

Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	CLASSIFICATION WIA/Performance Levels
	CORRESPONDENCE SYMBOL OWS
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-01

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

/S/
FROM: EMILY STOVER DeROCCO
Assistant Secretary

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

1. **Purpose.** 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 I-B of WIA.
2. **References.** The Workforce Investment Act of 1998, section 136; 20 CFR part 666; 20 CFR 661.230(b)(2); Training and Employment Guidance Letter (TEGL) No. 8-99, March 3, 2000.
3. **Background.** Under WIA title I, subtitle B, each state workforce agency must negotiate expected levels of performance with the Department for the adult, dislocated worker, and youth programs, as well as customer satisfaction (a total of 17 measures).

Section 136(b)(3)(A)(vi) of the Act 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 the Act. These factors include the economic conditions for the state, the characteristics of participants, and the services provided to participants.

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In September 2001, the Department's Employment and Training Administration (ETA) convened a meeting of state and local representatives to explore criteria for revising state negotiated levels of performance. A workgroup, created as a result of this meeting, then provided additional input over the next two months. This guidance letter largely reflects the contributions of the stakeholders involved in these forums.

4. **Policy on Requesting Revisions.** The Department views the process of establishing and revising negotiated levels of performance as a way to promote performance accountability and continuous improvement. The Governor may request a revision to one or more negotiated performance levels at any time prior to the end of the program year for which the revised level(s) would apply. 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. The Department 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. The Department will not consider requests to revise PY 2000 state negotiated levels of performance.

5. **Submitting Requests for Revised 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 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 is 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 staff to ensure that reasonable and appropriate levels are set. The ETA Regional Office will identify where data or information is 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 review 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. 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. **ETA's Review Process**. 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.** States should distribute this guidance letter 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.

10. **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.