

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 7 WORKFORCE INVESTMENT ACT (WIA) PERFORMANCE ACCOUNTABILITY
REQUIREMENTS

11.2.7.1 ISSUING AGENCY: New Mexico Department of Labor.
[11.2.7.1 NMAC – N, 7/1/2000]

11.2.7.2 SCOPE: The State Administrative Entity (SAE), New Mexico Workforce Development Areas/
Local Workforce Development Boards (NMWDAs/LWDBs) and WIA Subrecipients.
[11.2.7.2 NMAC – N, 7/1/2000]

11.2.7.3 STATUTORY AUTHORITY: Performance accountability measures are promulgated through
the Workforce Investment Act; Interim Final Rule at Title I, Section 136, "Performance Accountability System,"
TitleV, Section 503, "Incentive Grants," and the Federal Register Volume 64, Number 72, dated April 15, 1999,
"Part 666 Performance Accountability Under Title I of the Workforce Investment Act" and any amendments thereto
to the above references, and the New Mexico Workforce Development Act, New Mexico House Bill 740,Chapter
260, Laws of 1999, Forty-fourth Legislature.
[11.2.7.3 NMAC – N, 7/1/2000]

11.2.7.4 DURATION: Permanent.
[11.2.7.4 NMAC – N, 7/1/2000]

11.2.7.5 EFFECTIVE DATE: July 1, 2000 unless a later date is cited at the end of a section.
[11.2.7.5 NMAC – N, 7/1/2000]

11.2.7.6 OBJECTIVE: Title I of the Workforce Investment Act (WIA) and the attendant Federal
Regulations establish performance measures for all programs funded under WIA. This policy establishes and
transmits the core performance and customer satisfaction measures (negotiated between the Governor and the
Secretary of the U.S. Department of Labor). These performance levels are the basis from which the State provides
LWDBs incentives or imposes sanctions for exceeding or failing to meet performance criteria.
[11.2.7.6 NMAC – N, 7/1/2000]

11.2.7.7 DEFINITIONS: [RESERVED]
[11.2.7.7 NMAC – N, 7/1/2000]

11.2.7.8 ACTION: LWDBs shall establish performance accountability systems in accordance with the
requirements set forth in this policy. Program performance measures shall be included in State and Local Plans
beginning with the first three (3)Program Years (PYs) of operation. State and Local level incentives or sanctions
shall be determined accordingly.

A. Performance Indicators. Proposed State levels of performance shall be established in the WIA
State Plan for each of the core performance indicators for adult, dislocated worker and youth programs and the two
customer satisfaction indicators.

(1) For adult programs, these indicators are:

- (a) Entry into unsubsidized employment
- (b) Retention in unsubsidized employment;
- (c) Earnings received in unsubsidized employment six months after entry into employment,

and;

(d) Attainment of a recognized credential related to achievement of Educational skills (such as
a secondary school diploma or its recognized equivalent) or occupational skills certification by participants who
enter unsubsidized employment.

(2) For the Dislocated Worker Program, these indicators are:

- (a) Entry into unsubsidized employment;
- (b) Retention in unsubsidized employment six months after entry into employment;
- (c) Earning received in unsubsidized employment after six months; and,

(d) Attainment of a recognized credential related to the achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills certification by participants who enter unsubsidized employment.

(3) For the Youth Program, eligible youth ages 14 through 18, these indicators are:

(a) Attainment of basic skills, and, as appropriate, work readiness or occupational skills;

(b) Attainment of secondary school diplomas and their recognized equivalents; and,

(c) Placement and retention in post secondary education, advances training, military service, employment, or qualified apprenticeships.

(4) For the Youth program, eligible youth ages 19 through 21, these indicators are:

(a) Entry into unsubsidized employment;

(b) Retention in unsubsidized employment six months after job entry;

(c) Earnings received in unsubsidized employment six months after job entry; and,

(d) Attainment of a recognized credential related to the achievement of education skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter post-secondary education, advanced training, or unsubsidized employment.

B. A single customer satisfaction measure for employers and a single customer satisfaction indicator for participants must be used for WIA Title I, Subtitle B programs for adults, dislocated workers and youth.

C. After consultation with the representatives identified in the WIA, the Departments of Labor and Education will issue definitions for the performance indicators established under Title I and Title II of WIA.

D. The Governor may require additional indicators of performance for adults, youth and dislocated worker activities. These indicators must be included in the State Plan. At this time no additional indicators have been prescribed by the Governor.

E. The USDOL issues instructions on the specific performance criteria that must be included in the State Plan and will be used to review the State's performance levels. Performance criteria that require that levels of performance for the second and third year be expressed as a percentage improvement over the immediately preceding year's actual performance, may be prescribed.

F. States must submit expected levels of performance for the required indicators for each of the first three program years covered by the Plan.

G. The USDOL Secretary and the Governor must reach agreement on levels of performance for each core indicator and the customer satisfaction indicators. In negotiating these levels, the following must be taken into account:

(1) The expected levels of performance identified in the State Plan;

(2) The extent to which the levels of performance for each core indicator assist in achieving high customer satisfaction;

(3) The extent to which the levels of performance promote continuous improvement and ensure optimal return on investment of federal monies; and,

(4) How the levels compare with those of other states, taking into account factors such as differences in economic conditions, participant characteristics, the proposed services mix and service strategy.

H. The levels of performance agreed to under WIA shall be the State's adjusted levels of performance for the first three (3) years under the State Plan. These levels will be used to determine whether to award incentive grants or to impose sanctions.

I. Before the fourth year of the State Plan, the Secretary and the Governor shall reach agreement on levels of performance for each core indicator and the customer satisfaction indicators for the fourth and fifth years covered by the Plan. In negotiating these levels, the factors listed in G. above shall be considered.

J. Levels of performance for the additional indicators developed by the Governor are considered to be the State adjusted level of performance, but are not part of the negotiations described in G. and I.

K. State adjusted levels of performance may be revised in accordance with the following:

(1) Department of Labor guidelines (as specified in the State Plan) describe when and under what circumstances a Governor may request revisions to negotiated performance levels. These circumstances include significant changes in economic conditions, in the characteristics of participants entering the program, or in the services to be provided from when the initial plan was submitted and approved.

(2) Guidelines which establish the conditions under which at State may submit revisions and the specified circumstances.

L. Core indicators of performance which apply to all individuals who are registered for dislocated worker and youth programs, except for those adults and dislocated workers who participate exclusively in self-service or informational activities.

M. A standardized participant record that includes relevant performance data maintained in accordance with the WIA.

N. The State Administrative Entity (SAE) will use quarterly wage record information in measuring the attainment of mandated performance levels.

O. The State Plan shall include a description of the performance accountability system and a description of the State's strategy for using quarterly wage record information to measure local and state level performance. The entities that shall have access to such information are identified in the Plan.

P. Quarterly wage record information that pertains to participant wages. This will include the social security account number(s), name, address, State of the participant, and Federal Employer Identification Number of the employer.

Q. State Incentive Grants. The State is eligible to apply for an Incentive Grant if its performance for the immediate years preceding years exceeds:

(1) The State's adjusted levels of performance for the required core indicators for the adult, dislocated worker and youth programs under Title I of WIA as well as the customer satisfaction indicators for WIA Title I programs;

(2) The adjusted levels of performance included in plans submitted to the Department of Education for Title II Adult Education and Literacy programs; and,

(3) The adjusted levels of performance under Title I of the Carl D. Perkins Vocational and Technical Education Act.

R. State performance progress reports must be filed by the due date established in reporting instruction issued by the Department.

S. Based on the reports, the Secretary will determine the amount of funds available under WIA Title I, to each eligible State for incentive grants, in accordance with the criteria of the WIA. The award amounts for each eligible state will be published by the Secretary, after consultation with the Secretary of Higher Education, within 90 days after the due date for performance progress reports established within this policy.

T. Within 45 days of the publication of the award amounts, the State may apply for incentive grants.

U. Incentive grant funds to carry out any one or more innovative programs under Title I or II of the WIA or the Carl D. Perkins Vocational and Technical Education Act, regardless of which Act is the source of the incentive funds.

V. The USDOL Secretary, after consultation with the Secretary of Education, shall issue instructions annually which include the amount of funds available to be awarded for each state and provide instructions for submitting applications for an Incentive Grant.

W. The State will submit to the Secretary an application, developed by the State Board containing the following assurances:

(1) The State Legislature was consulted regarding the development of the application.

(2) The application was approved by the Governor, the eligible agency, and the State agency responsible for vocational and technical programs under the Carl D. Perkins Vocational Technical Education Act.

(3) The State exceeded the adjusted performance levels for Title I, the adjusted performance levels under Title II and the adjusted levels for vocational and technical programs under the Carl D. Perkins Vocational Technical Education Act.

X. The USDOL will determine the total amount of Incentive funds to be made available under WIA based on such factors as:

(1) The availability of funds for technical assistance, demonstration and pilot projects, evaluations, and Incentive Grants, and the need for these activities;

(2) The number of states that are eligible for Incentive Grants and their relative program formula allocations under Title I;

(3) The availability of funds under WIA resulting from funds withheld for poor performance by states; and,

(4) The range of awards established in WIA Section 503(c).

Y. The award for eligible states will be published by the USDOL Secretary, after consultation with the Secretary of Education within 90 days after the due date of the latest performance progress report providing the annual information needed to determine the State's eligibility.

Z. In determining the amount available to an eligible state, the Secretary of Labor in consultation with the Secretary of Education, may consider such factors as:

(1) The relative allocations of the eligible state compared with other states;

(2) The extent to which adjusted performance levels were exceeded;

- (3) Performance improvement relative to previous years;
- (4) Changes in economic conditions, participant characteristics and proposed service design since the adjusted performance levels were negotiated;
- (5) The eligible state's relative performance for each of the indicators compared to other states; and,
- (6) The performance on those indicators considered most important in terms of accomplishing national goals established by each of the respective Secretaries.

AA. State Sanctions. If the State fails to meet adjusted levels of performance indicators or customer satisfaction indicators for adult, dislocated worker or youth programs under Title I of WIA, the Secretary will upon request, provide technical assistance, as authorized under the WIA.

BB. If the State fails to meet the adjusted performance for core indicators or customer satisfaction indicators for the same program for two (2) consecutive years, the amount of the succeeding year's allocation for the applicable program may be reduced by up to five percent.

CC. The exact amount of any allocation reduction will be based upon the degree of failure to meet the adjusted levels of performance for core indicators. In making a determination of the amount, if any, of such a sanction, the Department may consider factors such as:

- (1) The State's performance relative to other states;
- (2) Corrective action being taken;
- (3) Incremental improvement on the performance measures;
- (4) Technical assistance previously provided;
- (5) Changes in economic conditions and program design;
- (6) The characteristics of participants served compared to the participant characteristics described in the State Plan; and,
- (7) Performance on other core indicators and customer satisfaction indicators for that program.

DD. A State grant may be reduced for failure to submit an annual performance report, and a state may request review of a sanction imposed by the Department.

EE. Local Performance Measures. Each Local Workforce Development Area in the State is subject to the same core performance and customer satisfaction indicators that apply to the State.

FF. In addition to the indicators described, the Governor may apply additional performance indicators to local areas in the State. At this time the Governor has not prescribed additional standards.

GG. The local board and chief elected official shall negotiate with the Governor and reach agreement on the local performance levels for each indicator. The levels must be based on the State adjusted levels of performance.

HH. In determining the appropriate local levels of performance, the Governor, Local Board and chief elected official shall take into account specific economic, demographic and other characteristics of the populations to be served in the local area.

II. The performance levels agreed to shall be incorporated in the local plan.

JJ. Incentives for Local Performance. The State will use a portion of the funds reserved for statewide workforce investment activities under WIA to provide Incentive Grants to local areas for regional cooperation among local boards (including local boards) for a designated region for local coordination of activities carried out under this Act, and for exemplary performance on the local performance measures established.

KK. The amount of funds for Incentive Grants and criteria used for determining local performance levels to qualify for the incentive grants will be determined by the Governor.

LL. The local incentive grant funds may be used for any activities allowed under WIA Title I-B.

MM. Local Sanctions. If a local area fails to meet the levels of performance agreed to for the performance indicators or customer satisfaction indicators for a program in a program year, technical assistance must be provided. The technical assistance shall be provided by the Governor with funds reserved for statewide workforce investment activities under WIA, or upon the Governor's request, by the Secretary. The technical assistance may include the development of a performance improvement plan, a modified local plan, or other actions designed to assist the local area in improving performance.

NN. If a local area fails to meet performance levels agreed to for the core performance indicators or customer satisfaction indicators for a program for two (2) consecutive program years, the Governor will take corrective actions. The corrective actions may include the development of a reorganization plan under which the Governor:

- (1) Requires the appointment and certification of a new Local Board;
- (2) Prohibits the use of particular service providers or One-Stop partners that have been identified as achieving poor performance levels; or,

(3) Requires other appropriate measures designed to improve the performance of the local area.

OO. A local area may appeal to the Governor to rescind or revise a reorganization plan not later than 30 days after receiving notice of the plan. The Governor shall make a final decision within 30 days after receipt of appeal. The Governor's final decision may be appealed by the Local Board to the Secretary not later than 30 days after the local area receives the decision. The decision by the Governor to impose a reorganization plan becomes effective at the time it is issued, and remains effective unless the Secretary rescinds or revises the reorganization plan. Upon receipt of the appeal from the local area, the Secretary shall make a final decision within 30 days.

[11.2.7.8 NMAC – N, 7/1/2000]

11.2.7.9 RESCISSIONS: None.

[11.2.7.9 NMAC – N, 7/1/2000]

11.2.7.10 CONTACT ENTITY: Inquiries regarding this Issuance should be directed to the New Mexico Department of Labor at (505) 827-6827 in Santa Fe.

[11.2.7.10 NMAC – N, 7/1/2000]

11.2.7.11 DISTRIBUTION: NMWDA and LWDB Chairpersons, SAE/NMWDA/LWDB Legal Counsel, NMWDA/LWDB Administrative Entities, SAE/NMWDA/LWDB EO Office, SAE Subrecipients, NMWDA/LWDA Subrecipients, USDOL Federal Representative and New Mexico State Records Center and Archives

[11.2.7.11 NMAC – N, 7/1/2000]

11.2.7.12 ATTACHMENTS: [RESERVED]

[11.2.7.12 NMAC – N, 7/1/2000]