ALABAMA WORKFORCE INVESTMENT SYSTEM

Department of Commerce
Workforce Development Division
401 Adams Avenue
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October 29,2015
GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY2015-05

SUBJECT: Training and Employment Guidance Letter (TEGL) WIOA – Guidance on the provision of Adult and Dislocated Worker Services and Sub-State Allocations

1. Purpose. This transmits the following TEGL WIOA:

Number	Date	Subject
3-15	07/01/15	Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services

2. Discussion. The purpose of TEGL WIOA No. 3-15 is to provide guidance to the workforce system on providing services under the Adult and Dislocated Worker programs under WIOA Title I, and individuals served by Wagner-Peyser, as amended by WIOA Title III, beginning July 1, 2015. This guidance also includes clarifications and flexibilities on using these funds and guidance to States for making sub-state allocations with Adult, Youth, and Dislocated Worker formula funds.

TEGL WIOA 3-15 provides definitions for Career Services and guidance on the provision of three types of career services: Basic, Individualized, and Follow-up. It also provides guidance on Career Services provided by Wagner-Peyser Staff, Employment Status Clarification, Training Services, Priority Populations, Sub-State Allocations, Training Contracts, Work-based Training, Supportive Services and Needs-Related Payments, Coordination with Trade Adjustment Assistance (TAA), Other Permissible Local Activities, and Rapid Response.

3. Action. This Directive should be distributed accordingly to local areas, workforce staff, and partners. Local area staff should review and use the guidance provided in TEGL WIOA No. 3-15 to conduct WIOA activities and provide Adult and Dislocated Worker services.

4. Contact. Questions or comments concerning this Directive should be referred to Lorilei Sanders, State Programs, Planning, and Divisional Budget Management Section at (334) 353-1632 or lorilei.sanders@commerce.alabama.gov.

Steve Walkley, Division Chief
Workforce Development Division
Alabama Department of Commerce

10/29/2015
Date

Attachment
TEGL WIOA No. 3-15

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIOA – Adult, Dislocated Worker, ES
	CORRESPONDENCE SYMBOL OWI
	DATE July 1, 2015

ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER WIOA NO. 3-15 OPERATING GUIDANCE for the WORKFORCE INNOVATION AND OPPORTUNITY ACT (referred to as WIOA or the Opportunity Act)**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
LABOR COMMISSIONERS
AMERICAN JOB CENTERS

FROM: PORTIA WU
Assistant Secretary

SUBJECT: Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services

1. **Purpose.** To provide guidance to the workforce system on providing services under the Adult and Dislocated Worker programs under WIOA Title I, and individuals served by Wagner Peyser, as amended by WIOA Title III, beginning July 1, 2015. This guidance also includes clarifications and flexibilities on using these funds and guidance to States for making sub-state allocations with Adult, Youth, and Dislocated Worker formula funds.

   WIOA was signed into law on July 22, 2014. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA supersedes Titles I and II of the Workforce Investment Act of 1998 and amends the Wagner-Peyser Act and the Rehabilitation Act of 1973. In general, the Act takes effect on July 1, 2015, the first full program year after enactment, unless otherwise noted.

   The Departments of Labor and Education published a set of regulations for implementing WIOA through the posting of five Notice of Proposed Rulemaking (NPRMs) documents. These NPRMs were open for public comment until June 15, 2015, and several hundred comments were received by both Departments. The Federal agencies will review, analyze and consider the comments received. The Final WIOA rules will be issued in 2016.

   In order to continue implementation prior to the final rule, a series of WIOA Operating Guidance documents are being issued in the form of Training and Employment Guidance

RESCISSIONS	EXPIRATION DATE
None	Continuing

Letters (TEGLs). These Operating Guidance documents on WIOA will inform the workforce system on how to begin the important planning and organizational work necessary to comply with the WIOA statutory requirements. The Operating Guidance TEGLs will provide a framework for program activities until the regulations are finalized. This TEGL is one in a series of WIOA Operating Guidance.

2. **References**. See Attachment.

3. **Background**. The WIOA Adult and Dislocated Worker formula programs, in coordination with the Wagner-Peyser (WP) Employment Service (ES), are pivotal pieces of the one-stop delivery system, which is the foundation of the workforce system. The system provides universal access to career services to meet the diverse needs of adults and dislocated workers. The adult and dislocated worker programs are required partners in the one-stop delivery system. WIOA made some significant reforms to how services are delivered in the one-stop delivery system to adults and dislocated workers. Under WIOA adults and dislocated workers may access career services and training services. WIOA provides for a workforce system that is universally accessible, customer centered, and training that is job-driven. WIOA will provide for career and training services at the nation's nearly 2,500 one-stop centers (currently referred to as American Job Centers). Training is supported through a robust Eligible Training Provider List (ETPL), comprised of entities with a proven capability of securing quality employment outcomes for participants. WIOA also provides enhanced access and flexibility for work-based training options, such as Registered Apprenticeship (RA), on-the-job training, customized training, and incumbent worker training.

4. **Career Services.** WIOA authorizes "career services" for adults and dislocated workers, rather than "core" and "intensive" services, as authorized by WIA. There are three types of "career services": basic career services, individualized career services, and follow-up services. These services can be provided in any order; there is no sequence requirement for these services. Career services under this approach provide local areas and service providers with flexibility to target services to the needs of the customer.

   The three categories of career services are defined as follows:

   Basic Career Services

   Basic career services must be made available to all individuals seeking services served in the one-stop delivery system, and include:

   - Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
   - Outreach, intake (including identification through the state's Worker Profiling and Reemployment Services system of unemployment insurance (UI) claimants likely to exhaust benefits), and orientation to information and other services available through the one-stop delivery system;

- Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs;
- Labor exchange services, including—
    - Job search and placement assistance, and, when needed by an individual, career counseling, including—
        - Provision of information on in-demand industry sectors and occupations (as defined in sec. 3(23) of WIOA); and,
        - Provision of information on nontraditional employment (as defined in sec. 3(37) of WIOA);
- Provision of referrals to and coordination of activities with other programs and services, including those within the one-stop delivery system and, when appropriate, other workforce development programs;
- Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—
    - Job vacancy listings in labor market areas;
    - Information on job skills necessary to obtain the vacant jobs listed; and
    - Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those jobs;
- Provision of performance information and program cost information on eligible providers of training services by program and type of providers;
- Provision of information about how the local area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system;
- Provision of information relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including: child care; child support; medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program; benefits under the Supplemental Nutrition Assistance Program (SNAP); assistance through the earned income tax credit; housing counseling and assistance services sponsored through the U.S. Department of Housing and Urban Development (HUD)[1]; and assistance under a State program for Temporary Assistance for Needy Families (TANF), and other supportive services and transportation provided through that program;
- Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA; and
- Provision of information and assistance regarding filing claims under UI programs, including meaningful assistance to individuals seeking assistance in filing a claim—
    - Meaningful assistance means providing assistance:
        - On-site using staff who are properly trained in UI claims, filing, and/or the acceptance of information necessary to file a claim[2], or

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1 HUD Approved Housing Counseling Agencies, http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm

2 The staff providing meaningful assistance may be UI, Wagner-Peyser, or other one-stop partner staff members who have been properly trained to provide this type of assistance and service. However, as described in Unemployment

        - By phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time;
    - The costs associated in providing meaningful assistance may be paid for by the State's UI program, the WIOA Adult or Dislocated Worker programs, the Wagner-Peyser Employment Service, or some combination thereof these funding sources.

Individualized Career Services

If one-stop center staff determine that individualized career services are appropriate for an individual to obtain or retain employment, these services must be made available to the individual. These services must be available in all one-stop centers. One-stop center staff may use recent previous assessments by partner programs to determine if individualized career services would be appropriate. These services include:

- Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—
    - Diagnostic testing and use of other assessment tools; and
    - In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;
- Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information about, eligible training providers;
- Group and/or individual counseling and mentoring;
- Career planning (e.g. case management);
- Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for unsubsidized employment or training, in some instances pre-apprenticeship programs may be considered as short-term pre-vocational services;
- Internships and work experiences that are linked to careers;
- Workforce preparation activities that help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in utilizing resources, using information, working with others, understanding systems, and obtaining skills necessary for successful transition into and completion of postsecondary education, or training, or employment;
- Financial literacy services;
- Out-of-area job search assistance and relocation assistance; and
- English language acquisition and integrated education and training programs.

Insurance Program Letter No. 12-01, Change 1, *Outsourcing of Unemployment Compensation Administrative Functions – Claims Taking*, only merit staff may, in person at one-stop centers or remotely, answer questions, provide advice, or make decisions that could affect claimants' UI eligibility, although other one-stop staff may assist in claims taking by rote acceptance of information.

Follow-up Services

Follow-up services must be provided as appropriate for participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. Counseling about the work place is an appropriate type of follow-up service. Follow-up services do not extend the date of exit in performance reporting.

Transitioning to Career Services: All career services described above must be made available in one-stop centers beginning on July 1, 2015. There is no operational requirement that services must happen in a specific sequence, and any forms and collateral materials that reflect a sequence of service requirements must be updated beginning July 1, 2015[3]. For reporting purposes, until reporting systems are in place to report career services, please report basic career services as core services, and individualized career services as intensive services. We will issue subsequent guidance on performance reporting for WIOA activities.

5. **Career Services provided by Wagner-Peyser staff.** Labor exchange services, which are the primary services provided by WP staff, fall under the Basic Career Services mentioned in Section 4 of this TEGL. Additionally, all of the Basic Career Services must be made available by WP staff in coordination with other one-stop center partners. Staff also may make available the Individualized Career Services discussed in Section 4 of this TEGL, particularly for those individuals with barriers to employment as defined in WIOA sec. 3(24).

6. **Employment Status Clarification.** In addition to providing career and training services to individuals who are unemployed, there remains a significant population of job seekers who are underemployed. Individuals who are underemployed may include:
   - Individuals employed less than full-time who are seeking full-time employment;
   - Individuals who are employed in a position that is inadequate with respect to their skills and training;
   - Individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); and
   - Individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment, per State and/or local policy.

   Individuals who are underemployed and meet the definition of a low-income individual may receive career and training services under the Adult program on a priority basis per Section 8 of this TEGL. Individuals who meet the definition of an individual with a barrier to employment (see WIOA sec. 3(24)) who are underemployed may also be served in the Adult program. Individuals who were determined eligible for the Dislocated Worker program who

3 The division between basic career services and individualized career services was not intended to imply that an individual must receive basic career services before moving to individualized career services. It was simply to clarify that individualized services must be made available to people who the one-stop center has determined require the individualized services to obtain or retain employment, while basic career services must be made available to everyone.

are determined by State and/or local policies to be underemployed, may still be considered eligible for career and training services under this program. We encourage states and local areas to develop policies and procedures for determining underemployment for both adult and dislocated workers.

7. **Training Services.** Training services can be critical to the employment success of many adults and dislocated workers. There is no sequence of service requirement for "career services" and training. This means that the State Workforce Agency (SWA) or one-stop center staff may determine training is appropriate regardless of whether the individual has received basic or individualized career services first. Under WIOA, training services may be provided if the SWA or one-stop center staff determine, after an interview, evaluation or assessment, and career planning, that the individual:
   - Is unlikely or unable to obtain or retain employment, that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services alone;
   - Is in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment, through career services alone; and
   - Has the skills and qualifications to successfully participate in the selected program of training services.

   Training services, when determined appropriate, must be provided either through an Individual Training Account (ITA) or through a training contract discussed in Section 10 of this TEGL. Training services must be linked to in-demand employment opportunities in the local area or planning region or in a geographic area in which the adult or dislocated worker is willing to commute or relocate. The selection of training services should be conducted in a manner that maximizes customer choice, is linked to in-demand occupations, informed by the performance of relevant training providers, and coordinated to the extent possible with other sources of assistance (see WIOA sec. 134(c)(3)).

   Transitioning to Training Services

   Beginning on July 1, 2015, States and local area policies and procedures for training individuals in the Adult and Dislocated Worker programs must reflect the criteria above. States and local areas need to ensure they formulate a process for determining self-sufficiency standards for individuals to receive training. Developing a self-sufficiency standard is an allowable statewide activity (per WIOA section 134(a)(3)(A)(xii)), and adjusting the self-sufficiency standard for local factors is an allowable local activity (per WIOA section 134(d)(1)(A)(x)).

8. **Priority Populations under WIOA.** Services provided to adults and dislocated workers under Title I of WIOA can be a pathway to the middle class and for maintaining and building the skills to remain in the middle class. WIOA provides a focus on serving "individuals with barriers to employment," defined in WIOA section 3(24) and seeks to ensure access to these populations on a priority basis. The priority populations are discussed below:

Priority for Adult Funds

Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. Under this section, one-stop center staff responsible for these funds must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient in the provision of individualized career services, discussed in Section 4 of this TEGL, and training services, discussed in Section 7. Under WIA, priority was required to be given to public assistance recipients and low-income individuals when States and local areas determined that allocated funds were limited. Under WIOA, priority must be provided regardless of the level of funds. WIOA also expanded the priority to include individuals who are basic skills deficient as defined in WIOA section 3(5).

Veterans and eligible spouses continue to receive priority of service for all DOL-funded job training programs, which include WIOA programs. However, as described in TEGL 10-09, when programs are statutorily required to provide priority for a particular group of individuals, such as the WIOA priority described above, priority must be provided in the following order:

i. First, to veterans and eligible spouses who are also included in the groups given statutory priority for WIOA adult formula funds. This means that veterans and eligible spouses who are also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient would receive first priority for services provided with WIOA adult formula funds.
ii. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are included in the groups given priority for WIOA adult formula funds.
iii. Third, to veterans and eligible spouses who are not included in WIOA's priority groups.
iv. Last, to non-covered persons outside the groups given priority under WIOA.

Note: When past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded for the veteran and for other individuals for whom those amounts would normally be applied in making an eligibility determination. Military earnings are not to be included when calculating income for veterans or transitioning service members for this priority, in accordance with 38 U.S.C. 4213.

Serving Separating Service Members and Military Spouses with Dislocated Worker Funds

Under TEGL 22-04, service members exiting the military, including, but not limited to, recipients of Unemployment Compensation for Ex-Military members (UCX), generally qualify as dislocated workers. Dislocated Worker funds under Title I can help separating service members to enter or reenter the civilian labor force. Generally a separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or

other appropriate documentation that shows a separation or imminent separation from the Armed Forces qualifies as the notice of termination or layoff, to meet the required dislocated worker definition. Additionally, in most instances an individual will have to be eligible for or exhausted entitlement to unemployment compensation in order to receive dislocated worker services. In the case of separating service members, because they may be on a terminal leave from the military, it may make sense to begin providing career services while the service member may still be part of the Active Duty military, but has an imminent separation date. It is appropriate to provide career services to separating service members who will be imminently separating from the military, provided that their discharge will be anything other than dishonorable. Lastly, ETA policy generally dictates that a separating service member meets the dislocated worker requirement that an individual is unlikely to return to his or her previous industry or occupation.

Regarding military spouses, WIOA expands the definition of dislocated workers to include military spouses who have lost employment as a direct result of a relocation to accommodate a permanent change in duty station of the spouse. Military spouses may also qualify if they are a dependent spouse of a member of the Armed Forces on active duty whose family income is significantly reduced, as determined by the State or local area, because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the service member. Military spouses also can qualify if they are unemployed or underemployed and are experiencing difficulty in obtaining or upgrading employment (see WIOA sections 3(15)(E) and 3(16)(A) and (B)).

Action Requested

Local areas must establish written policies and procedures to ensure priority for the populations described above for participants served in the WIOA Adult program, for eligibility determinations beginning on or after July 1, 2015. As part of their monitoring and oversight responsibilities, States should ensure all local areas have developed and implemented such policies.

9. Within State Allocations – Discretionary Factors Sub-State Formula Allocations.

WIOA Adult and Youth Sub-State Allocations

Sub-state allocation formulas for disseminating Program Year (PY) 2015 WIOA Youth and Adult funds will not change from those currently under WIA. Youth funds for PY 2015 have already been provided to the States. The States must follow the options described in WIOA sections 128(b)(2) and 133(b)(2)(A) or the discretionary allocation formula described in sections 128(b)(3) and 133(b)(3), and data factors are the same under WIA and WIOA. States must identify the formula option they are using in their state plan for WIOA, due in 2016.

WIOA Dislocated Worker Sub-State Allocations

The sub-state allocation formula guidance for disseminating WIOA Dislocated Worker funds for PY 2015 is the same as under WIA. However, starting in PY 2016, WIOA requires the addition of a minimum percentage (also sometimes called a "hold harmless" or "stop loss") (see WIOA sec. 133(b)(2)(B)(iii)) . A local workforce area must receive an allotment that is **no less than 90 percent** of the average allocation percentage of the local area for the two preceding fiscal years. In the event of a shortage of funds, the amounts necessary to increase the allocations to local areas to comply with this provision must be obtained by ratably reducing the allocations to other local areas. The minimum percentage methodology that States incorporate in PY 2016 for Dislocated Worker funds should resemble the minimum percentage methodology already in use in the sub-state Youth and Adult allocation formulas.

Governors continue to prescribe the Dislocated Worker formula for sub-state allocations, and under WIOA the data factors that must be included have not changed from those under WIA. States must describe the formula and rationale for data factor weights in their Unified or Combined State Plan under WIOA.

A State may assign zero weight to a factor only where the State is able to demonstrate it does not have an appropriate data source to accurately reflect State needs for a given data factor. For example, the Mass Lay-off and Plant Closing data, one of the six data factors WIOA requires, is no longer produced by the Bureau of Labor Statistics. We recognize that an accurate source of such data is no longer available at the national level. Some states have within-state administrative data available and others do not. In order to assign a weight of zero to a data factor, such as the Mass Lay-off and Plant Closing data factor, the State must include the following information in their State Plan:

- An inventory of available national or State-level data sources germane to the data factor;
- A discussion of why the available data sources are inadequate for the purposes of assigning a weight to a given data factor; and
- A description of how the Governor's formula is appropriate to equitably distribute funds throughout the State.

(Note that weighting a data factor at zero percent is not allowable under any other circumstance.)

10. **Training Contracts.** Individual Training Accounts (ITAs) are the primary method to be used for procuring training services under WIOA, similar to under WIA. However, in certain circumstances a contract for training services may be developed instead of an ITA. Under section 134(c)(3)(G)(ii) of WIOA, the contract exceptions to an ITA have been expanded; the full list of exceptions is provided below:
    - On-the-job training, which may include placing participants in a RA program, customized training, incumbent worker training, or transitional jobs;
    - If the local board determines that there are an insufficient number of eligible providers of training services to use ITAs;

- If there is a training services program of demonstrated effectiveness offered in a local area by a community-based organization or other private organization;
- If the local board determines that the most appropriate training could be provided by an institution of higher education to train multiple individuals for jobs in in-demand sectors or occupations; and
- If the local board determines, a pay-for-performance contract is the most effective means of providing training services (note that no more than 10 percent of the local funds may be spent on pay-for-performance contract strategies as they are defined in section 3(47) of WIOA).

Additionally, a local board may determine that providing training through a combination of ITAs and contracts is the most effective approach. This approach could be used to support placing participants in programs such as RA and other similar types of training.

11. **Work-based Training.** Under WIOA there are additional work-based training options and flexibilities for adults and dislocated workers:

Registered Apprenticeship

RA is an important component of potential training and employment services that the workforce system can provide to its customers. We encourage local areas to use RA and it should be used more often as a career pathway for job seekers and as a job-driven strategy for employers and industries. RA can be funded through several mechanisms. Section 122(a)(3) of WIOA provides a new opportunity for RA programs to be more directly connected to the public workforce system. As RA programs, they automatically qualify to be placed on the State and local board's Eligible Training Provider List (ETPL), allowing ITAs to support participants in RA programs, and more directly connect those programs to one-stop centers.

Every state has either a federal Department of Labor Office of Apprenticeship (OA) or a State Apprenticeship Agency (SAA). Local boards and one-stop centers should work with the offices in their state to implement RA (Federal OA and SAA state contact information is available at http://www.doleta.gov/oa/contactlist.cfm).

RA Program sponsors can be Eligible Training Providers (ETPs). Some examples of typical RA Program sponsors are:

- **Employers who provide related instruction:** A number of employers with RA programs provide formal in-house instruction as well as on-the-job training (OJT) at the work site.
- **Employers who use an outside educational provider**: Under this model RA program sponsors do not provide the related instruction or educational portion of the apprenticeship, but rely upon an outside educational entity to deliver instruction. Employers can use two- or four-year post-secondary institutions, technical training schools or on-line courses for related instruction. The employer is the ETP and must identify their instructional provider.

- **Joint Apprenticeship Training Programs**: These programs are made up of employers and unions. They have an apprenticeship training school where the instructional portion of the apprenticeship program is delivered. The training schools are usually administered by the union, in which case the union would be the ETP.
- **Intermediaries:** Intermediaries can serve as program sponsors when they take responsibility for the administration of the apprenticeship program. They also can provide expertise such as curriculum development, classroom instruction and supportive services, as appropriate. The intermediary is the ETP and must identify the instructional provider if an outside organization is providing the educational portion of the apprenticeship. Intermediaries include:
    - Educational institutions including two- and four-year post-secondary institutions or technical schools. In this model the educational institution administers the program, works with employers to hire apprentices and provides classroom or on-line instruction for the apprenticeship program;
    - Industry associations that administer the program and work with employer/members and educational entities to implement the apprenticeship program; and
    - Community-based organizations that administer the program and work with employers, educational entities and the community to implement the apprenticeship program.

ETA is committed to fully integrating RA programs as an employment and training solution for one-stop centers. ETA wants to ensure local areas have maximum flexibility in serving participants and supporting their placement into RA programs. Given the unique nature of RA, there are several ways in which training services may be used in conjunction with these programs:

- An ITA may be developed for a participant to receive RA training;
- An OJT contract may be developed with a RA program for training participants. OJT contracts are made with the employer, and RA generally involves both classroom and on-the-job instruction. The OJT contract may be made to support some or all of the OJT portion of the RA program;
- A combination of an ITA to cover the classroom instruction along with an OJT contract to cover on-the-job portions of the RA is allowed; and
- Incumbent worker training may be used for upskilling apprentices who already have an established working/training relationship with the RA program.

Local areas may also include supportive services, in coordination with career and/or training services, to participants in a RA program. These supportive services must be consistent with WIOA section 134(d)(2), Section 12 of this TEGL, and state and local policies.

Reporting on Registered Apprenticeship Participation

As States and local areas increasingly use RA programs as part of their sector strategies and career pathways approaches, ETA would like to remind States and local areas about how to

report on participants who are placed into RA. Under WIA, data is reported by States using the Workforce Investment Act Standardized Record Data (WIASRD) layout, and the WIASRD layout will continue to be used until a new reporting layout is developed. TEGL 4-13, *Workforce Investment Act (WIA) Performance Reporting System*, dated August 28, 2013, revised reporting requirements in the WIASRD so that the type of training provided to WIA participants now includes a specific coding value for Registered Apprenticeship (i.e. coding value 09 on WIASRD element number 1209). Data reported thus far indicate only some states reporting this type of training on quarterly WIASRD submissions. States are reminded to report this information using the WIASRD.

On-the-Job Training

OJT continues to be a key method of delivering training services to adults and dislocated workers. WIOA provides for States and local Areas to provide up to 50 percent of the wage rate of the participant to employers for the costs of training while the participant is in the program. Additionally, State and local areas have the flexibility under WIOA to increase the reimbursement level to up to 75 percent taking into account the following factors:

- The characteristics of the participants (e.g. length of unemployment, current skill level, and barriers to employment);
- The size of the employer (e.g. small and medium-sized business often have more barriers to participation at lower reimbursement rates);
- The quality of employer-provided training and advancement opportunities; and
- Other factors the State or local boards may determine appropriate (e.g. the number of employees participating in the training, wage and benefit levels of the employees (both pre and post participation earnings)), and relation of the training to the competitiveness of the participant).

Incumbent Worker Training

Incumbent Worker training provides both workers and employers with the opportunity to build and maintain a quality workforce. Incumbent Worker training can be used to help avert potential layoffs of employees, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers. Under section 134(d)(4) of WIOA, local boards can use up to 20 percent of their adult and dislocated worker funds to provide for the federal share of the cost of providing Incumbent Worker training. Incumbent Worker training needs to take into account the following factors:

- The characteristics of the participants in the program;
- The relationship of the training to the competitiveness of a participant and the employer; and
- Other factors the State or local boards may determine appropriate (e.g., the number of employees participating in the training, wage and benefit levels of those employees (both pre- and post-participation earnings)), and the existence of other training and advancement opportunities provided by the employer).

States may make recommendations to the local boards for providing incumbent worker training that has a statewide impact.

Employers are required to pay for a significant cost of the training for those participants in incumbent worker training; this can be done through both cash and/or in-kind payments. The wages paid to participants, while in training, may be considered as a source of matching funds. Rules for matching funds are provided in the Uniform Guidance and DOL exceptions at 2 CFR 200.306 and 2 CFR 2900.8, respectively. Under section 134(d)(4)(D) of WIOA, the minimum amount of employer share in the Incumbent Worker Training depends on the size of the employer:

- At least 10 percent of the cost, for employers with 50 or fewer employees;
- At least 25 percent of the cost, for employers with 51 to 100 employees; and
- At least 50 percent of the cost, for employers with more than 100 employees.

Employer share must be reported on the ETA-9130 quarterly financial report. ETA encourages States and local areas that utilize incumbent worker training to ensure contracts with employers provide sufficient information to include participants in reporting. Incumbent workers should be reported in the WIASRD under element number 911 until a new reporting layout is available.

Transitional Jobs

Transitional jobs are a new type of work-based training that is allowed under WIOA. Transitional jobs are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, and are combined with comprehensive career and supportive services. The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace, and develops the skills that lead to entry into and retention in unsubsidized employment. Unlike OJT, there is no assumption that the individual will be retained in their transitional job after the experience is over, though that would be a successful experience and outcome. Under section 134(d)(5) of WIOA, local boards may use up to 10 percent of their adult and dislocated worker funds to provide transitional jobs to individuals.

If local areas choose to use transitional jobs as part of their service delivery strategy, they should adopt policies and identify employers (public, private or nonprofit) that can provide quality experiences for individuals to eventually obtain unsubsidized employment. Additionally, these policies should include plans on the amount reimbursements would be for the jobs, what supportive services should be included, and any limits on the duration of the transitional job.

12. **Supportive Services and Needs-Related Payments.** A key principle in WIOA is to provide local areas with the authority to make policy and administrative decisions and the flexibility to tailor the workforce system to the needs of the local community. To ensure maximum flexibility, this guidance provides local areas the discretion to provide the supportive services

they deem appropriate, subject to the limited conditions prescribed by WIOA. Local Boards must develop written policies and procedures to ensure coordination with other entities to ensure the highest quality, most comprehensive service provision possible; prevent duplication of resources and services; and establish limits on the amount and duration of these services. Local Boards are encouraged to develop policies and procedures that ensure that supportive services are WIOA-funded only when these services are not available through other agencies and that the services are necessary for the individual to participate in Title I activities. Supportive services may be made available to anyone participating in Title I career or training services.

Supportive Services may include, but are not limited to:

- Transportation;
- Child Care;
- Dependent Care;
- Housing; and
- Needs-Related Payments (available only to individuals enrolled in training services).

Needs-related payments are designed to provide a participant with resources for the purpose of enabling them to participate in training services. ETA recognizes that many individuals in need of training services may not have the resources available to participate in the training. Needs-related payments can help individuals meet their non-training expenses and help them to complete training successfully. According to section 134(d)(3)(B) of WIOA, a participant must be enrolled in a training program described in section 134(c)(3) of WIOA in order to receive needs-related payments.

13. **Coordination with Trade Adjustment Assistance (TAA)**. Co-enrollment, also referred to as dual-enrollment, of workers certified as eligible for TAA (TAA-certified) in partnership with WIOA, allows for the timely provision of individualized career services and improves the effectiveness of the TAA Program. Strict deadlines must be met if individuals are to take full advantage of the Trade benefits available to TAA-certified workers. Barriers to service delivery to this population should be eliminated in order to maximize all the resources available in the one-stop delivery system; fully integrated delivery of career services is the goal. Since most workers who appear to be threatened with layoff or to be separated from employment due to increased imports or a shift in production of articles by their employer or employer's customers ("trade-impacted" workers) meet dislocated worker eligibility criteria, these individuals should enter the one-stop delivery system immediately following the announcement of a layoff. They should be assisted in filing a petition with the Department (and the Governor) for TAA certification. Immediately beginning the process of needs and skills assessment improves TAA participation rates and allows individuals more time to consider all of the options available to them, even before these workers may become eligible for TAA.

As trade-impacted workers work with one-stop center staff to formulate reemployment plans and more services are required, one-stop center staff should continue coordinated approaches to addressing the needs of the customers while maximizing the resources available within the

system. Once TAA eligibility has been established when the Department certifies a petition for TAA, and workers have been informed that they are covered by a certification, all partner staff should continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, including co-enrolled TAA-certified workers, rather than using a parallel process that duplicates services available through the one-stop center. This would include ensuring that co-enrolled TAA participants, whose training under the TAA program must be subject to approval under TAA program criteria, are not subjected to duplicative assessments for TAA and WIOA. Additionally, TAA participants would not be allowed duplicative job search benefits under both the TAA program and WIOA. Co-enrollment also may assist in making additional funds available for OJT. WIOA allows up to 75 percent reimbursement to employers for OJT (see Section 11 of this TEGL), while the TAA Program allows reimbursement up to 50 percent. For OJT approved training for a co-enrolled TAA participant, the TAA Program may reimburse employers up to 50 percent, and WIOA may reimburse employers up to an additional 25 percent, to bring the total reimbursement to employers up to 75 percent to align TAA Program benefits with WIOA benefits.

14. **Other Permissible Local Activities.** WIOA provides significant flexibility to local areas when providing services with adult and dislocated worker funds. In addition to the required career and training services, local areas may use these funds to provide additional job seeker services, business services, as well as to facilitate enhanced coordination between other partner programs and entities at the State and local level. Local areas can use these funds to develop new types of technical assistance, develop new intake procedures, test new procurement methods which may lead to better outcomes for jobseekers, and ensure provision of robust services for businesses throughout the workforce system. These permissible local activities include:

Job Seeker Services

- Customer support to enable individuals with barriers to employment (including individuals with disabilities and veterans) to navigate among multiple services and activities;
- Training programs for displaced homemakers and for individuals training for nontraditional occupations (see WIOA sec. 3(37)), in conjunction with programs operated in the local area; and,
- Work support activities for low-wage workers, in coordination with one-stop center partners, which will provide opportunities for these workers to retain or enhance employment. This may include any activities available under the WIOA adult and dislocated worker programs in coordination with activities and resources available through partner programs. For example, an apprentice who has not yet reached the full wage-rate could be provided these services to help him/her to continue to advance in his/her RA.

Employer Services

- Customized screening and referral of qualified participants in career and training services to employers;

- Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis that are in addition to labor exchange services available to employers under Wagner-Peyser; and,
- Activities to provide business services and strategies that meet the workforce investment needs of area employers, as determined by the Local Board and consistent with the local plan.

Coordination Activities

- Employment and training activities in coordination with child support enforcement activities, as well as child support services and assistance activities, of State and local agencies carrying out part D of title IV of the Social Security Act;
- Employment and training activities in coordination with cooperative extension programs carried out by the Department of Agriculture;
- Employment and training activities in coordination with activities to facilitate remote access to services provided through the one-stop delivery system, including facilitating access through the use of technology;
- Improving coordination between workforce investment activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;
- Improving services and linkages between the local workforce investment system and employers, including small employers, in the local area;
- Strengthening linkages between the one-stop delivery system and the unemployment insurance programs; and
- Improving coordination between employment and training activities and programs carried out in the local area for individual with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under sec. 705 of the Rehabilitation Act of 1973, programs funded under part B of chapter 1 of title VII of the Act, and activities carried out by centers for independent living;
- Other Federal agency supported workforce development initiatives, under the Departments of Transportation, Energy, Veterans Affairs, Housing and Urban Development, Interior, Health and Human Services, and Defense programs.

Other Activities

- Implementing a pay-for-performance contract strategy for training services;
- Technical assistance for one-stop centers, partners, and eligible training providers on the provision of services to individuals with disabilities in local areas, including staff training and development, provision of outreach and intake assessments, service delivery, service coordination across providers and programs, and development of performance accountability measures;
- Activities to adjust the economic self-sufficiency standards referred to in WIOA sec. 134(a)(3)(A)(xii) for local factors or activities to adopt, calculate or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

- Implementing promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.

15. **Rapid Response.** Rapid Response encompasses the strategies and activities necessary to plan for and respond as quickly as possible following an announcement of a closure or layoff or natural or other disaster which results in mass job loss. Rapid Response delivers services to enable dislocated workers to transition to new employment as quickly as possible.

Purpose and Responsibility

The purpose of Rapid Response is to promote economic recovery and vitality by developing an ongoing, comprehensive approach to identifying, planning for, or responding to layoffs and dislocations, and preventing or minimizing their impacts on workers, businesses, and communities. A successful Rapid Response system must include:

- Informational and direct reemployment services for workers, including but not limited to: information and support for filing unemployment insurance claims; information about the TAA program and support for filing petitions for TAA certification; information on the impacts of layoff on health coverage or other benefits; information on and referral to career services; reemployment-focused workshops and services; and training;
- Delivery of solutions to address the needs of businesses in transition, provided across the business lifecycle (expansion and contraction), including comprehensive business engagement and layoff aversion strategies and activities designed to prevent or minimize the duration of unemployment;
- Convening, brokering, and facilitating the connections, networks and partners to ensure the ability to provide assistance to dislocated workers and their families such as home heating assistance, legal aid, and financial advice; and
- Strategic planning, data gathering and analysis designed to anticipate, prepare for, and manage economic change.

Under section 134(a)(2)(A) of WIOA, as with WIA, Rapid Response activities must be carried out by the state or an entity designated by the state, in conjunction with the local boards, chief elected officials, and other stakeholders. In addition, states must establish and maintain a Rapid Response unit to carry out statewide Rapid Response activities and to oversee Rapid Response activities undertaken by a designated state entity, local board, or the chief elected officials for affected local areas.

Layoff Aversion

ETA's vision for comprehensive Rapid Response relies heavily on the development and implementation of layoff aversion strategies and activities, which we believe are essential in ensuring that Rapid Response best meets the needs of workers, businesses, and communities.

Layoff aversion includes the strategies and activities that are designed to prevent, or minimize the duration of, unemployment. ETA encourages state and local Rapid Response operators to design innovative solutions, including those described below, for both businesses and workers in transition.

Layoff aversion may include a wide array of possible strategies or activities, including but not limited to:

- Ongoing engagement, partnership, and relationship-building activities with businesses in the community, in order to create an environment for successful layoff aversion efforts and to enable the provision of assistance to dislocated workers in obtaining reemployment as soon as possible;
- Providing assistance to employers in managing reductions in force, which may include early identification of firms at risk of layoffs, assessment of the needs of and options for at-risk firms, and the delivery of services to address these needs;
- Funding feasibility studies to determine if a company's operations may be sustained through a buyout or other means to avoid or minimize layoffs;
- Developing and managing incumbent worker training programs or other worker up skilling approaches;
- Connecting companies to state Short-Time Compensation or other programs designed to prevent layoffs or to quickly reemploy dislocated workers, business loan programs for employee skill upgrading; and other Federal, state and local resources as necessary to address other business needs;
- Establishing linkages with economic development activities at the Federal, state and local levels, including Federal Department of Commerce programs and available state and local business retention and expansion activities;
- Partnering or contracting with business-focused organizations to assess risks to companies, propose strategies to address those risks, implement services, and measure impacts of services delivered;
- Conducting analyses of the suppliers of an affected company to assess their risks and vulnerabilities from a potential closing or shift in production of their major customer;
- Engaging in proactive measures to identify opportunities for potential economic transition and training needs in growing industry sectors or expanding businesses; and
- Connecting businesses and workers to short-term, on-the-job, or customized training programs and apprenticeships before or after layoff to help facilitate rapid reemployment.

For more information on allowable layoff aversion strategies and activities, see Training and Employment Notice (TEN) 9-12, *Layoff Aversion in Rapid Response Systems*.

State and local Rapid Response programs have the discretion to determine which strategies and activities are applicable in given situations, based upon specific needs, policies, and procedures within the State or local area.

Other Required Activities

In addition to layoff aversion as described above, there are a number of other activities that are required to be carried out by state and local Rapid Response operators. These are:

- Immediate and on-site contact with the employer, affected workers or their representatives, and the local community, which should include an assessment of, and strategy to address: 1) the employer's layoff plans and schedule; 2) the background, assistance needs, and reemployment prospects of the affected workers; and 3) resources available;
- The provision of information and access to unemployment compensation benefits and programs, such as Short-Time Compensation, comprehensive one-stop system services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;
- The delivery of other necessary services and resources including workshops and classes, use of worker transition centers, and job fairs, to support reemployment efforts for affected workers;
- Establishing partnerships with local boards and chief elected officials to ensure coordinated responses to dislocation events and, as needed, obtain access to state or local economic development assistance;
- The provision of emergency assistance adapted to a particular layoff, disaster, or other emergency situation;
- As appropriate, developing systems and processes for identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion; analyzing, and acting upon, data and information on dislocations and other economic activity in the state, region, or local area; and tracking outcome and performance data and information related to the activities of the Rapid Response program;
- To ensure the ability to provide Rapid Response services as early as possible, developing and maintaining partnerships with other Federal, State and local agencies and officials, business associations, technical councils, industry councils, labor organizations, and other public and private organizations, as applicable. These partnerships may conduct strategic planning activities, address dislocation events and ensure timely access to a broad range of assistance. They may also develop mechanisms for gathering and exchanging information and data relating to potential dislocations, available resources, and the customization of layoff aversion or Rapid Response activities;
- Delivery of services to worker groups for which a petition for TAA has been filed;
- The provision of additional assistance to local areas that experience disasters, layoffs, or other dislocation events that exceed the capacity of the local area to respond with existing resources; and
- The provision of guidance and financial assistance as appropriate, when establishing a labor-management committee if voluntarily agreed to by the bargaining representative for the employees and management. The assistance to such a committee may include training and technical assistance to members of the committee, and funding the operating costs of a committee to enable it to provide advice and assistance in carrying out Rapid Response activities and in the design and delivery of WIOA-authorized services to affected workers.

Other Allowable Activities with Rapid Response Funds

WIOA, like WIA, offers significant flexibility with regard to the use of Rapid Response funds. States or designated Rapid Response providers may, in order to conduct layoff aversion activities or to prepare for and respond to dislocation events, devise additional strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities and to ensure that workers impacted by layoffs are able to be reemployed as quickly as possible.

Additionally, when circumstances allow, Rapid Response operators may provide guidance and/or financial assistance to establish community transition teams to assist the impacted community in organizing support for dislocated workers, and in meeting the basic needs of their families. Such assistance can include, but is not limited to providing heat, shelter, food, clothing and other necessities and services that are beyond the resources and ability of the one-stop delivery system to provide.

Additional Assistance

WIOA, similar to WIA, allows states to reserve up to 25 percent of dislocated worker funds for Rapid Response activities. Once the state has reserved adequate funds, any of the remaining funds reserved may be provided to local areas that experience increases of unemployment due to natural disasters, layoffs or other events, for provision of direct career services to participants if there are not adequate local funds available. States are encouraged to establish the policies or procedures governing the provision of additional assistance.

Program Reporting

States must report information regarding the receipt of Rapid Response services by individuals enrolled as dislocated workers in the WIASRD until a WIOA record layout is provided. ETA will issue guidance on performance reporting under WIOA in the future.

Rapid Response Funds at the End of the First Program Year

WIOA permits States to use Rapid Response funds which remain unobligated by the State for Rapid Response activities at the end of the program year in which they were allotted to the State, for other allowable statewide activities, including prioritizing the planning for and delivery of activities designed to prevent job loss, increasing the rate of reemployment, building relationships with businesses and other stakeholders, building and maintaining early warning networks and systems, and otherwise supporting efforts to assist long-term unemployed workers to return to work.

16. **Inquiries.** Questions regarding this guidance should be directed to the appropriate ETA regional office.

17. <u>Attachment</u>.

- Attachment: References

Attachment

WIOA Operating Guidance TEGL References

- The Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law (Pub. L. 113-128)) Title I and III, enacted July 22, 2014;
- The Workforce Investment Act (WIA) of 1998 (Pub. L. 105-220), Title I and Title III;
- Title 38 United States Code (38 U.S.C. 4213);
- TEGL No. 26-14, *"Workforce Innovation and Opportunity Act Transition Authority for Flexible Use of State Rapid Response Funds,"* dated April 14, 2015;
- TEGL No. 19-14, *"Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act,"* dated February 19, 2015;
- TEGL No. 4-13, *"Workforce Investment Act (WIA) Performance Reporting System,"* dated August 28, 2013;
- TEGL No. 15-12, *"Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System,"* dated March 7, 2013;
- TEGL No. 15-10, *"Increasing Credential, Degree, and Certificate Attainment by Participants of the Public Workforce System,"* dated December 15, 2010;
- TEGL No. 10-09, *"Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL),"* dated November 10, 2009;
- TEGL No. 17-05, *"Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues,"* dated February 17, 2006;
- TEGL 22-04, *"Serving Military Service Members and Military Spouses under the Workforce Investment Act Dislocated Workers Formula Grant,"* dated March 22, 2005;
- Unemployment Insurance Program Letter (UIPL) 12-01, Change 1, *"Outsourcing of Unemployment Compensation Administrative Functions – Claims Taking,"* dated November 26, 2007;
- UIPL 12-01, *"Outsourcing of Unemployment Compensation Administrative Functions – Claims Taking,"* dated December 28, 2000;
- Training and Employment Notice (TEN) 9-12, *"Layoff Aversion in Rapid Response Systems,"* dated August 31, 2012;
- TEN No. 49-11, *"Reporting on Attainment of Industry Recognized Credentials,"* dated June 6, 2012.