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**Frequently Asked Questions on WIOA Final Regulations: An Overview  
August 2016**

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**Final Rules – General**

**Q. Can you tell us more about WIOA’s requirements governing the payment of infrastructure costs under the memorandum of understanding (MOU) funding agreements?**

A. Each one-stop (American Job Center) partner program’s proportionate share of funding the infrastructure costs must be calculated in accordance with the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance), in 2 CFR part 200. Specifically, each partner’s proportionate share must be based upon a reasonable cost allocation methodology whereby infrastructure costs are charged to each partner in proportion to its use of the American Job Center, relative to benefits received. Infrastructure costs must also be allowable, reasonable, necessary, and allocable to that partner’s program. Funding for infrastructure costs can be provided on a cash, fairly-evaluated non-cash, or third-party in-kind contribution basis.

- Cash contributions are made: (1) directly by American Job Center partners to the Local Workforce Development Board or its designee in the American Job Center network to cover infrastructure expenses; or (2) by partners to another entity (usually the American Job Center operator) to cover infrastructure costs of the American Job Center.
- Non-cash contributions are also made by American Job Center partners in the local American Job Center network. Non-cash contributions could include donations of goods or services, or the documented value of supporting costs of items owned by a partner program and used in the American Job Center (e.g., the building, if owned by one of the partners).

Example: A partner’s proportionate share of the American Job Center operating costs is \$15,000. The partner does not have sufficient cash or other resources to fully fund its proportionate share, and wishes to donate (not for its own individual use) gently used surplus computer equipment. The computers are valued (in accordance with the requirements of 2 CFR § 200.306) at \$10,000. The partner would be able to use the \$10,000 value as part of the resources provided to fund the shared infrastructure costs.

- Third party in-kind contributions are made by individuals or entities that are not one-stop partners in the local American Job Center network. These contributions may be made on behalf of a particular partner or to the American Job Center network in general. Third-party in-kind contributions are contributions of space, equipment, technology, non-personnel services, or other like items to support the costs associated with American Job Center operations.

Note: While the valuation of non-cash contributions and third-party in-kind contributions is based on Uniform Guidance at 2 CFR § 200.306 (cost sharing or matching), those American Job Center partners with cost sharing or match requirements are subject to their authorizing statutes and implementing program regulations when determining the extent to which any contributions are allowable as match for their respective programs.

**Q. Will the specific WIOA requirements governing local agreements for funding the American Job Center infrastructure costs apply in PY 2016?**

- A. No. The WIOA requirements for the local funding agreements, which are related to specific requirements for how the shared and infrastructure costs of the American Job Center network must be paid by the American Job Center partners, need not be satisfied in the funding agreements for PY 2016. States, local areas, and American Job Center partner programs may continue to negotiate local funding agreements as they have been doing under the Workforce Investment Act of 1998 (WIA) for purposes of PY 2016. However, the local funding agreements must satisfy the requirements of section 121(h) of WIOA for purposes of funding the American Job Center network in PY 2017.

**Q. Did the Departments of Labor, Education, and Health and Human Services collaborate in the development of the WIOA Final Rules?**

- A. Yes. The Departments of Labor (DOL) and Education (ED) (collectively, the Departments) together developed the Joint Final Rule pertaining to State planning, performance accountability, and certain one-stop requirements. The Departments also jointly developed the Information Collection Requests (ICRs) related to State planning and common performance reporting. The Departments collaborated closely with the Departments of Health and Human Services (HHS), Agriculture, and Housing and Urban Development (HUD) on the development of the Joint Final Rule and State planning processes. DOL and ED each developed program-specific final rules and performance ICRs governing program-specific requirements imposed by WIOA that fall under each of their purviews.

**Q. What is the effective date of the WIOA Joint Final Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions, and the program-specific Final Rules?**

- A. The effective date for both the Joint Final Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions (Joint Final Rule) and DOL's Final Rule to implement Titles I and III of WIOA is officially 60 days after the date of publication of the Final Rules in the Federal Register, which is expected shortly. The Final Rules for the "State Vocational Rehabilitation Services Program, State Supported Employment Services Program, and Limitations on the Use of Subminimum Wages," the "WIOA Miscellaneous Program Changes," and the "Programs and Activities Authorized by the Adult Education and Family Literacy Act (Title II of the Workforce Innovation and Opportunity Act)" will take effect 30 days after publication in the Federal Register, which is expected to be sometime in July.

**Q. Why are the Departments making the Final Rules publicly available now?**

- A. The Departments, in collaboration with other Federal partner agencies, published five Notices of Proposed Rulemaking (NPRMs) in April 2015. In addition, the Departments and other Federal partner agencies published several proposed ICRs in the summer of 2015 to inform stakeholders of proposed new performance data reporting elements and new State planning requirements under WIOA. As a result of these publications, the Departments

received thousands of public comments, which they considered in the development of the Final Rules and ICRs. Given the complexity of the issues raised, the Departments made unofficial versions of the Final Rules, both the Joint Final Rule and the program-specific Final Rules, publicly available in June 2016 while they were under review with the Office of the Federal Register (OFR) so that stakeholders could begin to prepare for implementing changes imposed by the final regulations. These unofficial versions of the Final Rules may vary slightly from the official published documents if minor technical or formatting changes are made during the OFR review process. To support on-going implementation of the requirements of WIOA at the State level while the Final Rules were under development, the Departments provided guidance, notification of information collection requirements, and technical assistance to the States and other stakeholders.

### **Infrastructure Costs**

#### **Q. Can you tell us more about WIOA's requirements governing the payment of infrastructure costs under the memorandum of understanding (MOU) funding agreements?**

- A. Through a written MOU the one-stop partners must agree on how to cover the infrastructure and other shared costs of the American Job Center network. Each partner program's proportionate share of funding the infrastructure costs must be calculated in accordance with the Uniform Guidance. Specifically, each partner's proportionate share must be based upon a reasonable cost allocation methodology whereby infrastructure costs are charged to each partner in proportion to its use of the one-stop center, relative to benefits the partner program received. Infrastructure costs must also be allowable, reasonable, necessary, and allocable to that partner's program. Funding for infrastructure costs can be provided on a cash, fairly-evaluated non-cash, or third-party in-kind contribution basis.

The specific WIOA requirements for the local funding agreements need not be satisfied in the funding agreements for Program Year (PY) 2016. States, local areas, and partner programs may continue to negotiate local funding agreements as they have been doing under the Workforce Investment Act of 1998 (WIA) for purposes of PY 2016. If a local area fails to reach an agreement on funding the American Job Center network in PY 2016, the partners must continue to use whatever process they have been using under WIA to resolve disputes for purposes of funding the American Job Center network during that program year. Requirements for the local funding agreements must be satisfied in PY 2017.

### **ONE-STOP (AMERICAN JOB CENTER) INFRASTRUCTURE COSTS**

#### **Q. What happens if the local areas fail to reach an agreement for funding the American Job Center system in PY 2016?**

- A. In the event local areas fail to reach an agreement for funding the American Job Center system in PY 2016, the State funding mechanism will not yet be applicable as the alternative method in PY 2016. The State funding mechanism applies beginning in PY 2017. Therefore, if a local area fails to reach an agreement for funding the American Job Center system in PY 2016, the partners must continue to use whatever process they have been using under WIA to resolve disputes for purposes of funding the American Job Center network during PY 2016.

States must begin developing the “State-funding mechanism” early in PY 2016 so that the State funding mechanism may be implemented in PY 2017, if needed. The State must be prepared to inform local areas with sufficient time to implement both the local mechanism and State-funding mechanism, if applicable, in PY 2017.

### **Nondiscrimination Rules**

#### **Q. How did the Final Rules update non-discrimination policies?**

- A. The non-discrimination and equal opportunity provisions under Section 188 of WIOA will be implemented under a separate rulemaking process by the Department of Labor. These proposed regulations would update nondiscrimination and equal opportunity provisions to be consistent with current law and address its application to current workforce development and workplace practices and issues. The NPRM was published on January 26, 2016 and the public comment period ended on March 28, 2016. DOL currently is in the process of considering all comments in order to finalize the rule.

### **Cooperation/Technical Assistance**

#### **Q. Will the Departments continue collaborating to support ongoing implementation of WIOA?**

- A. Yes. WIOA requires ongoing collaboration at the Federal, State, and local levels across employment and training programs, at both the strategic and operational levels. DOL, ED and HHS will continue to support their shared vision for WIOA implementation, engage in joint monitoring and technical assistance, and continue collaborating in the review and approval of State plans and performance management.

#### **Q. Will the Departments provide training to workforce system professionals to support implementation of the Final Rules?**

- A. Yes. The Departments will provide a range of training opportunities, in both the short and long term, to help States and local areas become familiar with and implement the requirements in the Final Rules. Upon public availability of the Joint Final Rule and the final program-specific rules on the OFR website, the Departments made available fact sheets on the Rules, as well as a general resource guide to assist State and local staff in navigating the Final Rules. Building on the technical assistance already provided, over the next few months, more in-depth, accessible training will be made available. This training will be provided online; at in-person events sponsored by Federal partners, intergovernmental organizations, and State and regional associations; and through Federal Project Officers. The Departments will hold in-person trainings in fall 2016 and in 2017. More information on these trainings will be available shortly.

#### **Q. How do I find the latest Federal guidance on WIOA implementation, technical assistance, and stakeholder engagement?**

A. The most current information on WIOA implementation, including links to guidance and information collections on the WIOA Resource Pages, can be found below. In addition, WIOA technical assistance is available on the Innovation & Opportunity Network <https://ion.workforcegps.org>.

- DOL/Employment and Training Administration – <http://www.doleta.gov/WIOA>
- ED/Office of Special Education and Rehabilitative Services/Rehabilitation Services Administration - <https://rsa.ed.gov/wioa.cfm>
- ED/Office of Career, Technical, and Adult Education - <http://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>
- HHS/Administration for Children and Families - <https://peerta.acf.hhs.gov/ofa-initiative/426>

### **One-Stop Partners**

#### **Q. Are there new partners in American Job Centers?**

A. Yes. Temporary Assistance for Needy Families (TANF), administered by HHS, is now a required partner in the American Job Center, unless the governor opts out. Under WIOA, there continues to be a range of programs required to make their services available through the American Job Center network. These include: Career and Technical Education (Perkins) programs at the postsecondary level, Community Services Block Grant, Indian and Native American programs, HUD Employment and Training programs, Job Corps, Local Veterans' Employment Representatives and Disabled Veterans' Outreach Program, National Farmworker Jobs program, Senior Community Service Employment Program, Trade Adjustment Assistance programs, Unemployment Compensation programs, and YouthBuild. Local boards and chief elected officials may name additional partners to provide services through American Job Centers as partner programs, including libraries, the Ticket-to-Work program, Supplemental Nutrition Assistance programs, State or local programs, and others.

### **Competitive Procurement of One-Stop Operators**

#### **Q. How does the Joint Final Rule implement the WIOA requirement to designate or certify American Job Center operators through a competitive process?**

A. WIOA requires that all one-stop (American Job Center) operators must be designated or certified through a competitive process. The Joint Final Rule requires the States to follow the same competitive process they use for non-Federal funds, and local areas are to follow the principles of competitive procurement in the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance), in 2 CFR part 200 ([http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)). In situations in which the outcome of the competitive selection process is the selection of the Local Workforce Development Board itself as the one-stop operator, the Governor and chief elected official must approve the selection. Through the Departments' use of transition authority under section 503 of WIOA, States and local areas will have until July 1, 2017 to competitively select one-stop operators.

## **Performance Accountability**

### **Q. Can you explain more about the new WIOA joint performance accountability requirements?**

- A. Grantees must begin the process of collecting data for the WIOA performance accountability requirements on July 1, 2016 (PY 2016). The WIOA performance reporting system, which includes the WIOA Joint Participant Individual Record Layout (PIRL), contains the necessary data elements for reporting on the WIOA performance accountability requirements, including the primary indicators of performance. The system also includes the format for the quarterly reports for programs that collect individual records and the WIOA Statewide and Local Performance Report Template to be submitted by States and other grantees.

We know that the States need time to make modifications to their data systems to fully implement the new performance accountability reporting requirements. We expect States to begin the process of data collection on the WIOA performance accountability requirements on July 1, 2016. However, we recognize that States may not be able to report performance information in the early quarters of PY 2016, and we will provide more specific guidance on this reporting shortly. We anticipate States will be able to report performance accountability data in the State Annual Performance Report for PY 2016 due in October 2017, although we recognize it may be incomplete. We also understand that the inherent lags in data availability mean that we will not have full information on outcomes on all indicators until 2018.

We will release more information soon on how to submit the WIOA performance accountability data. The Departments will provide training on the new performance reporting system. The Departments will provide online resources for training and instructions on how to submit grant performance information. Technical support will also be available.

### **Q. Where can I find the performance ICRs, both for the joint performance reporting and the program-specific reporting?**

- A. The ICRs are available at: [www.doleta.gov/performance](http://www.doleta.gov/performance); <https://rsa.ed.gov/wioa.cfm>; and <http://www.ed.gov/AEFLA>.

## **JOINT PERFORMANCE ACCOUNTABILITY OVERVIEW**

### **Q. The eligible training provider (ETP) information in the WIOA Common Performance Reporting package did not clarify how States are to report outcomes for ETPs. Can you please explain the process for reporting ETP information to DOL?**

- A. The information collection that recently took effect provides definitions for terms for ETP reporting, and performance indicators, which will be used for state submission of the ETP Annual Performance Report required under WIOA sec. 116(d)(4). This information collection established clarity regarding the required data, and the authority to begin the

collection of such data. The Departments of Labor and Education will publish a future information collection request detailing the proposed data submission process, data layout, and final form in which the data will be displayed. Therefore, States should be working with their ETPs to begin the collection of this data as defined in the information collection. However, we recognize the information collection for the data submission process, layout, and display will need to be finalized, and States will need some time to implement once these are finalized.

**Q. What key changes do WIOA and the Joint Final Rule make concerning performance accountability?**

A. WIOA and the Joint Final Rule:

- Establish primary performance indicators for the six core programs administered by the Departments of Labor (DOL) and Education (ED) (collectively, Departments), as well as DOL's national programs
- Align data elements and definitions to ensure data comparability
- Require that a statistical adjustment model be used in negotiating levels of performance and adjusting negotiated levels of performance at the end of the program year, to account for the populations served by the programs and economic conditions in the local area
- Standardize annual reports and provide easy-to-understand performance information for consumers and the public, including information about training providers and program performance
- Require sanctions for performance failure or failure to report

**Q. Can you explain more about the new WIOA joint performance accountability requirements?**

A. Grantees must begin the process of collecting data for the WIOA performance accountability requirements on July 1, 2016 (Program Year (PY) 2016).

The WIOA Common Performance Reporting (Joint Information Collection Request (Joint ICR)) system, which includes the WIOA Joint Participant Individual Record Layout (PIRL), contains the necessary data elements for reporting on the WIOA performance accountability requirements, including the primary indicators of performance. The system also includes the format for the quarterly reports for programs that collect individual records and the WIOA Statewide and Local Performance Report Template to be submitted by States and other grantees. The system also includes the requirements for States to report outcomes on the States' eligible training providers' participants. These particular reporting requirements apply only to the WIOA title I eligible training providers.

We know that the States need time to make modifications to their data systems to fully implement the new performance accountability reporting requirements. We expect States to begin the process of data collection on the WIOA performance accountability requirements on July 1, 2016. However, we recognize that States may not be able to report performance

information in the early quarters of PY 2016, and we will provide more specific guidance on this reporting shortly. We anticipate States will be able to report performance accountability data in the State Annual Performance Report for PY 2016 due in October 2017, although the report may be incomplete. We also understand that the inherent lags in data availability means that we will not have full information on outcomes on certain indicators until 2018.

More information will be released soon on the Departments' websites on how to submit the required WIOA performance information and reports. The Departments will provide training on the new performance reporting system, to include online training and instructions on how to submit grantee performance information. Technical support will also be available.

**Q. How will the increased alignment of performance accountability and reporting provisions benefit the public workforce system and its customers?**

A. We have often heard that different programs working toward different performance accountability measures has been an impediment to the alignment of programs and services at the service delivery level, which is a defining principle of the American Job Center system. Aligning performance accountability and reporting for WIOA's core programs and additional DOL-administered programs reduces that barrier, thereby facilitating alignment of programs and services to support customer-centered service approaches by providing a *system* of programs and services that best fits the customer's needs.

Additionally, the ability to look across program results, and to look at the data beneath those results, can provide useful management information and can serve as a basis to evaluate and assess how programs and services are impacting a variety of customers. Customers will also have information to better inform their choices when selecting training programs.

**Q. Where can I find the performance ICRs, both for the joint performance reporting and the program-specific reporting?**

A. The performance reporting requirements for the Department of Labor programs are available at: [www.doleta.gov/WIOA](http://www.doleta.gov/WIOA) and [www.doleta.gov/performance](http://www.doleta.gov/performance); for the Department of Education programs, the requirements are available at <https://rsa.ed.gov/wioa.cfm> and <http://www.ed.gov/AEFLA>.

**Q. Where should I direct questions about the performance accountability and reporting requirements under WIOA?**

A. Department of Labor grantees should contact their Federal Project Officers. Also, the Department of Labor has a dedicated mailbox for all performance-related issues. For Department of Labor programs, States and grantees may send questions or comments to: [ETAPERFORMS@dol.gov](mailto:ETAPERFORMS@dol.gov). Additionally, the ETA performance webpage is consistently updated, and will continue to be updated with new information as it becomes available. That link is: [www.doleta.gov/performance](http://www.doleta.gov/performance). Finally, [www.doleta.gov/WIOA](http://www.doleta.gov/WIOA) will continue to be updated to connect to information and resources.

For the Department of Education's adult education programs, direct comments and questions to [AskAEFLA@ed.gov](mailto:AskAEFLA@ed.gov) and watch [www.ed.gov/AEFLA](http://www.ed.gov/AEFLA) for updates. For the



Department of Education's Vocational Rehabilitation program, grantees may contact their State liaison; a listing of State liaisons is located at <https://rsa.ed.gov/people.cfm>.

## **JOINT PERFORMANCE ACCOUNTABILITY IMPLEMENTATION**

### **Q. How are the Departments of Labor and Education implementing WIOA's performance accountability requirements?**

A. WIOA provides the statutory framework for the new indicators of performance, reporting requirements, and performance accountability system. The Departments of Labor and Education have worked to interpret and operationalize the statutory requirements.

The Departments worked together to develop joint regulations for performance, which are applicable across WIOA's core programs as well as across DOL-administered programs authorized by WIOA, with certain distinctions based on programmatic requirements.

In addition, the Departments finalized the WIOA Common Performance Reporting Information Collection Request (Joint ICR), which authorizes the collection of performance-related data and information. This Information Collection provides common definitions and calculations to fulfill WIOA's performance accountability and reporting requirements. This Information Collection also provides templates for submission of the State Annual Performance Report for all of the WIOA core programs, the Local Area Performance Report for the WIOA Adult, Dislocated Worker, and Youth programs, and the data requirements for the Eligible Training Provider Annual Performance Report.

Further, the Departments of Labor and Education each developed program-specific ICRs to collect additional information unique to the Departments' programs. The Department of Labor finalized the Performance Accountability, Information, and Reporting System, through which the following programs will report: WIOA Adult, Dislocated Worker, Youth, Wagner Peyser Employment Service, National Farmworker Jobs Program, Trade Adjustment Assistance, YouthBuild, National Dislocated Worker Grants, Indian and Native American Program, Job Corps, Reentry Employment Opportunities programs, H-1B Technical Skills Training Grants, and Jobs for Veterans' State Grants (JVSG). The JVSG statute requires performance measures for that program to "be consistent with State performance accountability measures" under WIOA. While Trade Adjustment Assistance, H1-B Technical Skills Training Grants, and the Reentry Employment Opportunities programs are not authorized under WIOA, these programs will be utilizing the data element definitions and reporting templates in this collection of information. This system includes several information collection instruments—Program Performance Report, WIOA Pay-for-Performance Report, Participant Individual Record Layout (PIRL), WIOA Data Element Specifications, and Job Openings Report.

The Department of Education developed program-specific ICRs for the State Vocational Rehabilitation Services and the State Supported Employment Services programs. The Adult Education and Family Literacy Act program released its National Reporting System ICR that includes changes to aggregate tables to conform to the WIOA Common Performance Reporting (Joint ICR). The Vocational Rehabilitation program released an updated RSA-

911 form to collect required reporting elements and to align with the WIOA Common Performance Reporting (Joint ICR).

The Departments of Labor and Education sought extensive public input when developing the proposed joint regulations and the ICRs, and analyzed all comments prior to finalizing these packages. In addition to these efforts, the Departments will develop further guidance to assist the workforce development system, and will provide ongoing technical assistance to support grantees throughout implementation.

**Q. Are the Departments of Labor and Education negotiating levels of performance in PY 2016? If so, will the Departments negotiate levels of performance for all indicators?**

- A. State Plans that were submitted earlier this year were required to include expected levels of performance for certain primary indicators of performance. Those indicators are the basis for negotiations that the Departments will use to establish negotiated levels of performance, which are incorporated into the approved Unified or Combined State Plan. For all WIOA core programs, all primary indicators of performance that will not be negotiated are designated as baseline indicators for these two years. States were not required to include expected levels of performance for these baseline indicators in the State Plan.

For the WIOA adult, dislocated worker, youth, and Wagner-Peyser programs, the Department of Labor is using transition authority in WIOA sec. 503(a) to extend the negotiation period for those indicators past June 30, 2016; negotiations are to conclude no later than August 15, 2016. For the Adult Education and Family Literacy Act program, the Department of Education completed negotiations on the measurable skill gain indicator by June 30, 2016 based on data currently available; however, negotiations on this indicator in future years will include expanded options reflected in the Joint Final Rule. For the Vocational Rehabilitation State grant program, the Department of Education is using the transition authority to take the time necessary to implement a negotiation process for the first time for this program; therefore, the program will not have negotiated indicators of performance for the first two years of the initial State Plan submitted in spring 2016.

The Department of Labor guidance for negotiations is available at: [www.doleta.gov/performance](http://www.doleta.gov/performance).

The Office of Career, Technical, and Adult Education's guidance used during its negotiations with States is available at: [www.ed.gov/AEFLA](http://www.ed.gov/AEFLA).

**Q. For which performance indicators will States have full data available for reporting at the end of PY 2016?**

- A. States should be able to report full data for the measurable skill gains indicator at the end of PY 2016. Due to the structure of the reporting requirements (the timeframe at which the indicators are measured, as far out as 4 quarters after a participant exits, as well as availability of the wage record information at the State level, which is necessary for reporting on some of the indicators), there will not be full data to report on the other performance indicators in PY 2016. Full data will be available to enable full reporting on outcomes for all indicators of performance in PY 2018.

**Q. Since full data will not be available for most indicators at the end of PY 2016, why are levels of performance being negotiated for PY 2016?**

A. WIOA sec. 116(b)(3)(iv) requires States to reach agreement with the Departments of Labor and Education on levels of performance for the primary indicators of performance for the core programs for the first two years of WIOA performance reporting (PY 2016 and PY 2017). For the titles I and III programs, the Department of Labor will negotiate those indicators for which sufficient historical (proxy) data were available to develop the statistical adjustment model: employment in the 2<sup>nd</sup> quarter after exit, employment in the 4<sup>th</sup> quarter after exit, median earnings in the 2<sup>nd</sup> quarter after exit (for all DOL core programs except for the youth program), and credential attainment (for the title I core programs). For the Adult Education and Family Literacy Act program, the Department of Education negotiated with States to agree on levels of performance for only the measurable skill gains indicator because baseline data for that indicator was available to the States. For the Vocational Rehabilitation State grant program, the Department of Education is using the transition authority to take the time necessary to implement a negotiation process for the first time for this program; therefore, the program will not have negotiated indicators of performance for the first two years of the initial State Plan submitted in spring 2016. However, the Departments of Labor and Education will only consider outcomes for indicators for which levels of performance have been negotiated and results have been reported for two years in assessing any financial sanction for failure to achieve adjusted levels of performance.

**Q. I have seen familiar terms like “participant,” as well as new terms like “reportable individual.” I would like more information on what these terms mean; will there be additional guidance on these terms (and others) soon?**

A. The Joint Final Rule defines “participant,” “reportable individual,” and “exit.” The Departments are developing comprehensive joint guidance regarding the performance accountability system, including applicability of the definitions to that system. Detailed explanations with examples and scenarios will be provided for these terms as well as many others.

**Q. Through the previous comment periods of the performance accountability documents, there was some language about utilizing a unique identifier throughout the program year. Can the Departments please elaborate on this?**

A. As referenced in the preamble of the final rule, the Departments are asking States administering the WIOA core programs to create a unique identifier per participant within a given program year. For the Vocational Rehabilitation (VR) program, additional information is provided in the VR specific ICR. Additional information regarding the use of a unique identifier across DOL-administered programs is provided in the FAQ for DOL-only performance accountability implementation. The Departments encourage States to consider methods in which common unique identifiers can be used across the core programs, but we also acknowledge that this is likely a long term goal.

## **DOL-ONLY PERFORMANCE ACCOUNTABILITY IMPLEMENTATION**

**Q. DOL released two separate information collections – the WIOA Common Performance Reporting package, and the DOL-only Performance Reporting package. Why are these separate, and how do they tie together?**

A. The set of documents labeled “WIOA Common Performance Reporting” includes the common data elements for calculating the primary indicators of performance for the six core programs, as well as the annual performance reports required by WIOA, to be submitted by the States and grantees to the Department of Labor or Education, as appropriate. These data elements are used by both the Department of Labor and the Department of Education core programs for purposes of performance accountability and reporting.

For DOL programs, the WIOA Performance Accountability, Information and Reporting System (*i.e.*, the DOL-only Performance Reporting package) contains the data elements, reporting templates, and specifications required for most of DOL’s workforce programs to use for performance accountability purposes. States and grantees of DOL-only funded programs (including both DOL core programs and DOL-funded programs identified above) will submit data files as prescribed in the WIOA Performance Accountability, Information and Reporting System. All of the data elements described in the WIOA Common Performance Reporting package are repeated in the DOL-only Performance Reporting package. DOL will be providing additional guidance regarding this system, including a user’s guide.

**Q. Under WIA, we submitted data in the “WIASRD” format. Does the WIASRD still exist? What is the “PIRL”?**

A. As WIA reporting comes to a close, so does the Workforce Investment Act Standardized Record Data (WIASRD), which will not be used for WIOA performance reporting after PY 2015 concludes. The Participant Individual Record Layout, or PIRL, will be used for reporting on WIOA participants, beginning 7/1/2016. The PIRL is the data dictionary and scheme for which states and grantees submit quarterly data files. While the PIRL has a form number given by the Office of Management and Budget, it is meant only as the guideline for states and grantees to produce a comma delimited text file, unless the program utilizes a DOL-funded national case management system (e.g., YouthBuild).

**Q. How did the Department of Labor determine which programs to include in the WIOA Performance Accountability, Information and Reporting System?**

A. Consistent with WIOA’s vision for greater alignment of performance accountability and data, the Department of Labor included all programs authorized under WIOA. In addition, the recent reauthorization of the Trade Adjustment Assistance (TAA) program further aligned the performance accountability provisions of TAA with WIOA, and therefore, DOL included TAA as well. The JVSG statute requires performance measures for that program to be consistent with State performance accountability measures under WIOA. DOL used its discretion to incorporate Reentry Employment Opportunities and its discretionary investments (*i.e.*, H-1B grants) to facilitate alignment in performance accountability and reporting.

At the time of the initial development of the PIRL, the Senior Community Service Employment Program had statutorily defined performance indicators that differed from

WIOA, therefore SCSEP was not included at that time. The recent reauthorization of the SCSEP brought greater statutory alignment with the performance accountability provisions of WIOA. Therefore, DOL will work to further align SCSEP reporting with the PIRL, to the extent practicable, through implementation processes, which will include public comment.

**Q. How do we report on WIA participants who exit on or after 7/1/2016, the effective date for WIOA performance provisions? Are they expected to be reported under WIOA?**

A. WIOA reporting specifications require States to include those participants who exited on or after 7/1/2016 in the WIOA performance reporting, regardless of the date on which participation began. However, the Department will not require states or grantees to retroactively gather information regarding any new PIRL data elements (such as status as “long-term unemployed”) for those participants who began before 7/1/2016.

**Q. How do we report on WIA Adult, Dislocated Worker and Youth and Wagner-Peyser exiters who complete their program before 7/1/2016, but for whom results are not yet available for reporting?**

A. States should retain data on WIA Title I and Wagner-Peyser participants who exited before 7/1/2016, until wage record information is available to conduct the match to produce WIA related outcomes (the end of calendar year 2017), at which time a WIA “closeout report” on all outcomes for WIA exiters not captured in the PY 2015 WIA annual report will be collected. More details on this closeout report will be forthcoming.

**Q. Will we still use the Enterprise Data Reporting and Validation System (EDRVS) for our reporting purposes? How will the other programs listed in the PIRL be expected to report?**

A. Ushering in the opportunities provided under WIOA, DOL has taken this opportunity to create a more streamlined integrated federal reporting portal. EDRVS will accept the WIASRD and Wagner-Peyser Service layout files through the end of PY 2015 and the WIA close-out report. However, WIOA reporting will be done through the new, more streamlined, reporting portal. This new DOL system will be announced and tested in the coming months, and we anticipate that it will be in place in time for reporting in the first quarter of PY 2016. We acknowledge that States may not have their systems ready to submit their files in the first quarter, and we will work with States to accommodate their schedule.

**Q. The information collections for performance accountability and reporting discuss the use of a unique identifier across DOL programs. Which programs are included in this request, and will DOL be issuing additional guidance on this topic?**

A. Yes, the information collection requires use of a common unique identifier across the WIOA Adult, Dislocated Worker and Youth programs and the Wagner-Peyser program, and encourages States to expand the use of this identifier across the DOL programs it administers. This approach will provide greater information to policy makers on the dynamics of the workforce system within the State. DOL will be providing additional

guidance regarding the creation of unique identifiers and their usage across DOL programs. If the State agency were to submit a unified PIRL file, the onus would be on the State to establish a unique individual identifier across all programs included in that submission, but this is not required at this time.

### **Adult Education Topics**

#### **Q. How does WIOA allow for and incentivize adult education programs to continue to serve adults with the lowest levels of literacy and English proficiency?**

A. WIOA repeatedly prioritizes services to individuals with barriers to employment, and the statute lists 14 categories of barriers, including individuals with low levels of literacy and English language learners. In addition, States must consider local providers' ability to serve these individuals, among other considerations. Programs are required to report disaggregated data on these individuals, including the total number of participants in each category served and exited, as well as disaggregated outcome data on each indicator of performance. This data will provide us new insight into the needs of our clients, and may help to surface promising practices for serving particular populations. The goal is to create a seamless, high-quality, and accessible workforce development system that meets the needs of individuals, many of whom may have low levels of literacy or English proficiency. Youth and adults should be able to come to an American Job Center and get the supports and services they need to move toward self-sufficiency and greater economic stability for their family. This law gives each adult education partner the opportunity to leverage the expertise that the other core partners bring to support the community's needs. As local programs become more effective at partnering and being responsive to local needs and equity gaps, we will see the youth and adults we serve achieve outcomes and reach their goals.

#### **Q. How is WIOA changing adult education services for English language learners, particularly for immigrants and refugees?**

A. WIOA expands services to English language learners. In addition to requiring that the program of instruction be designed to help English language learners achieve competence in reading, writing, speaking, and comprehension of the English language and mathematics, it also requires that the program of instruction must lead to attainment of a secondary school diploma or its recognized equivalent and then transition to postsecondary education and training, or employment. It also authorizes an Integrated English Literacy and Civics Education program that blends civics instruction with English proficiency training. This new program includes an emphasis on supporting economic self-sufficiency by working closely with the local workforce development system.

### **Vocational Rehabilitation (VR) Topics**

#### **Q. How does WIOA strengthen the focus of the VR program on competitive integrated employment?**

A. WIOA reinforces the principle that individuals with disabilities, including those with the most significant disabilities, are capable of achieving high quality, competitive integrated employment when provided the necessary services and supports. WIOA amends the

Rehabilitation Act of 1973 (Rehabilitation Act) to expand VR services designed to maximize the potential of individuals with disabilities and adds new provisions that limit the payment of subminimum wages to individuals with disabilities.

WIOA emphasizes the provision of services, such as customized employment and supported employment (SE) services, to assist individuals with disabilities, including those with the most significant disabilities, achieve competitive integrated employment. WIOA extends the period for the provision of SE services from 18 to 24 months and limits the amount of SE funds that can be used for administrative costs to 2.5 percent, thereby maximizing the benefit of SE services to individuals with the most significant disabilities. WIOA emphasizes the VR agencies' authority to engage with employers to provide work-based learning experiences and identify competitive integrated employment for individuals with disabilities in the job-driven workforce. WIOA also promotes career advancement through graduate degrees, particularly in STEM fields.

WIOA requires individuals with disabilities seeking or continuing employment at subminimum wages with entities holding special wage certificates under section 14(c) of the Fair Labor Standards Act to access services, including VR services, which maximize their opportunities to achieve competitive integrated employment. WIOA requires that VR agencies provide these individuals career counseling and information and referral services at specific intervals while they are employed at subminimum wages.

**Q. How does WIOA enhance the provision of VR services to youth and students with disabilities?**

A. WIOA expands not only the population of students with disabilities who may receive VR services but also the breadth of services that the VR agencies may provide to youth and students with disabilities who are transitioning from school to postsecondary education and employment. WIOA increases opportunities for students and youth with disabilities to practice and improve workplace skills, including internships and apprenticeships. WIOA requires VR agencies to reserve at least 15 percent of Federal VR program funds for the provision of pre-employment transition services to assist students with disabilities transition from secondary school to postsecondary education programs and employment. With the amendments made by WIOA, pre-employment transition services are available to students with disabilities, regardless of whether they have applied and been determined eligible for VR services. WIOA also expands the authority of VR agencies to provide transition services to groups of students and youth with disabilities.

WIOA also requires VR agencies to reserve 50 percent of their Federal SE program allotment for the provision of SE services, including extended services, to youth with the most significant disabilities and expand the use of these funds to allow VR agencies to provide extended services for these youth up to four years. WIOA strengthens coordination between VR agencies and local educational agencies in the provision of transition services provided under the Individuals with Disabilities Education Act and the provision of pre-employment transition services under the VR program.