ALABAMA WORKFORCE INVESTMENT SYSTEM

Department of Economic and Community Affairs
Workforce Development Division
401 Adams Avenue
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GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY2014-15

SUBJECT: Training and Employment Guidance Letter (TEGL) – Operational Guidance for transition from WIA to WIOA

1. Purpose. This transmits the following TEGL:

Number	Date	Subject
38-14	06/08/15	Operational Guidance to Support the Orderly Transition of Workforce Investment Act Participants, Funds, and Subrecipient Contracts to the Workforce Innovation and Opportunity Act

2. Discussion. The purpose of TEGL No. 38-14 is to provide guidance and instructions on the transition of participants, funds, performance reports, grants, and subrecipient contracts under title I of the Workforce Investment Act of 1998 (WIA) and under the Wagner-Peyser Act to the Workforce Innovation and Opportunity Act (WIOA or the Act).

In anticipation of July 1, 2015, the U.S. Department of Labor (USDOL) is providing this guidance to clarify: (1) the process for carry-in of funds awarded under WIA to WIOA; (2) the requirements for transitioning participants enrolled under WIA to WIOA; (3) performance reporting transition; (4) the grant modification process; and (5) the requirements for subrecipient contracts for service providers under WIOA. The TEGL provides a chart that illustrates many of these issues as well as issues that were previously addressed in TEGLs surrounding the transition of WIA to WIOA, including the use of 2% funding and rapid response flexibility.

3. Action. This Directive should be distributed accordingly to local areas, workforce staff, and partners. Local area staff should use the guidance provided in TEGL 38-14 to transition to WIOA activities, which takes effect July 1, 2015.

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@adeca.alabama.gov.

Steve Walkley

Steve Walkley, Division Chief
ADECA, Workforce Development Division

7-1-15

Date

Attachment
TEGL No. 38-14

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIOA
	CORRESPONDENCE SYMBOL OGM
	DATE June 8, 2015

ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER WIOA NO. 38-14**
OPERATING GUIDANCE for the WORKFORCE INNOVATION AND OPPORTUNITY ACT (referred to as WIOA or the Opportunity Act)

TO: STATE WORKFORCE AGENCIES
NATIONAL FARMWORKER JOBS PROGRAM (NFJP) GRANTEES
WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) SECTION 166 INDIAN AND NATIVE AMERICAN PROGRAM GRANTEES

FROM: PORTIA WU
Assistant Secretary

SUBJECT: Operational Guidance to Support the Orderly Transition of Workforce Investment Act Participants, Funds, and Subrecipient Contracts to the Workforce Innovation and Opportunity Act

1. **Purpose.** To provide guidance and instructions on the transition of participants, funds, performance reports, grants, and subrecipient contracts under title I of the Workforce Investment Act of 1998 (WIA) and under the Wagner-Peyser Act to the Workforce Innovation and Opportunity Act (WIOA or the Act).

   In anticipation of July 1, 2015, the Department is providing this guidance to clarify: (1) the process for carry-in of funds awarded under WIA to WIOA; (2) the requirements for transitioning participants enrolled under WIA to WIOA; (3) performance reporting transition; (4) the grant modification process; and (5) the requirements for subrecipient contracts for service providers under WIOA. Attached is a chart that illustrates many of the issues covered in this Training and Employment Guidance Letter (TEGL) as well as issues that were previously addressed in TEGLs surrounding the transition of WIA to WIOA, including the use of 2% funding and rapid response flexibility.

   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 are working to publish a set of regulations implementing WIOA. On April 9th, the Federal Register posted five Notices of Proposed

RESCISSIONS None	EXPIRATION DATE Continuing

Rulemaking (NPRMs) implementing the Opportunity Act on its Web site for public inspection, https://www.federalregister.gov/public-inspection. The NPRMs were formally published in the Federal Register on April 16th. Comments should be submitted in accordance with the process outlined in the NPRMs, including by visiting http://www.regulations.gov. The comment period is scheduled to be open for 60 days, closing on June 15, 2015.

In order to continue implementation prior to the final rule, a series of WIOA Operating Guidance documents that provide the needed implementation information will be issued in the form of Training and Employment Guidance Letters (TEGLs). These Operating Guidance documents on WIOA will inform the workforce system how to begin the important planning and reorganization necessary to comply with new WIOA statutory requirements for the upcoming Program Year 2015 (beginning July 1, 2015). The Operating Guidance TEGLs will provide a framework for program activities until the regulations are finalized. This TEGL is one in the ongoing series of Guidance.

2. **References.** See Attachment I.

3. **Transition of WIA and Wagner Peyser Carry-In Funds to WIOA.**

Expiration of PY Funds: PY 2012 funds expire on June 30, 2015, and are not subject to WIOA provisions. The expiration dates of the PY 2013 and PY 2014 funds will not change. PY 2013 and PY 2014 funds will expire on June 30, 2016, and June 30, 2017, respectively.

Obligated PY Funds: For PY 2013 and 2014 funds that are already obligated as of June 30, 2015, grantees may liquidate those obligations in compliance with WIA and Wagner-Peyser requirements as they are before WIOA is enacted. The reporting of obligations must be consistent with TEGL 13-12, *ETA-9130 Quarterly U.S. Department of Labor (DOL) Employment and Training Administration Financial Reports Instructions*. Grantees must maintain documentation for those funds regarding compliance with WIA for audit, monitoring, and oversight purposes.

PY 2015 Funds: All PY 2015 funds will be awarded under the authority of and subject to the requirements of WIOA. While PY 2015 WIOA youth activities funds are available beginning in April 2015, the early release of these funds are for states and INA grantees to use these resources to begin preparation for WIOA youth implementation on July 1, 2015. WIOA youth money available in April can be for direct services to WIA participants as well as transition planning to implement the WIOA youth program starting on July 1, 2015. WIOA youth provisions are effective beginning July 1, 2015, and include the transition parameters discussed in TEGL 23-14, *Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition*, and any subsequently issued applicable guidance.

Unobligated PY Funds: PY 2013 and PY 2014 state and local formula funds that have not been obligated by grantees in PY 2013 and PY 2014 (i.e. "carry-in" funds) will become subject to WIOA, effective July 1, 2015. This means that the funds will assume the requirements of those portions of WIOA that are effective July 1, 2015. Likewise, NFJP and INA grantees may

carry unobligated PY 2013 and 2014 funds into PY 2015, and these funds will become WIOA funds, effective July 1, 2015.

As of July 1, 2015, the unobligated PY 2013 and PY 2014 WIA and Wagner-Peyser funds carried into PY 2015 must only support allowable WIOA activities and conform to WIOA requirements effective July 1, 2015, with the exception of funds used to pay for WIA services for WIA participants who are transitioning to WIOA, as outlined in section 5, and any other requirements issued by DOL via Training and Employment Guidance Letter that are necessary to facilitate transition from WIA to WIOA. The period of performance for these funds remains intact (i.e. the expiration of PY 2013 funds remains June 30, 2016, for state and local formula funds and NFJP, and September 30, 2015, for the INA program).

4. **Transition of WIA Participants to WIOA.** On July 1, 2015, all WIA title I participants (including Adult, Dislocated Worker, Youth, NFJP, and INA participants) who were enrolled in a WIA title I program prior to July 1, 2015, must be transitioned (or "grandfathered") into WIOA, even if the participant would not otherwise be eligible for WIOA. Grantees must **not** complete an eligibility re-determination for participants already determined eligible and enrolled under WIA. Furthermore, these participants must be **allowed** to complete the WIA services ("grandfathered services") specified in their individual service strategy and/or individual employment plan, regardless of whether the services are allowable under WIOA or not, as long as the WIA services were specified in participants' individual service strategies and/or individual employment plans as of June 30, 2015. Grantees must continue to serve participants enrolled under WIA (with pre-determined WIA or new WIOA services) by either: providing the services for which WIA funds were already obligated (and, thus, liquidating those funds); with unobligated carry-in WIA funds that become WIOA funds (as established in Section 4 of this TEGL); or with new WIOA funds. We encourage grantees to continue to enroll participants through June 30, 2015. This is consistent with the Department's transition authority in section 503 of WIOA, which allows the Secretary to take such actions as he determines to be appropriate to provide for the orderly transition from the Workforce Investment Act of 1998 to Title I of WIOA.

   Effective July 1, 2015, grantees must make all new eligibility determinations under the WIOA framework for participants enrolling on or after that date and must follow all WIOA requirements. Participants enrolled on or after July 1, 2015, may only access services allowable under WIOA.

5. **Transition of Employment Service (ES) Participants under WIOA.** WIOA Title III amended the Wagner-Peyser Act of 1933 (which governs the ES). Since WIOA did not change the ES from being a universal access program for all job seekers, ES eligibility criteria did not change, and programs should continue to provide participants with the full array of labor exchange services after WIOA takes effect on July 1, 2015. WIOA introduced a requirement to co-locate ES offices with one-stop centers, currently branded as American Job Centers, and several changes in services. These and other topics, including the alignment of WIOA career services with ES services, will be addressed in subsequent guidance.

6. **Reporting.**

Performance Reports: For performance reports, state formula grantees will continue reporting WIA and WIOA enrolled participants in the current Workforce Investment Act Standardized Record Data (WIASRD) until a new performance report is approved and the system is updated; WIOA specifies that performance reporting provisions go into effect on July 1, 2016. NFJP grantees will continue to use the Workforce Investment Act Standardized Participant Record (WIASPR) and the ETA-9095; housing grantees will continue to use the ETA-9164 form. INA grantees will continue to report using the ETA-9084, ETA-9085 and the Standardized Program Information Report (SPIR). Wagner-Peyser Employment Services grantees will continue to use the Labor Exchange Reporting system (LERS) for reporting purposes. New performance reports will go through the Paperwork Reduction Act notice and comment process. Further guidance on transition as it impacts performance reporting will be provided separately.

Financial Reports: Grantees must continue to use the currently approved ETA-9130 financial reporting form until a new OMB approved form is issued. The Department will publish separately a Paperwork Reduction Act Information Collection Request package for WIOA financial reporting. States and local areas must track funds spent on WIOA authorized activities beginning July 1, 2015. Keeping track of all funds spent on WIOA activities will enable states and local areas to report cumulative expenditures on the new WIOA financial report, once approved by OMB and available for reporting.

For information regarding transition activities expenditures reporting, please refer to Training and Employment Guidance Letter (TEGL) 12-14, *Allowable Uses and Funding Limits of Workforce Investment Act (WIA) Program Year 2014 funds for WIOA Transitional Activities*, and the corresponding Frequently Asked Questions (FAQs).

7. **Grant Modifications.** On or around July 1, 2015, formula, INA program, and NFJP grants will be modified to reflect the WIOA statute and Operations Guidance Training and Employment Guidance Letters issued regarding WIOA implementation. Additional grants may be modified, as appropriate. In these instances, Grant Officers will contact grantees accordingly. Once the final rules are published, these grants will be modified to include new regulatory citations and any other necessary changes.

8. **Changes to WIA Local Service Provider Contracts.** Local areas commonly enter into two-year agreements with their service providers which allow them to serve participants for the duration of the two-year cycle. Although we consider the contract to be obligated at the time of execution, expenditure of those funds is dependent on the enrollment of participants. As such, the contracts must be modified or amended, to the extent the contract terms allow, to ensure that enrollment into WIA program services ceases on June 30, 2015, and enrollment using WIOA requirements begins July 1, 2015.

Current contracts do not need to be automatically terminated. Local areas may terminate current contracts in order to compete a new contract under WIOA, assuming the current contract permits taking this action. Local areas may also consider modifications to current contracts if

they contain clauses to allow for changes to be made to conform to new legislation or regulations. If current contracts include multiple or option years, WIOA requirements must be incorporated by amending or modifying the option years of the contract. If, after July 1, 2015, a service provider refuses to comply with the new WIOA requirements, the awarding entity must take immediate corrective action, up to and including termination.

In competing new contracts, ETA encourages local areas to employ one-year contracts with additional option years, rather than multi-year contracts. Given how resource-intensive the Request for Proposals (RFP) process can be, option year contracts are a strategy to ensure maximum flexibility while final regulations are published and program guidance is issued.

9. **Inquiries.** Questions may be directed to the appropriate ETA Regional Office. INA and NFJP grantees should contact their assigned Federal Project Officer.

10. **Attachments.**

- Attachment I: References
- Attachment II: WIA to WIOA – Transition of Funding, Participants, and Subrecipient Contracts Chart

ATTACHMENT I

WIOA Operating Guidance TEGL References

- WIOA (Pub. L. 113-128) Title I;
- Training and Employment Guidance Letter (TEGL) No. 34-14, *Workforce Innovation and Opportunity Act Transition Authority Allotment of Program Year (PY) 2014 Dislocated Worker National Reserve Funds for WIOA Implementation Activities*;
- TEGL No. 30-14, *Negotiating or Extending Performance Goals for the Workforce Investment Act (WIA) Title IB Programs and Wagner-Peyser Act Funded Activities for Program Year (PY) 2015*;
- TEGL No. 29-14, *Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker and Youth Activities Program Allotments for Program Year (PY) 2015; Final PY 2015 Allotments for the Wagner-Peyser Act Employment Service (ES) Program Allotments; and Workforce Information Grants to States Allotments for PY 2015*;
- TEGL No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*;
- TEGL No. 26-14, *Workforce Innovation and Opportunity Act Transition Authority for Flexible Use of State Rapid Response Funds*;
- TEGL No. 23-14, *Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition*;
- TEGL No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act*;
- TEGL No. 12-14, *Allowable Uses and Funding Limits of Workforce Investment Act (WIA) Program Year (PY) 2014 funds for Workforce Innovation and Opportunity Act (WIOA) Transitional Activities*;
- TEGL No. 13-12, *ETA-9130 Quarterly U.S. Department of Labor (DOL) Employment and Training Administration Financial Reports Instructions*;
- TEGL No. 13-09, *Contracting Strategies That Facilitate Serving The Youth Most In Need*; and
- WIA (Pub. L. 105-220), Title I.

Attachment II

WIA to WIOA - TRANSITION OF FUNDING, PARTICIPANTS, AND SUBRECIPIENT CONTRACTS

Before July 1, 2015				After July 1, 2015		
			PROGRAM YEAR EXPIRATION			
			FUNDS			
No	Yes	No	Can 2% of the WIA formula allotments be used for transitional activities? (TEGL 12-14)	No	Yes	No
No	Yes	No	Can other programs authorized under title I of WIA, the Indian and Native American program, the Migrant and Seasonal Farmworker program, or other activities use the PY 14 monies for transitional activities? (TEGL 12-14)	No	Yes	No
Yes	Yes	Up to 50%	Can unexpended rapid response monies be used for transitional activities? (TEGL 26-14)	Yes	Yes	Up to 50%
Yes	Yes	Yes	Will unobligated funds be carried over into WIOA?	N/A	N/A	N/A
Yes	Yes	Yes	Can funds obligated through June 30, 2015, be used to provide WIA services?	N/A	N/A	N/A
N/A	N/A	N/A	Can WIA funds not obligated before July 1, 2015, be used to provide WIA services only if it is for grandfathered WIA participants?	Yes	Yes	Yes
N/A	N/A	N/A	Can PY 15 WIOA funds obligated on or after July 1, 2015, be used to serve grandfathered WIA participants?	N/A	N/A	Yes
			PARTICIPANTS			
WIA	WIA	WIA	What programs are participants enrolled in?	WIOA	WIOA	WIOA
Yes	Yes	Yes	Are WIA participants grandfathered into WIOA?	N/A	N/A	N/A
N/A	N/A	N/A	Must an eligibility re-determination be completed for grandfathered WIA participants receiving services on or after July 1, 2015?	No	No	No
N/A	N/A	N/A	Are Wagner Peyser services available to grandfathered WIA participants?	Yes	Yes	Yes
N/A	N/A	N/A	Can grandfathered WIA participants continue to receive services under their existing WIA individual services strategy and/or indivual employment plan?	Yes	Yes	Yes
			SUBRECIPIENT CONTRACTS			
Yes	Yes	Yes	Must existing subrecipient contracts with performance periods that extend beyond June 30, 2015 be modified or amended to reflect WIOA requirements and enrollments?	Yes	Yes	Yes
N/A	N/A	N/A	Can service providers with existing subrecipient contracts continue to enroll participants in WIA program services on or after July 1, 2015?	No	No	No
N/A	N/A	N/A	On or after July 1, 2015, can service providers with existing subrecipient contracts serve participants enrolled into WIA before or on June 30, 2015?	Yes	Yes	Yes
N/A	N/A	N/A	Should a subrecipient contract be terminated if a service provider is unwilling or unable to adhere to the WIOA requirements on or after July 1, 2015?	Yes	Yes	Yes
			REPORTING			
Line 12 Remarks			Where are transitional expenditures reported on the ETA-9130?	Line 12 Remarks		
WIA and W-P reports			What performance reports are required for formula programs?	WIA and W-P reports		
WIASPR and ETA-9095*			What performance reports are required for NFJP?	WIASPR and ETA-9095*		
SPIR, ETA-9084, and ETA-9085*			What performance reports are required for INA?	SPIR, ETA-9084, and ETA-9085*		

* Until new performance and financial reports are approved and the systems are updated, grant recipients will use the existing WIA reports.

PY 2012 funds expire on June 30, 2015 and thus are not subject to WIOA Provisions.