ALABAMA WORKFORCE INVESTMENT SYSTEM

Alabama Department of Economic and Community Affairs
Workforce Development Division
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February 9, 2012

GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY 2011 – 13

SUBJECT: Training and Employment Guidance Letter (TEGL)

1. **Purpose.** This transmits the following TEGL:

Number	Date	Subject
11-01, 1	08/12/11	Guidance on Revising Workforce Investment Act (WIA) State Negotiated Levels of Performance

2. **Discussion.** TEGL No.11-01, Change 1 announces the rescission to TEGL No. 11-01 and reflects modifications, which include the following: updated information regarding the regression modeling tool for target setting, revised time periods to submit renegotiated goals, and updated language to include the common measures waiver in negotiations.

   This guidance letter describes criteria and procedures the Department of Labor (DOL) will use when considering state requests to revise negotiated levels of performance established under title IB of WIA..

3. **Action.** TEGL No. 11-01, Change 1 is attached for informational purposes.

4. **Contact.** Questions regarding this TEGL should be directed to Sara Calhoun, Workforce Development Division at Sara.Calhoun@ADECA.Alabama.gov or 334.353.1632.

Steve Walkley, Division Chief
ADECA, Workforce Development Division

Attachment: TEGL 11-01, Change 1

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Performance Levels
	CORRESPONDENCE SYMBOL OPDR-OWI
	DATE August 12, 2011

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-01, Change 1

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

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Guidance on Revising Workforce Investment Act (WIA) State Negotiated Levels of Performance

1. Purpose. This change Training and Employment Guidance Letter (TEGL) is being issued to reflect modifications made to the original TEGL 11-01, which include the following: updated information regarding the regression modeling tool for target setting, revised time periods to submit renegotiated goals, and updated language to include the common measures waiver in negotiations.

   This guidance letter describes criteria and procedures the Department of Labor (DOL) will use when considering state requests to revise negotiated levels of performance established under title IB of WIA.

2. References.
   - WIA Section 136.
   - WIA regulations at 20 Code of Federal Regulations (CFR) part 666.
   - WIA regulations at 20 CFR 661.230(b)(2).

3. Background. Under WIA title I, subtitle B, each state workforce agency must negotiate expected levels of performance with DOL for the adult, dislocated worker, and youth programs, as well as customer satisfaction, for a total of 17 measures (unless the state has a common measure waiver, in which case the state would only be required to negotiate the nine common measures).

RESCISSIONS	EXPIRATION DATE
TEGL 11-01	Continuing

Section 136(b)(3)(A)(vi) of WIA permits each Governor to request revisions to the state negotiated levels of performance in the event "unanticipated circumstances arise in a state resulting in a significant change in the factors" described in section 136(b)(3)(A)(iv)(II) of WIA. These factors include the economic conditions for the state, the characteristics of participants, and the services provided to participants.

TEGL 11-01 was published in February 2002 and was based in large part on a workgroup of state and local representatives who convened in 2001. At the time, a negotiations-based accountability framework represented a new approach to the determination of performance levels. Therefore, obtaining input on a renegotiation framework from the workforce system was critical, and TEGL 11-01 reflected the workgroup's contributions. This guidance letter rescinds the original policy and provides updated information and language.

4. **Policy on Requesting Revisions**. DOL views the process of establishing and revising negotiated levels of performance as a way to promote performance accountability and continuous improvement. Beginning with Program Year 2011, the Governor may request a revision to the corresponding Regional Office for one or more negotiated performance levels by the end of the third quarter (March 31) of the current program year for which the revised level(s) would apply. Further, to be considered for incentive awards, the Governor's request (including new proposed goals) must be received by the corresponding Regional Office by the end of the second quarter of the current program year (December 31). This policy allows adjustments to negotiated performance goals in order to account for changes in economic conditions, changes in the characteristics of the participants served by the program, and changes in service delivery design. DOL expects a request for revisions to performance levels to be submitted by a state workforce agency as soon as possible after the identification of the unanticipated circumstance.

5. **Negotiation Process for Revising Levels of Performance**. Each request submitted by a state workforce agency for a revision to one or more performance levels will be reviewed by the Employment and Training Administration (ETA) Regional Office based on its own merits.

   1) The Request. Each state workforce agency seeking a revision will develop and submit a written request to the ETA Regional Office serving the state.

   2) Review of the Request. The ETA Regional Office will review the request and determine whether the state request appropriately documents and satisfies each of the following three conditions listed below. Each of these conditions are discussed in more detail in Attachment I.

      a) Condition 1. The request must articulate an unanticipated circumstance.

b) Condition 2. The unanticipated circumstance, in turn, must impact one or more factors. There should be evidence to associate the unanticipated circumstance with an actual change in one or more of the factors.

c) Condition 3. The stated variations from expected outcomes identified in the request must be linked to the stated significant changes in factors. There should be sufficient and appropriate documentation to explain and justify the proposed revised levels of performance.

3) The Negotiation. The revised levels of performance will be negotiated between the ETA Regional Office and state workforce agency staff to ensure that reasonable and appropriate levels are set. The ETA Regional Office will identify where data or information are insufficient to justify the request. Both the ETA Regional Office and state staff should work together to ensure the necessary information is included and considered when processing the request.

4) The Decision. The ETA Regional Office will convey the results of the negotiation to the state workforce agency within 30 working days after receipt of the written request. All approved revisions will be incorporated into the State Plan through a plan modification. Please note that modifications to the State Plan are subject to the same public review and comment requirements that apply to the development of the original State Plan. The ETA Regional Office will maintain all documentation supporting its decision. Approved revised levels of performance will be effective on the date agreement is reached between the ETA Regional Office and the state workforce agency, and will be applied to the entire program year in question. In the event one or more of these revised levels are changed afterwards as a result of the public review and comment requirement, the impacted request and decision will be reconsidered by the ETA Regional Office. States should direct any questions about the plan modification process to their ETA Regional Office.

6. **Factors to be Included in the Renegotiation Justification.** When determining whether sufficient information is available to document and satisfy the three conditions, the ETA Regional Office will look for:

   - A description of the nature of the problem or mitigating circumstance, including a description of when the unanticipated circumstance occurred and its duration or expected duration (Condition 1).

   - The performance measure(s) and program year(s) affected by the request (Condition 2).

- Evidence of the change in the factors taken into account in the earlier negotiation(s), the forecasted factor values, if appropriate, and the estimated impact on the performance outcome(s) (Condition 2 and Condition 3).

- A description of the approach(s) used to determine revised levels of state negotiated performance, including methods used to forecast annual factor values, if appropriate (Condition 3).

- A description of the data source(s) used to demonstrate change in the factors and a description of the data sources used to forecast values for the factors, if appropriate (Condition 3).

- The computations for the revised performance level(s) included in the request (Condition 3).

As noted, this guidance for justifying revisions to negotiated levels of performance reflects input from a workgroup of state and local officials. Attachment I summarizes, in greater detail, each of the three conditions cited earlier and largely reflects comments from the stakeholders' workgroup. Attachment II describes one approach that state workforce agencies may find useful when calculating appropriate levels of performance. ETA Regional Offices will use these attachments as a guide when reviewing requests. States may also want to consider them when analyzing performance levels and developing appropriate requests for revisions.

7. **Action Requested.** States should distribute this TEGL to all officials within the state who need such information to implement the performance accountability policies under the WIA.

8. **Inquiries.** Questions concerning this issuance should be directed to your appropriate ETA Regional Office.

9. **Attachment.**

Attachment I:	Relating the Three Conditions for Revising Levels of Negotiated Performance
Attachment II:	The Weighted Average Approach to Revising Levels of Negotiated Performance