PY 2010 local area performance for the WIA Title 1B program and W-P program with regard to Common Measures Indicators, Customer Service Indicators and Other Management Indicators.

To establish a procedure for LWIBs to negotiate and reach agreement with the New York State Department of Labor (NYSDOL) on local performance goals for the WIA Title 1B and W-P programs.

This technical advisory rescinds and replaces prior State policy issued in Workforce Development System Technical Advisory (WDS-TA) #09-23, issued October 19, 2009.

Background:

NYSDOL, as authorized under WIA §134(a)(2)(B)(iii) and W-P §8(b)(1), will award incentive grants to local areas for exemplary performance. In addition, NYSDOL is required under WIA rule §666.420 to sanction local areas that fail to meet minimum performance levels. WIA state level activity funds and W-P program funds will be used for incentive grants.

Policy

NYSDOL's Incentive and Sanction policy for LWIA performance for the WIA program and the Wagner-Peyser program for PY 2010 uses three categories of indicators as a basis for assessing program performance:

- ***Common Measures Indicators for Adults, Dislocated Workers and Youth:*** sanctions are required for unsatisfactory performance;

- **Customer Service Indicators:** an Incentive Eligibility Standard has been established for each Customer Service Indicator; and
- **Other Management Indicators:** these indicators are designed to enhance program management and will not result in sanctions or incentives during PY 2010 (see **Attachment A** for a list of Management indicators).

The following sections discuss:

- I. Goals and Unsatisfactory Performance Thresholds
- II. LWIA Process for Goal Negotiation
- III. Incentives for Exemplary Performance
- IV. Unsatisfactory Performance Actions

I. Goals and Unsatisfactory Performance Thresholds

A “State Goal” and a proposed “LWIA Goal” is established for each Common Measures and Customer Service indicator. The goals are expressed as:

- % Maximum (ceiling/cap) needed to achieve the goal;
- % Minimum (floor) needed to achieve the goal; or
- \$ Amount (average earnings) needed to achieve the goal.

An Unsatisfactory Performance Threshold is established for each indicator. The Unsatisfactory Performance Threshold for each Common Measures Indicator is set at 80% or less of the State Goal that NYSDOL established with USDOL (per [TEGL-23-09 Negotiating Performance Goals for the Workforce Investment Act Title 1B Programs and Wagner-Peyser Act Funded Activities for Program Year 2010](#), dated April 27, 2010). This threshold is intended to align LWIA behavior with the State passing the Common Measures Indicators.

A. Common Measures Indicators

1. Adult Entered Employment Rate (Staff Assisted Services)

- State Goal – Adult Entered Employment Rate for staff assisted services of 57.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve an Adult Entered Employment Rate of at least 45.6% (equal to 80% of the State Goal).

2. Adult Employment Retention Rate (Staff Assisted Services)

- State Goal – Adult Employment Retention Rate for staff assisted services of 82.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve an Adult Employment Retention Rate of at least 65.6% (equal to 80% of the State Goal).

3. Adult Average Earnings (Staff Assisted Services)

- State Goal – Adult Average Earnings for staff assisted services of \$12,625 or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve an Adult Average Earnings of at least \$10,100 (equal to 80% of the State Goal).

4. DW Entered Employment Rate (Staff Assisted Services)

- State Goal – DW Entered Employment Rate for staff assisted services of 51.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve a DW Entered Employment Rate of at least 40.8% (equal to 80% of the State Goal).

5. DW Employment Retention Rate (Staff Assisted Services)

- State Goal – DW Employment Retention Rate for staff assisted services of 82.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve a DW Employment Retention Rate of at least 65.6% (equal to 80% of the State Goal).

6. DW Average Earnings (Staff Assisted Services)

- State Goal – DW Average Earnings for staff assisted services of \$15,980 or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve a DW Average Earnings of at least \$12,784 (equal to 80% of the State Goal).

7. Youth Placement in Employment or Education (WIA Title 1B Youth)

- State Goal – Youth Placement in Employment or Education rate of 62.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as State Goal.

- Unsatisfactory Performance – The LWIA does not achieve a Youth Placement in Employment or Education rate of at least 49.6% (equal to 80% of the State Goal).

8. Youth Attainment of Degree or Certificate (WIA Title 1B Youth)

- State Goal – Youth Attainment of Degree or Certificate rate of 50.0% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve a Youth Attainment of Degree or Certificate rate of at least 40% (equal to 80% of the State Goal).

9. Youth Literacy and Numeracy Gain (WIA Title 1B Youth)

- State Goal – The State must achieve a Youth Literacy and Numeracy Gain of 45% or greater (the State Goal established with USDOL).
- LWIA Goal – Same as the State Goal.
- Unsatisfactory Performance – The LWIA does not achieve a Youth Literacy and Numeracy Gain of at least 36.0% (equal to 80% of the State Goal).

B. Customer Service Indicators

There are five (5) Customer Service Indicators for PY 2010:

1. Training Services.
2. Participants Who Exit While Certifying for Unemployment Insurance (UI) Benefits.
3. SMART 2010 Usage.
4. National Work Readiness Credential.
5. Business Customer Base (Regional).

1. Training Services

To be counted as a training service, the service must be recorded in OSOS as ITA or non-ITA training. Training services may include: ITAs; Contract Funded (as permitted under WIA§134(d)(4)(G)(ii)) and contracts with institutions of higher education, as provided in [Training and Employment Guidance Letter No. 14-08](#); On-the-Job Training (as defined in WIA§101(31)); or Customized training (as defined in WIA(§101(8)).

- State Goal – 35% expenditure rate on training using all available WIA Adult and DW formula funds by the end of PY 2010.
- LWIA Goal – To be determined by each LWIA. Each LWIA must fill out Attachment B: Training Analysis and return to dews.performance@labor.ny.gov no later than July 30, 2010. The approved goals will be published as part of the first monthly CSI report. The LWIA will be notified separately if a proposed goal is not accepted.

- Incentive Eligibility Standard – The LWIA achieves 100% or greater of their LWIA Goal and meets the following condition:
 - 95% of all¹ customers must have received an Initial Assessment.
- Unsatisfactory Performance – The LWIA does not achieve at least 80% of the LWIA Goal.

2. Participants Who Exit While Certifying for UI Benefits

- State Goal – 10% or fewer of participants exit while certifying for UI Benefits. The goal is expressed as “% maximum.” The intent of this measure is to keep UI participants engaged in services while they are certifying for UI Benefits.
- LWIA Goal – Same as the State Goal.
- Incentive Eligibility Standard – The LWIA achieves 100% or greater of their LWIA Goal.
- Unsatisfactory Performance – The LWIA does not achieve the LWIA Goal by 20% or greater. The goal is expressed as “% maximum.”

3. SMART 2010

- State Goal – 95% or more of participants who are determined to be JSRS must be enrolled in SMART 2010 by the end of PY 2010.
- LWIA Goal – Same as the State Goal.
- Incentive Eligibility Standard – The LWIA achieves 100% or greater of their LWIA Goal.
- Unsatisfactory Performance – The LWIA does not achieve at least 80% of their LWIA Goal.

4. National Work Readiness Credential

- State Goal – 30% (or more) of Out of School Youth participants will take the National Work Readiness Credential exam, and achieve a pass-rate of 50%.
- LWIA Goal – Same as the State Goal.
- Incentive Eligibility Standard – The LWIA achieves 100% or greater of their LWIA Goal.
- Unsatisfactory Performance – The LWIA does not achieve at least 80% of their LWIA Goal.

Attachment C provides NYSDOL’s proposed LWIA Goals for this indicator, including the data used to determine the goals.

¹ In PY2009 the Initial Assessment prerequisite was only for the customers in training. In PY2010 the Initial Assessment prerequisite applies to all customers.

5. Increase Business Customer Base

- State Goal – Double the Business Customer Market Penetration Rate (based on the Business Penetration Rate as of December 31, 2009, as listed in Attachment D).

The rate compares the number of businesses that have received a Business Service to the total number of businesses in the specified area per the Quarterly Census of Employment and Wages (QCEW).

- Regional Goal – Same as State Goal
- Incentive Eligibility Standard – The LWIAs within a Region achieve 100% or greater of the Regional Goal.
- Unsatisfactory Performance – The LWIAs within a Region do not achieve at least 80% of their LWIA Goal.

Attachment D provides NYSDOL's proposed LWIA Goals for this indicator, including the data used to determine the goals.

II. LWIA Process for Goal Negotiation

- The LWIB, in consultation with the One-Stop Managers, must notify NYSDOL via email, by July 30, 2010, of its intent to negotiate a LWIA Goal.
- The email should be sent to: dews.performance@labor.ny.gov
- The email Subject Line should read: **{LWIA Name} Request for Negotiation of PY 2010 Performance Goals.**
- Upon receipt of a request for negotiation from a LWIA, NYSDOL will schedule an opportunity for discussion around the negotiation request.
- At the time of the request, and for each indicator the LWIA wants to negotiate, the LWIB must provide:
 - A counter-offer goal for the indicator.
 - Justification for the counter-offer goal, including the factors that will contribute to the LWIA achievement of the goal.
 - The underlying data used to support the LWIB's determination of the counter-offer goal.

III. Incentives for Exemplary Performance

For PY 2010, NYSDOL will make up to \$2,000,000 available for incentive grants, from both WIA funds and W-P funds. The amount is based on \$1,500,000 in WIA funds (approximately 1% of the State's WIA formula allocation) and \$500,000 in W-P funds.

Incentive grants will be made available for Customer Service indicators. Note that the Common Measures Indicators are not eligible for incentive grants. Eligibility to receive

an incentive grant for any one indicator is independent of performance on any other indicator.

To receive an incentive grant, the following three conditions must be met:

- The LWIA must achieve the Incentive Eligibility Standard established for the indicator.
- **The LWIA must achieve an expenditure rate of at least a 75% for PY2010 Formula funding (Adult, Dislocated Workers and Youth), and 100% of all carry-in funds (ARRA and PY09). Compliance with this condition will be based on guidance provided in [WDS TA #10-11 \(June 8, 2010\)](#).**
- The LWIA must not have any outstanding performance or monitoring issues.

The maximum amount for an incentive grant is as follows:

- *Training* – Up to 3% of the LWIA's PY 2010 WIA Adult and DW allocation.
- *Participants Who Exit While Certifying for UI Benefits* – Up to 1% of the LWIA's PY 2010 WIA Adult and DW allocation.
- *SMART 2010* – Up to 1% of the LWIA's PY 2010 WIA Adult and DW allocation.
- *National Work Readiness Credential* – Up to 3% of the LWIA's PY 2010 WIA Youth allocation.
- *Business Services* – Up to \$15,000 to each LWIA in the Region.

Upon final determination of incentive grants, NYSDOL will issue awards as follows:

- NYSDOL will issue a Notice of Obligational Authority (NOA) to the LWIA, which will specify the amount of the incentive grant and the allowable uses of the funds. Incentive grants must be fully accrued within **six (6) months** of the date of the NOA.
- Incentive Grant awards will be posted on NYSDOL's website.

NYSDOL, at its discretion, may require a LWIA to submit a "LWIA Incentive Grant Plan" prior to issuing the NOA. The guidelines and instructions for the LWIA Incentive Grant Plan will be provided with such requests.

IV. Unsatisfactory Performance Actions

LWIAs unable to achieve satisfactory performance on any indicator will be subject to the following actions.

A. Common Measures Indicators – Unsatisfactory Performance Actions

There are two levels of unsatisfactory performance for the Common Measures Indicators:

- Sanction Level 1 Status – Unable to achieve satisfactory performance on a Common Measures Indicator for the program year.

- Sanction Level 2 Status – Unable to achieve satisfactory performance on the same common measures indicator for two consecutive program years.

Sanction Level 1 Status Actions – NYSDOL will require a LWIA in Sanction 1 Status for a Common Measures Indicator to submit a Performance Improvement Plan (PIP). The PIP must include:

- A corrective action plan to improve performance on the indicator. The plan must identify the actions to be taken, and a timetable for implementing the actions; and
- A written assurance by the LWIB, stating that the LWIB understands and can administer its duties and responsibilities with regard to state policy and federal law regarding WIA rules, regulations and reporting responsibilities.

Guidelines for preparing and submitting the PIP will be included in the sanction notifications from NYSDOL. In addition, NYSDOL, at its discretion, may require a LWIA in Sanction Level 1 Status to participate in mandatory technical assistance.

Sanction Level 2 Status Actions – a LWIA in Sanction Level 2 Status will be subject to any of the actions and penalties referenced in WIA regulations, §666.420, based upon a State level analysis of the underlying causes for underperformance.

Sanction Level 2 actions include a maximum fiscal sanction equal to three percent (3%) of the LWIA's program year formula allocation for the respective program funding for the indicator. The 3% fiscal sanction from the respective program funding will be prorated across the number of indicators for that funding, as follows:

Adult Program – The 3% fiscal sanction is prorated across the three Adult Common Measures Indicators as follows.

- Entered Employment Rate – 1% of the Adult program funding.
- Employment Retention Rate – 1% of the Adult program funding.
- Average Earnings – 1% of the Adult program funding.

Dislocated Worker Program – The 3% fiscal sanction is prorated across the three DW Common Measures Indicators as follows:

- Entered Employment Rate – 1% of the DW program funding.
- Employment Retention Rate – 1% of the DW program funding.
- Average Earnings – 1% of the DW program funding.

Youth Program – The 3% fiscal sanction is prorated across the three Youth Common Measures Indicators as follows:

- Placement in Employment or Education – 1% of the Youth program funding.
- Attainment of Degree or Certificate – 1% of the Youth program funding.

- Literacy and Numeracy Gain – 1% of Youth program funding.

B. Customer Service Indicators – Unsatisfactory Performance Actions

A LWIA that is unable to achieve satisfactory performance on any Customer Service Indicator will be required to submit a PIP for the indicator, upon notice by NYSDOL. The PIP must include:

- A corrective action plan to improve performance on the indicator. The plan must identify the actions to be taken and a timetable for implementing the actions; and

A written assurance by the LWIB, stating that the LWIB understands and can administer its duties and responsibilities with regard to State policy and Federal law regarding WIA rules, regulations and reporting responsibilities.

Action:

LWIBs should:

- Review this TA with One-Stop Managers to determine whether goals need to be negotiated for any of the indicators.
- Ensure all One-Stop staff are aware of the indicators, and are educated as to proper data entry procedures, particularly for Customer Service indicators.

Inquiries:

Questions regarding this Technical Advisory may be directed to dews.performance@labor.ny.gov

References:

Training and Employment Guidance Letter (TEGL) No. 17-05 Change 2, issued May 20, 2009, *Common Measures Policy for the Employment and Training Administration's (ETA's) Performance Accountability System and Related Performance Issues; WIA Final Rules and Regulations, Part 661, Subpart C – Local Governance Provisions, §§666.300 & 666.310; and Subpart D, §§ 666.400, 666.410 and 666.420; Wagner-Peyser Act, §8(b)(1).*

Attachments:

- A. **Other Reporting**
- B. **Training Analysis Form**
- C. **National Work Readiness Credential**
- D. **Increase Business Customer Base**

Other Reporting

For PY 2010 the monthly Customer Service Indicator Report will include management information reports. They are intended to highlight other information which is important to the customer service model. There are no incentives or sanctions attached to them, although some of these indicators may become incentive measures in future program years.

These indicators are subject to change during the program year.

Adult/DW

1. Expeditious Entry

- Scheduling/Rescheduling

2. Initial Assessment

- 95% receive IA.
- % Job Search Ready Services (JSRS) compared to Profile Score.
- % Career Development Services (CDS) compared to Profile Score.

3. Service Plan

- % with IEP/TP.

4. Continuous Engagement

- Average service days.
- Comprehensive Assessment
 - % CDS with Comprehensive Assessment
 - % Customers with staff-assisted service within 30 days of Comprehensive Assessment
- Training
 - Recording occupation – % of training services with occupation.
 - % of Training Related Placements.

Youth

1. Disconnected Youth Participation (Reporting)

- % of disconnected youth being served.
- Disconnected youth are defined as youth age 14-21 who are neither working nor in school; or are in foster care; or on probation, or in juvenile or criminal justice facilities. This is a modification of the Children's Cabinet and Governor's Advisory Board definition. Note: For purposes of determining targeted group eligibility for the Work Opportunity Tax Credit (WOTC), the definition in Technical Advisory #09-22 must be used.

2. CareerZone Plan (Reporting)

- % of youth with a CareerZone Plan.

Business Services

1. SMART 2010 Job Matching (Reporting)

- % of job orders matched with SMART 2010.

LWIA PY 2010 Training Plan

Training Type	Adult					DW					Youth				
	# Participants in Training		Expenditures			# Participants in Training		Expenditures			# Participants in Training		Expenditures		
			PY08	PY09	PY10			PY08	PY09	PY10			PY08	PY09	PY10
	Carry In	New	Carry In ARRA	Carry In		Carry In	New	Carry in ARRA	Carry In		Carry In	New	Carry In ARRA	Carry In	
ITA															
OJT															
Custom															
Contract															
TAA															
599															
Other															
Total															

National Work Readiness Credential
Based on Out of School Youth Ages 18-21

PY 2008 and 2009 Qtr 3

Local Workforce Investment Area	PY2008	PY2009Q3 ¹	Max PY08 or PY09	PY10 Take Exam	PY10 Pass Exam
Albany/Rensselaer/Schenectady	128	113	128	38	19
Allegany/Cattaraugus Counties	78	95	95	29	14
Broome/Tioga Counties	82	107	107	32	16
Cayuga/Cortland Counties	36	32	36	11	5
Chautauqua County	63	72	72	22	11
Chemung/Schuyler/Steuben Counties	211	194	211	63	32
Chenango/Delaware/Otsego Counties	89	99	99	30	15
City of Yonkers	58	75	75	23	11
Columbia/Greene Counties	46	43	46	14	7
Dutchess County	65	63	65	20	10
Erie County	192	245	245	74	37
Finger Lakes	92	105	105	32	16
Fulton/Montgomery/Schoharie Counties	91	86	91	27	14
GLOW	47	49	49	15	7
Hempstead/Long Beach	138	116	138	41	21
Jefferson/Lewis Counties	37	39	39	12	6
Monroe County	201	187	201	60	30
New York City	888	1,188	1,188	356	178
Niagara County	85	59	85	26	13
North Country	104	120	120	36	18
Oneida/Herkimer/Madison Counties	205	224	224	67	34
Onondaga County	107	123	123	37	18
Orange County	69	87	87	26	13
Oswego County	94	72	94	28	14
Oyster Bay/North Hempstead/Glen Cove	57	54	57	17	9
Putnam County/Bal. of Westchester Cnty	190	239	239	72	36
Rockland County	49	54	54	16	8
Saratoga/Warren/Washington Counties	58	63	63	19	9
St. Lawrence County	90	47	90	27	14
Statewide Activities Only	113	140	140	42	21
Suffolk County	303	254	303	91	45
Sullivan County	14	23	23	7	3
Tompkins County	42	45	45	14	7
Ulster County	77	85	85	26	13
Total, New York State	4,199	4,597	4,597	1,379	690

¹ Based upon participants from 7/1/2009 through 3/31/2010

Business Services

NY STATE EMPLOYERS WITH AN OSOS SERVICE FOR THE QUARTER ENDING 31-DEC-2009			
REGION	BUSINESSES WITH A SERVICE	NY STATE BUSINESSES	BUSINESS PENETRATION RATE
Capital	157	28,364	0.6%
Central NY	187	17,697	1.1%
Finger Lakes	446	28,337	1.6%
Long Island	240	101,004	0.2%
Mid-Hudson	419	73,369	0.6%
Mohawk Valley	603	11,023	5.5%
New York City	550	233,673	0.2%
North County	321	10,253	3.1%
Southern Tier	580	15,920	3.6%
Western NY	481	33,740	1.4%
NY State	4,045	586,397	0.7%
Employers not Assigned a Region ¹		33,017	
1 Some employers are not assigned a county FIPS code and therefore we do not know which region they are in.			