

Master Set
Questions & Answers on WIA Implementation
Updated August 2000

Q & A Disclaimer

This information is provided as a public service by DOL. It represents the Department's best effort to provide useful information in a timely manner. DOL will update this material as necessary to address experience under the WIA.

These questions and answers will not represent official Agency policy until DOL completes the process of preparing for their release in official policy documents (TEGLs and TEINs).

If you have any questions regarding the application of a question or answer to your particular circumstances, please contact your ETA Regional Office.

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Note : Miscellaneous Q&A's are retained as they come in and when such supplemental questions are cleared internally they are merged in to the other Sections, with a notation that they are either new or revised.. This will allow the clearance of supplemental questions separate from the full Master Set.)

Master Set
Questions & Answers on WIA Implementation
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Section I. Administration/Transition/Closeout

1. Q. Could JTPA participants be terminated as "not appropriate for WIA" instead of being grandfathered in, and not be counted in PY 98 JTPA performance?

A. No. All JTPA participants who are enrolled in JTPA must be grandfathered into WIA. These

participants can complete the JTPA services specified in their individual service strategy, even if that service strategy is not allowable under WIA, or if the participant is not eligible to receive these services under WIA.

2. Q. I understand that all participants who are currently enrolled under JTPA will be grand fathered into WIA. Also, I understand that the 8% Education-Coordination activities will no longer exist under WIA. We need to know if persons who are enrolled in training under the 8% monies will be excluded from performance measures as they are currently under JTPA when they are grand fathered into WIA since there will not be any 8% authority.

A. JTPA customers who continue to be served under WIA will be retained in training or other activities until they complete their individual employment plan (IEP). It should not be apparent to them that the system transition has occurred. Customer service cannot be driven by performance measurements. There should be ample opportunity to address any performance concerns during the negotiations of performance levels.

3. Q. When the Local Board's contractor charges an indirect rate based on the direct salaries and fringes of the program people, how is that indirect rate charged?

A. Indirect costs may be either program or administrative costs, depending on what costs were included in the indirect cost pool. Under 20 CFR 667.220(c)(4), specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost may be charged the program category. Documentation of those charges must be maintained.

4. Q. What happens to the funds remaining in a contract with a JTPA service provider after all the JTPA participants have been trained?

A. The contract would need to be closed out by the awarding entity and any funds not expended on eligible JTPA participants should be recovered and used for WIA allowable activities. See TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 1-99 - "Closeout of State Formula-Funded Activities Under the Job Training Partnership Act (JTPA)".

5. Q. Can JTPA funds be used for WIA activities, using WIA rules, and using WIA negotiated outcomes, but retain their 20% administrative cost category limit because they are still JTPA?

A. No. Once a State moves to WIA implementation, all WIA rules would apply including the 10% administrative cost limit regardless of the fact that PY 99 funds are JTPA.

6. Q. Will the Department be able to assist us in dealing with a potential problem where we would be exceeding our administrative limits under JTPA for the second year of a three year period? We planned to stay within our administrative limits in the third year by increasing the programmatic levels and the conversion to WIA will not allow us to accomplish the needed reporting of expenditures.

A. Since the administrative cost limitations are calculated on the amount of funds allocated to the entity, the fact that funds are transferred into WIA does not impact the calculation. The amount of administrative expenditure is still compared with the original amount of funds awarded. Also note

the 2% WIA transition planning funds as well as the costs of JTPA closeout are to be excluded from the PY 98 and PY 99 cost limitation calculations.

7. Q. Are staff time and benefits related to the production of outreach type information (brochures, etc.) administrative costs?

A. It depends on the purpose for which the outreach is undertaken. Under 20 CFR 667.220(a),(b)(1)(iii) and (c)(1), costs associated with the production of public information not directly related to program outreach are administrative costs, while those directly related to customer (e.g., participant and employer) outreach are program costs.

8. Q. How should costs associated with the ITA system be charged? Examples follow:

(a) Setting up the participant on the system;

(b) Updating the participant database;

(c) Sending and mailing monthly statements to the participant or provider if the system is not on a real time access; and

(d) Fielding participant and case manager calls.

A. All of the above items appear to directly relate to the participant and would be chargeable to program operations. Adding participants to the system and updating participant databases relate to systems for the tracking and monitoring of WIA program and participant requirements. Therefore, under 20 CFR 667.220(b)(6), these costs may be charged to program. Sending and mailing monthly statements to the participant or provider if the system is not on a real time access, or item (c), relates to an advice document which provides both the participant and the training provider with information concerning the amount of funds available for the completion of the participant's training and would be a program cost. It is not a payment document which would be an administrative cost. Item (d), fielding participant and case manager calls, is a program function, related to delivering direct client service.

9. Q. Can the processing of supportive services, needs related payments, and payment of bills directly related to the participant (tuition, etc.) be charged to the program cost category? This includes coding and researching of the expenditure related to the participant.

A. No. The functions identified are part of the process of operating the payment system which is an administrative function. When confronting questions like this, it is important to think in terms of function and what the cost relates to and then make a decision. In this case the cost is related to paying outstanding accounts. Similarly, the costs of processing payments under an ITA to a training provider are administrative costs.

10. Q. Are the costs of monitoring and tracking participants chargeable as program or administrative costs?

A. The costs of tracking and monitoring WIA participant and performance information are program costs.

11. Q. Are the costs of developing an MIS system that is used for tracking and monitoring of participants charged to the program or administrative category?

A. According to 20 CFR 667.220(b)(1)(iv)(A) and 667.220(c)(6)(i), the costs of developing and maintaining these systems, as well as data entry costs, are charged to the program cost category.

12. Q. Are the costs of information technology - computer hardware and software - that are used for tracking and monitoring participants charged to the program or administrative category?

A. These costs are administrative costs which do not count against the administrative cost limitation [20 CFR 667.210(c)]. You will report them on a separate line of the Internet reporting form. See TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-99 - "Workforce Investment Act Financial Reporting".

13. Q. If a Local Area or State carries forward JTPA 8% funds, how do they divide the funds between WIA's youth funding stream and WIA's adult funding stream?

A. All funds carried over to WIA from JTPA take on the characteristics of WIA. Upon WIA implementation, any JTPA 8% funds carried over at the State level would lose their JTPA funding stream identity and would simply become State reserve funds under WIA. JTPA 8% funds that have been allocated to Local Areas, will be carried forward along with other carry-over funds. They will become WIA youth or adult funds, as appropriate, depending on whether they came from 8% of JTPA Youth II-C or Adult II-A funds.

14. Q. The transition guidance we have seen indicates that JTPA funds will become WIA funds on July 1, 2000. Does this mean that administrative funds in excess of the 10% allowed under WIA will become program funds?

A. Yes. Your assumption regarding carry-over formula funds from JTPA to WIA is correct. JTPA funds are not administrative, training, supportive services, etc., funds. They are simply JTPA funds. All funds carried over from JTPA to WIA become "whole" dollars for WIA purposes and must be used consistently with WIA rules, including the 10% local and 5% State administrative cost limitations.

15. Q. Will the three-year period of expenditure be continued for PY 1999 funds?

A. Yes. All State JTPA funds, including those allotted for PY 1999, are available for expenditure in the program year obligated and the two succeeding program years whether the State is operating under JTPA or WIA. However, the use of funds, including administrative cost limits, must comply with the program rules of the program (JTPA or WIA) on which they are expended. The allotments for PY 1999 were issued in TEGL 11-98., and the allotments for PY 2000 were issued in TEGL NO. 5-99 "Workforce Investment Act (WIA) Allotments for Program Year (PY) 2000; and Wagner-Peyser Act Preliminary Planning Estimates for PY 2000".

16. Q. What program year funds can/must the States use for local incentive grants (i.e., PY 2000 funds for PY 2000 performance; PY 2001 funds for PY 2000 performance; either one)?

A. A portion of 15% State reserve in WIA sections 128(a) and 133(a), must be used for local incentive grants consistent with section 134(a)(2)(B)(iii) and 20 CFR 666.400(a). The States may determine the criteria to be used for incentive funding, including which PY funds are used to

reward performance for which years.

17. Q. Who has audit responsibility for the different funding streams in the One-Stop system (e.g., will one Federal agency conduct an audit of all the partners' funds or will each Federal agency ensure that its funds are audited)? Who will be responsible for resolving the audits among the partners?

A. Each recipient of Federal funds is responsible for complying with OMB Circular A-133 and the Single Audit Act as amended (Single Audit Act Amendments of 1996). It is possible that a Federal agency's Office of Inspector General would arrange for an audit of that agency's own funds. The entity that provided the funds will be responsible for resolving audit findings related to its individual programs.

18. Q. Can a local area set up its procurement procedures to be less restrictive than those established at the State level provided that both the State and local levels are within the Federal limits?

A. A local area can set up its procurement procedures to be less restrictive than those established at the State level only if it is permitted by State law. In accordance with 29 CFR 97.36(b), grantees and subgrantees that are State or local governments "will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to the applicable Federal law and the standards identified in this section." Non-profit and commercial organizations are also subject to State requirements, (29 CFR 95.1). The minimum standards of procurement procedures established in 29 CFR 95.44 must also be met.

19. Q. Can States require more restrictive procurement requirements for local entities than are required by the OMB circulars?

A. Yes. Any additional procurement requirements imposed by States must be consistent with the Uniform Administrative Requirements and the Cost Principles applicable to the individual subrecipient, as referenced in 20 CFR § 667.200.

20. Q. Will the DOL National Office consider a waiver of the 90-day requirement for the state's final closeout report?

A. See ETA TEGL 1-99 issued in August 1999 which permits a period of up to 6 months within which the final closeout must occur request for extension must provide documented evidence of the necessity for the extension and must be submitted no later than 60 days after the initiation of the closeout period. Only under extreme or extraordinary circumstances will additional extensions be considered.

21. Q. Will the DOL National Office issue guidance concerning how a grantee establishes fair market value for property with a value over \$5000?

A. The Department does not plan to issue additional guidance in this area. If there is a need to address specific concerns, they should be discussed with your Regional Office contact.

22. Q. Can administrative funds from the first year of WIA be used for JTPA final year

closeout costs?

A. No, sufficient funds must be set aside from JTPA to cover all closeout costs.

23. Q. Are JTPA closeout costs for conversion to WIA to be taken from existing administrative dollars only?

A. No. Funds reserved for a closeout will not be considered in calculating compliance with the administrative cost limitation.

24. Q. May storage costs for retention of records be prepaid from JTPA funds?

A. Yes. Prepayment of storage costs is a legitimate closeout expense. ETA will authorize the prepayment of record storage costs for a period of 3 years from the date of submission of the final expenditure report to ensure compliance with the records retention requirement. Records must be kept longer if any litigation or audit is begun, or if a claim is instituted involving the appropriated funds or agreement covered by the records. In these instances, records will be retained until the issue has been finally resolved. However, the only authorized closeout cost for record storage is the amount required to meet the 3 year retention requirement. Because they would constitute an estimated contingency, costs for any longer retention period required must be paid with non-Federal funds. States are responsible for ensuring the retention of records for subrecipients who are disbanding or otherwise unable to retain records. States must also ensure that this requirement is passed on to all subrecipients to ensure compliance.

25. Q. What will be the requirements for handling leave earned by employees under JTPA as we transition into WIA? Will we have to pay for that leave from JTPA funds or can we continue to bring the leave balances forward where the SDAs will become Local WIBs?

A. The answer to the question depends upon the method used to address earned leave in each individual jurisdiction that is operating a JTPA program. Consistent with Generally Accepted Accounting Principles and individual organizations' personnel policies, many jurisdictions have funded leave systems in which the cost of leave is recognized in the books of account and charged to JTPA funds at the time the leave is earned. Those jurisdictions have no problem with carrying forward their leave liabilities and the funds to pay for them when the leave is taken.

Jurisdictions which do not have funded leave systems and which will continue to function under WIA may carry the earned leave forward and pay for it from WIA funds when it is used under WIA. The rationale for permitting these payments to be made under WIA is that the costs are allowable under the OMB Cost Principles Circulars when the leave is provided under established grantee policies which are equitably and consistently applied to Federal and non-Federal activities. Jurisdictions that will no longer exist under WIA and whose personnel policies permit the payment of accrued leave when the program is discontinued should set aside sufficient funds from the JTPA grant to cover such payments as part of their closeout costs. Determinations as to the allowability of leave costs for all other jurisdictions will need to be made on a case-by-case basis which reflects their established policies and the applicable allowable cost requirements.

26. Q. Will DOL reunify the program years for the youth and adult programs? What year will that occur?

A. Technically, the program year is the same for Adult and Youth programs, July 1 - June 30. The youth funds are available for expenditure in advance of the program year under WIA section 189(g)(1)(B). All youth funds may be made available on April 1 while adult and dislocated worker funds must be made available on July 1.

27. Q. Will the Employment and Training Administration (ETA) implement the JTPA recapture and reallocation provisions during PYs 1999 and 2000?

No. This issue is addressed in 20 CFR 667.150(a). ETA has determined that it would not make sense to implement the recapture and reallocation provisions of JTPA during PYs 1999 and 2000. ETA has provided guidance which indicates that States may reserve up to two percent (2%) of PY 98 and PY 99 JTPA funds for transition planning activities as they plan to implement the Workforce Investment Act (WIA) and they are to reserve an adequate amount of PY 98 and PY 99 funds to pay for the costs of JTPA closeout.

Because reserving these amounts for transition planning and for closeout could result in a failure to obligate 85% of PY 99 JTPA Title IIA and IIC funds and a failure to expend 80% of PY 99 Title III funds or to fully expend PY 98 Title III funds in the current year, ETA did not conduct any recapture or reallocation in the fall of 1999 and will not implement the applicable recapture provisions which would otherwise be expected to take place during the fall of 2000. Any PY 98 and PY 99 funds that are not used for program operation or for transition planning during the current year as well as any funds that are not needed for JTPA closeout may be carried forward into WIA. There is no limit on the amount that may be carried forward. Once the JTPA funds have been transferred, the WIA rules and regulations will apply. However, the funds will still be separately tracked and reported by year of appropriation.

* **Additional Administrative guidance can be viewed at**
<http://www.usworkforce.org/asp/siteindex.asp>

Section II. Performance Measurement

A. General Questions

1. Q. JTPA customers who received an objective assessment only or who were in 8% education and coordination grant funded programs were specifically excluded from calculations of performance. Are older workers and those participants in 5% incentives and capacity building grant funded projects that were exempt from performance standards under JTPA also excluded from performance calculations?

A. For PY 1999 performance, the participants served in the JTPA statewide older worker program and individuals served in exempted hard-to-serve projects funded with JTPA 5% incentive and capacity building monies are excluded from performance measurement calculations for PY 1999, provided the participants leave the JTPA program before July 1, 2000. These individuals should be excluded from performance calculations for the first year under the WIA.

It is important to note, however, that JTPA older worker and hard-to-serve project participants who continue services under the WIA Title I program will count in performance calculations under the appropriate WIA performance measures.

2. Q. When a State uses 15% funds for Statewide activities are the outcomes included in the negotiated title 1 Subtitle B performance measurements?

A. If the activities funded with State 15% reserve funds involve the enrollment of individuals eligible for title 1 subtitle B services, (i.e. adult, dislocated workers, or youth activities), at the State or local level, the outcomes are included in the performance measurements. If the activities are not supporting services for eligible adults, dislocated workers or youth, the outcomes are not included in the negotiated performance measures. Examples of such exceptions include activities where:

- the State is conducting a Statewide activity that does not involve direct services (e.g. research or evaluation),
- the activity is structured to provide services that are highly specialized, such as in a pilot or demonstration activity for which the State establishes separate, or its own specific, goals not typically addressed in the adult, dislocated worker or youth activities (e.g. the activities support incumbent worker training authorized under Section 134(a)(3)(A)(iv)(I), or a project for chemically dependent TANF recipients).

3. Q. We propose to negotiate outcomes for core, intensive and training services regardless of whether WIA or Wagner-Peyser funds were used to obtain the result. Data will be combined from CS3 (the Wagner-Peyser labor exchange system) and PMIS (Program Management Information System.) Wagner-Peyser will be sorted into core and intensive services. Please comment on this approach as we are actively pursuing the strategy at this time.

A. Individuals should be registered for a specific program, and results achieved credited to the program only when that program's funds are expended on the services provided. For example, if Wagner-Peyser funds are being used exclusively for core services and underwrite 100% of the cost of these services, individuals getting only those core services would not be registered under WIA. In contrast, if Wagner-Peyser and WIA Adult monies are sharing the costs of such services, individuals receiving them should be concurrently registered in both programs. As a point of clarification, outcomes are negotiated for the group being served by each funding stream, and should not relate to each individual service provided. Recent guidance on this issue was published in the Federal Register on July 19, 2000, "Resource Sharing for Workforce Investment Act One-Stop Centers".

4. Q. How do the performance accountability requirements of WIA apply to the UI program?

A. The core indicators of performance relate to those activities that are funded under title I of WIA and include, among other things, entry into, retention in, and earnings from unsubsidized employment. Some states have established system-wide measures that examine the effective One-Stop partner programs, such as U.I. The performance of training providers will also be measured and made available by the State. The UI role in WIA performance is to provide data for these measures from quarterly wage records in accordance with State law.

5. Q. Under JTPA follow up reporting was required 13 weeks after termination. If a JTPA participant is terminated by 6/30/00 is there still a requirement to do the 13 week JTPA follow-up reporting?

A. A JTPA follow-up survey on post-program employment and earnings is **not required** for reporting on the performance of participants leaving the JTPA program **after** March 31, 2000. If an

SDA/WIA wanted to do follow-up for purposes of continuity or participant support however, they could do it voluntarily and the costs would be allowable WIA costs. WIA follow up procedures begin with enrollments carried forward into the WIA Program Year.

6. Q. In TEGL 7-99, Table 1 contains those services in which registration for WIA services is "proposed." The narrative of the TEGL states the table outlines services that "require" registration. Which is correct?

A. The heading for Table 1 in TEGL 7-99 contains a typographical error. The services outlined in Table 1 require registration.

7. Q. The definition of "credential" on page 15 of TEGL 7-99 is very broad. What constitutes a "locally recognized credential"?

A. A locally recognized credential must satisfy any policy requirements established by the State. The Department encourages States and local areas to work together in creating and applying the criteria for an acceptable credential. The Department also encourages States and local areas to use for their customers industry-recognized credentials that are portable. A portable credential builds credibility with the employer community and is valued across State lines and across various institutions of higher education and companies.

B. Youth Questions

8. Q. With respect to the "skill attainment" section in TEGL 7-99, the last sentence in the first paragraph states: "The use of a standardized assessment procedure such as a standardized test or a performance-based assessment with a standardized scoring method is encouraged [emphasis added]." The next paragraph under this section implies a standardized assessment is required, where available, and outlines criteria for pre-program and post-program assessments. Is the use of standardized tests encouraged or required to document skill attainment?

A. There are different requirements for different types of skills assessments. For basic skills assessments, the Department requires the use of standardized tests to document basic skills needs and attainment of basic skills. For occupational skills and work readiness skills assessments, the Department encourages the use of standardized tests in the assessment process.

9. Q. In Attachment C of TEGL 7-99 it states "all older youth exiters except those who move into post-secondary are subject to the entered employment, retention, earnings change and credential rate calculations." Should this statement say all older youth exiters except those who move into "post-secondary education or advanced training" are subject to these measures?

A. Yes. With the exception of those who move into post-secondary education or advanced training, older youth exiters are subject to the employment, retention, earnings change and credential rate calculations.

10. Q. In Attachment C of TEGL 7-99 should the reference quarter be the "third quarter after exit" and not the "first quarter after exit" for the younger youth retention rate as stated

in Step 2 of the attachment?

A. Yes. The statement referenced in the question contains a typographical error. The younger youth retention rate includes younger youth found in one of the following in the 3rd quarter after exit: post-secondary education; advanced training; employment; military service; or qualified apprenticeships.

11. Q. Are youth and WIA funded post-secondary training activities included in the youth retention measures?

A. Yes, the younger youth (14-18) retention measure includes placement in post secondary education as well as advanced training, or placement in military service, employment or qualified apprenticeship.

12. Q. Can youth be counted more than once in the attainment rate?

A. Yes. The skill attainment rate is tied to the number of goals set for each youth. Therefore, if a youth has multiple goals they may be counted in this measure more than once. A youth may have up to three skill attainment goals (basic skills, work readiness, and occupational skills) per year; therefore, a youth may be counted up to three times in the skill attainment rate.

13. Q. For youth who have attainment of a high school diploma (or GED) as a goal, would these youth be in the denominator until they graduate?

A. No. Generally, this goal is appropriate for older youth (ages 17 and older). This rate is based on the premise that an individual will set a goal that is attainable within one year. For youth who are not expected to meet this goal within a year, an interim goal, such as a skill attainment goal, may be more appropriate.

14. Q. A youth between the ages of 19 and 21 could be co-enrolled in the adult and youth programs under Title I. Can an older youth (19-21) be counted in the credential attainment rate for adults and youth?

A. Yes, if an older youth, aged 19-21, is co-enrolled in the adult and youth programs, he/she will count in both sets of indicators so long as the individual is receiving services under both programs. Further guidance is available in TEGL NO. 7-99 "Core and Customer Satisfaction Performance Measures for the Workforce Investment System".

C. Customer Satisfaction Questions

15. Q. How do States identify employers to be included in the customer satisfaction survey?

A. The potential respondents for the employer survey are those employers who directly benefit from services funded under Title I of the WIA. States should build into their information and reporting systems policies the capacity to track WIA Title I services received by employers. This information should include valid contact data needed to initiate the survey.

16. Q. If a State wants to conduct ACSI surveys at the local level, will the Department of

Labor's license suffice?

A. No. The licensing agreement the Department holds is for samples drawn at the statewide level. States will need to purchase their own licenses to use the ACSI questions and scoring method to conduct surveys at the local level.

It should be noted that States are not required to use the ACSI approach for measuring customer satisfaction at the local level. States may establish other approaches for measuring satisfaction at the local level. It is important to note, however, that any approach a State uses to measure customer satisfaction at the local level must be consistently and uniformly applied when collecting and reporting customer satisfaction outcomes.

D. Reporting Requirements

17. Q. The description of performance in our State plan will consist of (1) common data bases we have built (UI and Wagner-Peyser), (2) our strategy for accessing and using information from other databases, and (3) interfaces we've built and are planning to build. Is there any expected "minimum" response regarding common data collection and reporting that is required to implement WIA programs during the transition year?

A. Yes. The minimum response is outlined in the Planning Guidance under Attachment A, V. B. - Performance Management developed to meet the requirements of WIA section 112(b)(8)(B). It involves a common data system and reporting processes to track progress, the data to be collected from the various One-Stop partners, your use of quarterly wage records, and how the Statewide system will have access to the information needed to continuously improve.

18. Q. For reporting purposes, if the participant is enrolled before 6/30/2000 under a JTPA strategy and is allowed to complete their training under the JTPA strategy after July 1, 2000, do you count this participant under JTPA final outcomes or under WIA outcomes or both?

A. All individuals exiting the program after July 1, 2000, the date JTPA was repealed, are counted as WIA participants.

19. Q. In TEGL 8-99, Attachment B states the "source data" to be used in establishing baseline data should be wage record information acquired for the 1st, 2nd, and 3rd quarters after termination for adults, dislocated workers, and older youth. Should the wage record information also be acquired for younger youth in order to calculate performance on the Younger Youth Retention Measure, which has employment as one of five possible outcomes?

A. Yes. The UI wage record information is the primary source for information needed to compute retention in employment for younger youth. Supplemental sources for this information may also be used as outlined on page 28 in TEGL 7-99.

20. Q. The definition of "credential" on page 15 of TEGL 7-99 is very broad. What constitutes a "locally recognized credential"?

A. The Department intentionally gave States maximum flexibility in determining the standards for a locally recognized credential. Local programs should contact their State agency responsible for

defining credentials to obtain guidance on developing credentials. A locally recognized credential must satisfy any policy requirements established by the State. The Department encourages States and local areas to work together in creating and applying the criteria for an acceptable credential. The Department also encourages States and local areas to use industry-recognized credentials that are portable for their customers. A portable credential builds credibility with the employer community and is valued across State lines and across various institutions of higher education and companies.

21. Q. With respect to the "skill attainment" section on page 31 of TEGL 7-99, the last sentence in the first paragraph states: "The use of a standardized assessment procedure such as a standardized test or a performance-based assessment with a standardized scoring method *is encouraged* [emphasis added]." The next paragraph under this section implies a standardized assessment is required, where available, and outlines criteria for pre-program and post-program assessments. Is the use of standardized tests encouraged or required to document skill attainment?

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A. Yes. With the exception of those who move into post-secondary education or advanced training, older youth exiters are subject to the employment, retention, earnings change and credential rate calculations. This clarification will be made in future guidance from the Department.

23. Q. In Attachment C of TEGL 7-99, page 61, shouldn't the reference quarter be the "third quarter after exit" and not the "first quarter after exit" for the younger youth retention rate as stated in Step 2 of the attachment?

A. Yes. The statement referenced on page 61 contains a typographical error. The younger youth retention rate includes younger youth found in one of the following in the 3rd quarter after exit: post-secondary education; advanced training; employment; military service; or qualified apprenticeships. Future guidance from the Department will reflect this correction.

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It is important to note, however, that JTPA older worker and hard-to-serve project

participants who continue services under the WIA Title I program will count in performance calculations under the appropriate WIA performance measures.

26. Q. When a State uses 15% funds for Statewide activities are the outcomes included in the negotiated title 1 Subtitle B performance measurements?

A. If the activities funded with State 15% reserve funds involve the enrollment of individuals eligible for title 1 subtitle B services, (i.e. adult, dislocated workers, or youth activities), at the State or local level, the outcomes are included in the performance measurements. If the activities are not supporting services for eligible adults, dislocated workers or youth, the outcomes are not included in the negotiated performance measures. Examples of such exceptions include activities where:

- the State is conducting a Statewide activity that does not involve direct services (e.g. research or evaluation), or
- the activity is structured to provide services that are highly specialized, such as in a pilot or demonstration activity for which the State establishes separate, or its own specific, goals not typically addressed in the adult, dislocated worker or youth activities (e.g. the activities support incumbent worker training authorized under Section 134(a)(3)(A)(iv)(I), or a project for chemically dependent TANF recipients).

27. Q. How do States identify employers to be included in the customer satisfaction survey? Is the survey limited to only those employers who receive WIA Title I services? If so, we have no way of identifying which employers receive services funded by WIA Title I as our One-Stop career centers don't track employers in that way.

A. The potential respondents for the employer survey are those employers who directly benefit from services funded under Title I of the WIA. States should build into their information and reporting systems policies the capacity to track WIA Title I services received by employers. This information should include valid contact data needed to initiate the survey.

28. Q. Why did the method for computing performance on the American Customer Satisfaction Index (ACSI) change from a straight averages approach to a weighted averages method?

A. Based on research by Claes Fornell International (CFI), weights were added to the equation for computing performance on the ACSI to create scores that are comparable with similar businesses and programs. The weights will be determined by CFI in June 2000 and will be available before the start of PY 2000. States are responsible for applying the weights and computing performance on the ACSI measures.

The ACSI is the most widely used index currently in practice. It is used extensively in the business community, including in over 150 Fortune 500 companies, and in many European countries. Twenty-nine agencies of the Federal government are using the ACSI. In addition, it has been used twice in the past four years to assess customer satisfaction for the Enterprise, ETA's Quality Initiative. The ACSI will allow the workforce investment system to not only look at performance within the system, but also to gain perspective on the workforce system's performance by benchmarking against organizations and industries outside of the system. The ACSI also has a history of being useful in tracking change in customer satisfaction over time, making it an ideal way to gauge States' progress "toward continuously improving in performance."

29. Q. We intend to make incentive awards and determine whether to designate temporary areas for an additional three years on the basis of follow-up calls made at 3 months. UI wage reports will be used for compliance purposes, but cannot be collected in a timely fashion for sanctions or incentives. Is there any problem with this approach?

A. There may be a problem with this approach as it relates to local incentive awards and local sanctions. Providing local incentive grants is one of the required Statewide activities in the statute. As provided in 20 CFR 666.400(a), one basis upon which to award such grants is "for exemplary performance on the local performance measures established under subpart C of [20 CFR part 666]." 20 CFR 666.420 provides the criteria under which sanctions are applied to local areas. Sanctions are also based upon a local area's performance with regard to the local performance measures. Under 20 CFR 666.150, States must use quarterly wage records consistent with State law, in measuring a local area's progress on local performance measures.

30. Q. We propose to negotiate outcomes for core, intensive and training services regardless of whether WIA or Wagner-Peyser funds were used to obtain the result. Data will be combined from CS3 (the Wagner-Peyser labor exchange system) and PMIS (Program Management Information System.) Wagner-Peyser will be sorted into core and intensive services. Please comment on this approach as we are actively pursuing the strategy at this time.

A. Individuals should be registered for a specific program, and results achieved credited to the program only when that program's funds are expended on the services provided. For example, if Wagner-Peyser funds are being used exclusively for core services and underwrite 100% of the cost of these services, individuals getting only those core services would not be registered under WIA. In contrast, if Wagner-Peyser and WIA Adult monies are sharing the costs of such services, individuals receiving them should be concurrently registered in both programs.

As a point of clarification, outcomes are negotiated for the group being served by each funding stream, and should not relate to each individual service provided. Recent guidance on this issue was published in the Federal Register on July 19, 2000, "[Resource Sharing for Workforce Investment Act One-Stop Centers](#)", which can be found on the WIA website at <http://www.usworkforce.org>.

31. Q. How are job seekers with a work history not covered by the UI wage records system to be assessed? Can supplemental data be used?

A. Early WIA implementing States of America's Workforce Network are permitted to supplement UI wage records with other data when UI wage records cannot be located or are not available. All data and methods used to supplement UI wage records must be documented and may be subject to audit. After July 1, 2000, supplemental data will only be allowed for wages in non-covered employment.

32. Q. The description of performance in our State plan will consist of (1) common data bases we have built (UI and Wagner-Peyser), (2) our strategy for accessing and using information from other databases, and (3) interfaces we've built and are planning to build. Is there any expected "minimum" response regarding common data collection and reporting that is required to implement WIA programs during the transition year?

A. Yes. The minimum response is outlined in the Planning Guidance under Attachment A,

V. B. - Performance Management developed to meet the requirements of WIA section 112(b)(8) (B). It involves a common data system and reporting process to track progress, and the data to be collected from the various One-Stop partners, use of quarterly wage records, and how the Statewide system will have access to the information needed to continuously improve.

The information required for performance accountability, (like the WIASRD), is limited to customers who receive WIA Title I-funded services. The WIASRD provides the information that is required for the participant quarterly report and the annual report.

33. Q. Are youth and WIA funded post-secondary training activities included in the youth retention measures?

A. Yes, the youth (14-18) retention measure includes placement in post secondary education as well as advanced training, or placement in military service, employment or qualified apprenticeship.

34. Q. How will Youth Skills attainment rate be defined?

A. The proposed measurement for younger youth skill attainment rate is as follows: Of all in-school youth and any out-of-school youth assessed to be in need of basic skills, work readiness skills, and/or occupational skills:

$$\frac{\text{No. of attained basic skills} + \text{No. of attained WR skills} + \text{No. of attained Occup. Skills}}{\text{No. of basic skills goal} + \text{No. of WR skills goal} + \text{No. of Occup.skills goals}}$$

35. Q. Can youth be counted more than once in the attainment rate?

A. Yes. The skill attainment rate is tied to the number of goals set for each youth. Therefore, if a youth has multiple goals they may be counted in this measure more than once. A youth may have up to three skill attainment goals (basic skills, work readiness, and occupational skills) per year; therefore, a youth may be counted up to three times in the skill attainment rate.

36. Q. For youth who have attainment of a high school diploma (GED) as a goal, would these youth be in the denominator until they graduate?

A. No. Generally, this goal is appropriate for older youth (ages 17 and older). This rate is based on the premise that an individual will set a goal that is attainable within one year. For youth who are not expected to meet this goal within a year, an interim goal, such as a skill attainment goal, may be more appropriate.

37. Q. How do the performance accountability requirements of WIA apply to the UI program?

A. The core indicators of performance relate to those activities that are funded under title I of WIA and include, among other things, entry into, retention in, and earnings from unsubsidized employment. Each State is required to meet performance measures negotiated with the Secretary of Labor based on core indicators established by the WIA. States, in turn, negotiate performance measures with local areas. The Department is considering the applicability of the core indicators of performance to other DOL partner programs. States have the option of identifying additional performance indicators for WIA-funded activities. Some states have established system-wide measures that examine the effective One-Stop partner programs, such as U.I. The performance of training providers will also be measured and made available by the State. The UI role in WIA performance is to provide data for these measures from quarterly wage records in accordance with State law.

38. Q. Are youth and WIA funded post-secondary training activities included in the youth retention measures?

A. Yes, the youth (14-18) retention measure includes the following outcome activities: post secondary education, advanced training, or placement in military service, employment or a qualified apprenticeship.

39. Q. For reporting purposes, if the participant is enrolled before 6/30/2000 under a JTPA strategy and is allowed to complete their training under the JTPA strategy after July 1,2000, do you count this participant under JTPA final outcomes or under WIA outcomes or both? (NEW)

A. All individuals exiting the program after July 1, 2000, the date JTPA is repealed, will be counted as WIA participants.

40. Q. Under JTPA follow up reporting was required 13 weeks after termination. If a JTPA participant is terminated by 6/30/00 is there still a requirement to do the 13 week JTPA follow-up reporting? (NEW)

A. A JTPA follow-up survey on post-program employment and earnings is not required for reporting on the performance of participants leaving the JTPA program **after** March 31, 2000. If an SDA/WIA wanted to do follow up for purposes of continuity or participant support however, they could do it voluntarily and the costs would be allowable WIA costs. WIA follow up procedures begin with enrollments carried forward into the WIA Program Year.

41. Q. Local areas that serve younger disabled youth will be required to set a basic skills goal if the youth is basic skills deficient. Must local areas that want to serve disabled youth continually set basic skills goals every year even if the service strategy carries over several years? (NEW)

A. Service providers at the One-Stop center set the skills attainment goals, and the goals are to be based on the assessment and the individual service strategy for each individual. For disabled youth, it is appropriate to set goals that can be reasonably attained by the individual according to the individual service strategy, and this could be an on-going process.

*** Additional Performance Management guidance may be found at:**

<http://www.usworkforce.org/asp/siteindex.asp>

Section III. Governance Issues/Partnerships

1. Q. The WIA requires that One-Stop core services include the "provision of information regarding filing claims for unemployment compensation." (See WIA Section 134 (d)(2)(I).) How can States meet this requirement?

A. Areas may satisfy the requirement of Section 134(d)(2)(I) by providing claims filing information in a number of ways such as: 1) on-site staff; 2) telephones or Internet access for claims filing; 3) computer tutorials; or 4) any other method agreed to in the local Memorandum of Understanding (MOU) that would best serve UI, and other One-Stop customers. There are no restrictions on the type or variety of methods that may be employed. Anyone who enters a One-Stop center should be able to easily learn how to file for UI benefits and be able to file a claim on the spot. This will be accomplished through the co-location of staff as well as through the availability of appropriate technology.

Although the WIA sets forth the minimum requirement of providing information on UI, One-Stop service centers may offer a wide array of UI services to customers such as claims filing, eligibility reviews, appeals hearings, and employer liability information. One-Stop service centers should be comprehensive, responsive service delivery systems for all customers.

2. Q. Each One-Stop partner is required to enter into a Memoranda of Understanding (MOUs) with the Local Board, in collaboration with the chief elected official, for overseeing the One-Stop system in its local area. What are the requirements of the UI program with respect to the MOU?

A. As with all partners, the UI partner must enter into an MOU which will describe:

- The services to be provided through the One-Stop system;
- How the costs of the services and the operating costs of the system will be funded;
- Methods of referral of individuals between the One-Stop operator and the One-Stop partners;
- The duration of the MOU and the procedures for amending the MOU (WIA section 121(c); 20 CFR 662.230(c) and 662.300; and
- Any other provisions consistent with the WIA that the parties determine are appropriate.

Under 20 CFR 662.310(a), a single "umbrella" MOU may be used to address the issues relating to

the local One-Stop delivery for the Local Board and all partners, or the Local Board may enter into separate agreements with one or more partners. Whether an umbrella MOU is used or multiple MOUs are used, every MOU must include the required elements discussed above.

3. Q. Each partner must contribute to the operating costs of the One-Stop centers. How will costs be determined?

A. Streamlining services through partnerships is a principle embodied in the WIA legislation, and is a necessary process component of an effective One Stop center. Memoranda of Understanding will assist in the establishment of roles and responsibilities of each partner, and each will be required to contribute a fair share of the operation costs of the One-Stop system in proportion to the use of the system by individuals attributable to the partner's program. (20 CFR 662.230(b)) Methods of cost allocation must be consistent with the requirements of the Office of Management and Budget circulars and should be outlined in the MOU. Guidance is also provided in a recent draft policy document, "Resource Sharing for Workforce Investment Act One-Stop Centers", posted on the www.usworkforce.org/ website.

4. Q. As a required One-Stop partner, UI must have a representative on the Local Board. (WIA §117(b)(2)(A)(vi), 20 CFR §662.230(e)) How will representatives be selected? Can one person represent more than one partner?

A. The Governor, in partnership with the State Board, will establish criteria for selecting One-Stop partner program representatives in accordance with the membership requirements of WIA section 117(b). The chief elected official will use that criteria to appoint the representatives; but the representative must have "optimum policy making authority" within the organization he/she represents. The chief elected official may appoint one individual as representative of more than one partner, or partnership category, if the person selected meets the representation criteria, including the "optimum policy-making authority" requirement, for each entity represented.

5. Q. WIA section 134(e)(3)(A) allows for needs-related payments to certain unemployed individuals who do not qualify for (or have ceased to qualify for) unemployment compensation. This suggests that the UI agency will supply this information to the appropriate partner. How will this effort be orchestrated?

A. Provision of needs-related payments is a discretionary local area activity, the details of which should be included in the MOUs. As to sharing UI information, the WIA did not change the basic requirements concerning the confidentiality of UI data. Therefore, DOL's interpretation of Federal UI law (as stated in UIPLs 23-96 and 34-97) concerning confidentiality applies. Accordingly, claimant information may only be disclosed to public officials or their agents in the performance of public duties, or to private entities on the basis of the informed consent of the individual to whom the information pertains. Disclosure for WIA purposes must be consistent with these conditions.

6. Q. Can a State employment service (ES) office stand alone? What happens when One-Stop implementation funds are expended?

A. Wagner-Peyser (W-P) Act services funded under section 7(a) of that Act must be delivered as part of the One-Stop delivery system, in accordance with 20 CFR 652.202. Local public ES offices may not exist outside of the One-Stop delivery system. However, a local public ES office may operate as an affiliated site, or through electronically or technologically linked access points as part

of the One-Stop delivery system provided the conditions set forth at 20 CFR 652.202 (a) are satisfied. The Department of Labor provided One-Stop implementation grants to all States to stimulate the building of the infrastructure needed to support a consolidated One-Stop delivery system. Under the WIA, State and local partners will continue their system-building efforts through the use of partner operational funds of America's Workforce Network.

8. Q. What is 'America's Workforce Network'?

A. Secretary Herman has announced this name to describe the multiple programs and services available through the Department of Labor's Employment and Training Administration. The suite of services includes all activities under WIA, and the various tools to support them, such as America's Job Bank, America's Talent Bank, Career InfoNet, Youth Opportunity grants, the toll-free number for Dislocated Worker services, etc. All of these comprise the network of services referred to as 'America's Workforce Network.'

9. Q. Currently our State ES agency pays for re-employment services. Under WIA will the State or the Local Board be responsible for re-employment services?

A. A memorandum of understanding (MOU) among the Local Board and partners, must contain, among other things, provision for the funding of the services and operating costs of the system, including re-employment services to UI claimants, (in accordance with 20 CFR 662.300). The W-P Act, and regulations at 20 CFR 652.209 require that a State W-P Act agency, through the One-Stop delivery system, provide services to UI claimants to the extent that W-P Act funds are available.

Under the Worker Profiling and Re-employment Services initiative, whether it be a W-P Act or WIA Title I service provider delivering re-employment services to those UI claimants likely to exhaust benefits, the service provider is required to provide available services to them, and program feedback to the UI component on the services provided. At a minimum, the One-Stop operator or partner should provide feedback information relating to re-employment services upon:

- Orientation and completion of the individual service plan,
- Any change in the claimant's status or participation, and
- Completion of the claimant's receipt of re-employment services.

10. Q. Given the Wagner-Peyser Act role in the One-Stop environment -- are all Wagner-Peyser Act registrants WIA registrants?

A. No. Services for the W-P Act and WIA Title I are funded separately. As such, a job seeker will register under the W-P Act or WIA Title I portions of the programs(s) under which the participant receives services when meeting the applicable program requirements for becoming registered .

11. Q. Who decides how Wagner-Peyser Act funds are used locally?

A. 20 CFR 652.203 requires that the State W-P Act agency retain responsibility for all funds authorized under the W-P Act, including those funds authorized under section 7 (a) required for providing services and activities delivered as part of the One-Stop delivery system. The MOU agreed to by partners and Local Boards must contain a description of W-P Act services to be provided among other partner services and accompanying funding arrangements. While the Local

Board may recommend a distribution process for W-P Act funds, with input from the W-P partner representative on the Local Board, the State W-P Act agency retains responsibility for distribution and proper administration.

12. Q. Will States be required to use the WRIS system or alternative system for sharing wage record information? If no, this may adversely affect local performance.

A. States are not required to participate in the WRIS system. Participation in WRIS is voluntary. WRIS is a system that provides an efficient means for States to access quarterly wage record information for measuring State and local performance. States may use an alternative system so long as the information in the alternative system is sufficient and appropriate to measure the State's performance and progress against WIA requirements. The Act does require States to use quarterly wage record information in measuring State progress on the WIA performance measures. Therefore, States should give consideration to including quarterly wage record information in any alternative system that may be planned.

13. Q. Does WIA establish a "right/authority" for the CEO to receive approval of a request to the Governor to use an alternative entity under Sec. 117?

A. A Governor may, but is not required to, approve a request from a local area to use an alternative entity.

14. Q. The Governor, in partnership with the State Board, is required to establish criteria for the use of the CEO for appointment of Local Board members. Could this criteria mandate that the Local Board reflect the membership in Sec.117 of the Act, and if so can the Governor refuse to approve a CEO's request for designation as an alternative entity if the Local Board does not meet the criteria in Sec. 117?

A. The Governor, in partnership with the State Board, is required to establish criteria for use by CEO's in local areas for appointment of Local Board members, in accordance with the requirements outlined in section 117 (b)(2). As indicated in the answer to the preceding question, the Governor may, but it not required to, approve a request from a local area to use an alternative entity.

15. Q. What role does the Unemployment Insurance (UI) program play in the workforce investment system?

A. The UI program is a required One-Stop partner. The Department of Labor (DOL) views UI as a crucial component of the One-Stop system which provides an opportunity to link services across programs to provide easier access and better services to customers. Also, UI wage records must be made available, consistent with State law, for evaluating performance, and may provide key information on the performance of training and education providers that can contribute to Consumer Reports.

16. Q. Is the Client Assistance Program, (CAP), a required One Stop partner?

A. Yes. The CAP is a separately funded VR program under Title 1 of the Rehabilitation Act, and as such, a required One-Stop partner, as stated at WIA section 121(b)(1)(B)(iv). **(NEW)**

17. Q. Does a state legislature have any independent authority to approve or disapprove the WIA plan? (NEW)

A. This is a matter of state law. Nothing in WIA, the regulations or the Planning Guidance discusses the state legislature's authority to approve or disapprove the WIA plan. However, WIA sec. 191 gives state legislatures authority to pass legislation to implement the Act.

18. The law prohibits elementary and secondary schools from being certified as One-Stop operators, but could a school board be selected?(NEW)

A. Any entity that is not specifically prohibited in WIA sec.121(d)(2) or (3) could be selected as a One Stop operator, as long as it is selected in accordance with the process described in 20 CFR 662.710.

*** Additional Governance policy and Partnership information may be found at:**

<http://www.usworkforce.org/asp/siteindex.asp>

Section IV. Adult Services

(Includes Adults, Dislocated Workers)

1. Q. What will be the procedure for handling individuals who want to redeem a Certificate of Continuing Eligibility after July 1, 2000? Even if we identify them as a priority group for service, will they be required to go through core and intensive services before receiving an ITA or participating in another training activity?

A. Certificates of Continuing Eligibility do not exist under WIA. Individuals not enrolled in JTPA who want training services under WIA must meet the eligibility criteria of WIA sec.134(d)(4), 20 CFR 663.310, and follow the procedures established by the Local Board. You may use previous eligibility data and assessments to determine which services (including training) best suit the individual's needs and whether the individual has already participated in core and intensive services. An individual who is enrolled in, but has not completed training under JTPA by the transition date to WIA, should be continued as a WIA training enrollee under their individual employment plan (IEP) until completion.

2. Q. Is adequate funding available to develop, monitor and track an eligible training provider system?

A. This is a required Statewide activity, and State and Local Boards should ensure that sufficient funds are directed to managing the eligible provider process as required by 20 CFR 663.510(a). Further, 20 CFR 663.550 requires that the State agency must maintain a list of all eligible training providers identified by the local areas, and 20 CFR 663.555 requires that the State agency disseminate the State list throughout the State.

3. Q. Is UI data required to be used for performance information for initial eligibility of eligible providers' programs?

A. This is up to the Governor and the local area. Section 122(b)(2) of WIA indicates that for programs which are not initially eligible under the Higher Education Act, (HEA), or registered

under the National Apprenticeship Act, the Governor determines the procedures for local boards to use in determining initial eligibility. WIA requires that the procedures include performance information in categories similar to those discussed above for subsequent eligibility, but there is no requirement that quarterly UI records be used. This is in contrast to the requirements for the Governor's subsequent eligibility procedures, under which performance must be measured using UI wage records.

4. Q. Must WIA title I funds be used to provide all three levels of services; core, intensive and training? Is it possible for a local area to use title I funds for only one level of service if funding is available for the others?(NEW)

A. 20 CFR 663.145(a) clearly states that "WIA title I formula funds allocated to local areas for adults and dislocated workers must be used to provide core, intensive and training services through the One-Stop delivery system. Local Boards determine the most appropriate mix of these services, but all three types must be available for both adults and dislocated workers." WIA title I dollars must support some portion of all three types of activity.

5. Q. May a State set a policy that allows Local Boards to define eligibility for employed workers to access intensive or training services under WIA? (NEW)

A. Yes, as long as the provisions of WIA section 101(24) are met as well as §663.230, which states that the State or local board sets the criteria for self-sufficiency.

6. Q Under JTPA if someone was enrolled in Title V they were automatically economically disadvantaged for JTPA eligibility purposes. Can Title V participants be considered income eligible for WIA? (NEW)

A. Yes, the Omnibus Appropriations Act of 1998, section 405(d)(33), sub-section (D) amends the Older Americans Act of 1965 by stating in part that "In the case of projects under this title carried out jointly with programs carried out under subtitle B of title I of the Workforce Investment Act of 1998, eligible individuals shall be deemed to satisfy the requirements of section 134 of such Act". This is similar to the eligibility allowance under the Job Training Partnership Act.

7. Q. Must WIA title I funds be used to provide all three levels of services; core, intensive and training? Is it possible for a local area to use title I funds for only one level of service if funding is available for the others?(NEW)

A. 20 CFR 663.145(a) clearly states that "WIA title I formula funds allocated to local areas for adults and dislocated workers must be used to provide core, intensive and training services through the One-Stop delivery system. Local Boards determine the most appropriate mix of these services, but all three types must be available for both adults and dislocated workers." WIA title I dollars must support some portion of all three types of activity.

8. Q. May a State set a policy that allows Local Boards to define eligibility for employed workers to access intensive or training services under WIA? (NEW)

A. Yes, as long as the provisions of WIA section 101(24) are met as well as §663.230, which states that the State or local board sets the criteria for self-sufficiency.

* Additional information on Adult Services may be found at:

<http://www.usworkforce.org/asp/siteindex.asp>

Section V. Youth Services

(Includes: Job Corps, Youth Opportunity, Title I Youth)

1. Q. Are individuals aged 18-24 eligible for Job Corps?

A. Any individual who is at least 16 and not more than 24, is low income, and faces one or more of the barriers to employment identified in the Workforce Investment Act is eligible for Job Corps; however the number of individuals age 22 and older may be restricted as referenced in 20 CFR 670.400. Eighteen through twenty-one year olds who are eligible for Job Corps and in need of WIA for certain program services could receive the needed WIA services while participating in Job Corps.

2. Q. Are Job Corps Centers automatically designated as eligible providers for both youth and adults?

A. The references to "eligible provider" in the Act and regulations are offered in the context of "entities eligible to receive WIA title 1-B funds to provide training services to eligible adult and dislocated worker customers." Eligible providers of youth activities from "funds allocated under paragraph 2(A) or 3 of section 128(b) to a local area" (section 123 of the Act), are identified by awarding grants or contracts on a competitive basis separate from the determination process establishing a list of WIA Title I eligible training providers. Job Corps Centers are not automatically eligible for designation on that list.

The Act (section 141) and the regulations at 20 CFR 670.110 both clearly identify Job Corps as a national program that "operates in partnership with States and communities, local Workforce Investment Boards, youth councils, One-Stop Centers and partners, and other youth programs...." From the service perspective this will manifest itself in several ways, including Job Corps participating in the selection of center operators and service providers through the Local Board, using criteria that in part determines "The degree to which the offeror is familiar with the surrounding community, including the applicable One-Stop Center, and the State and region in which the center is located" (20 CFR 670.310(c)(2))

3. Q. Is Job Corps representation required on the Local Boards?

A. Yes, where there is a Job Corps Center present in the local area, the Job Corps program should be represented on the Local Board. 20 CFR 662.220 goes on to say that since Job Corps is a required partner, they must be included in the One-Stop delivery system. Where Job Corps or other national programs are not present, State and Local Boards are to take steps to ensure that customers of these programs have access to Job Corps services through the One-Stop system.

4. Q. How will Job Corps be integrated into the One-Stop system?

A. 20 CFR 662.220 states that since Job Corps is a required One-Stop partner, the program must be included in the One-Stop delivery system "where they are present in the local area." Section

670.800(g) goes on to require, where practicable, cooperative relationships between Job Corps and One-Stop partners, Local Boards, and other youth programs.

5. Q. When WIA youth programs are implemented, will local areas and States have to account for and report costs of summer employment opportunity activities separately from year round activities?

A. Due to the enormous impact on summer employment programs under JTPA, ETA has decided to capture summer employment opportunity program activity during PY 00. This is a special report that has been issued under TEGL 14-99. It represents a shorten version of what was reported during PY 99.

6. Q. Can college tuition costs be paid out of Youth funds? Are ITAs only available to Adult and Dislocated Workers? If college tuition cannot be paid with Youth money, how should we account for the participants that will need to be transferred to the Adult program?

A. Activities funded with WIA Youth funds must fall under one of the ten program elements listed in WIA section 129(c)(2) and 20 CFR 664.410. Local programs have the discretion to determine what specific program services will be provided to a youth participant, based on each participant's objective assessment and individual service strategy (ISS). Since WIA emphasizes preparation for postsecondary education, paying for one or more community college classes may encourage a young person to continue to pursue post-secondary course work.

Although there will be instances when college tuition costs will be paid for with Youth funds, ITAs may not be paid out of WIA youth funds, under 20 CFR 664.510. Training costs for participants under 18 years of age could be paid through an individual referral contract with the training provider. Eligible individuals who are 18 through 21 years of age may participate in adult and youth programs concurrently, and those individuals must be eligible under the youth or adult eligibility criteria applicable to the services received. Local program operators must identify and track the funding streams which pay the costs of services to ensure that services are not duplicated.

7. Q. We understand that States have considerable flexibility under TANF to help meet the needs of low-income families, including youth. What factors need to be considered for a State to use TANF resources to provide summer jobs for low-income youth?

A. The Department of Health and Human Services has developed a publication , entitled "Helping Families Achieve Self-Sufficiency, A Guide on Funding Services for Children and Families through the TANF Program", it addresses the factors that a State should consider when to determining to use TANF resources to provide summer jobs for low income youth. This document is available online (see <http://www.acf.dhhs.gov/programs/ofa/funds 2.htm>).

8. Q. If an individual who is out-of school at the time of registration is subsequently placed in an alternative school, does this mean that the individual is no longer considered out-of-school for the purposes of the 30% expenditure requirement on out-of-school youth?

A. No, a youth's drop-out status is determined at the time of registration, as referenced in 20 CFR 664.310. Alternative secondary school services are one of the ten required program elements for local youth programs. It is intended to be a service strategy that should be available for serving out-

of-school youth. Accordingly, if at the time of registration the youth has been determined to be out-of-school for WIA-supported services, this designation may be continued for purposes of tracking expenditures for "out-of-school" youth.

9. Q. Are incentives and stipends for such activities as GED completion, allowable expenditures under the WIA youth program?

A. Yes. Reasonable incentives and stipends are allowable expenditures under the WIA youth program, provided that the provision of an incentive or stipend is included in the participant's individual assessment and service strategy. Local Boards should take into account the cost effectiveness of providing incentives and/or stipends based upon local youth funding levels and the capacity of the local youth program to provide a quality offering of the required youth program elements as well as incentives and /or stipends.

10. Q. Since the regulations allow WIA funds to be used to pay youth in work experience, does it also allow youth to be paid for an entire day of work if at least 51% of that youth's time is spent in work experience with the rest of the day in some other type of allowable training? For example, if a youth spends five hours per day in work experience and three hours in GED preparation, could he or she be paid for eight hours of work? (Note: this was allowable under JTPA.)

A. Yes. See the previous answer regarding incentive payments. This is one way the incentives could be used.

11. Q. Can supportive services be provided for youth as post-employment follow-up services?

A. Yes, as specified at 20 CFR 664.450. Followup services may include supportive services as defined in 20 CFR 664.450.

12. Local areas that serve younger disabled youth will be required to set a basic skills goal if the youth is basic skills deficient. Must local areas that want to serve disabled youth continually set basic skills goals every year even if the service strategy carries over several years? (NEW)

A. Service providers at the One-Stop center set the skills attainment goals, and the goals are to be based on the assessment and the individual service strategy for each individual. For disabled youth, it is appropriate to set goals that can be reasonably attained by the individual according to the individual service strategy, and this could be an on-going process.

13. Q. How does an alternative entity serving as a local workforce investment board effectively address the seventh key WIA principle that calls for improved youth programs?

A. Every local workforce investment board must have a youth council. An alternative entity is required to perform the duties of a youth council specified in WIA section 117(h)(4), and should contain a distinct subgroup of youth specialists in order to most effectively perform those duties. An alternative entity without such a subgroup would not be considered as "substantially similar" under WIA section 117(i)(1)(C)(ii). An alternative entity must develop a process for ensuring that the broader youth representation envisioned in WIA is fully afforded the opportunity to participate

in carrying out the responsibilities of the youth council. An alternative entity could fulfill such responsibilities in a number of ways, such as:

By forming a subcommittee, in the form of a youth council, assigning members of the Local Board with a particular interest or expertise in youth policy, to address the specific needs of youth;

By "grandfathering" in a local youth entity, such as a STW local partnership, that is substantially similar to a youth council, to carry out youth council responsibilities;

By adding members with specific youth experience (as long as it does not result in a significant change in the membership structure of the alternative entity).

14. Q. Do youth (especially 14-18) have to be eligible for WIA in order to participate in One-Stop services?

A. No. 20 CFR 664.710 authorizes local areas to provide One Stop services to youth who do not meet WIA eligibility criteria. However, such One-Stop services for non-eligible youth must be funded by programs that are authorized to provide services to such youth. For example, basic labor exchange services, e.g., access to America's Job Bank under the Wagner-Peyser Act, may be provided to any youth, as well as basic self-services of the One-Stop.

15. Q. Doesn't that conflict with the concept of universality?

A. No, since WIA Adult/Dislocated Worker funds may be used to provide core services to all persons 18 and over, and other funding sources, such as Wagner-Peyser, that are also used to fund core services, may be available to provide services to a younger population.

16. Q. Can a Memorandum of Understanding, (MOU), for youth services be used as a contract for services?(NEW)

A. Under WIA an MOU is an instrument designed to describe a relationship between the partners in the One-Stop system. It must contain the provisions required by WIA, section 121(c)(2). However, a separately executed document would be required to convey the many assurances and compliance requirements that are a part of a contractual agreement to use federal funding.

17. Q. What are the conflict of interest policies for youth services representatives on the Youth Councils?

A. The policies are the same as those for other members of the Local Boards, as required under 20 CFR 667.200(a)(4). Local conflict of interest policies should be set and applied.

18. Q. What will DOL do to encourage Boys/Girls Clubs, YM/YWCA's, etc., to be involved on Youth Councils?

A. Provisions of WIA section 117(h)(2) state that members of such groups are likely to be effective members who have experience with respect to youth activities. The most effective outreach to such organizations would be done by the chief elected official or the Local Board

which is familiar with services in the local area, not the DOL.

19. Q. If you try to do any substantial summer program, how can you ensure spending at least 30% of allocated youth funds on out-of-school youth?

A To ensure that a local area is spending at least 30% of allocated youth funds on out-of-school youth, local areas should base their calculations on the total youth funds allotted less the amount deducted from the allocations for administrative cost for each year of the funds as referenced in 20 CFR 664.320.

The intent under WIA is to improve youth services, and to make sure that our most vulnerable youth are served. Local Boards must keep in mind that the new out-of-school youth provision may result in changes in program emphases and strategies, thus requiring a new strategy for the summer employment component. Summer employment opportunities are to be viewed as one element among many available to youth as a part of a menu of activities offered by the Local Board. Expenses for any out-of-school youth participating in that component of youth services in the local area would contribute to the 30% requirement as well.

20. Q. What are the opportunities to bring in USDA cooperative extension services already working with youth as partners in WIA?

A. The Local Board may partner with any program in their local area that serves youth. The most effective outreach to such organizations would be done by the chief elected official or the Local Board. Employment and training programs administered by USDA are specifically suggested as optional One-Stop partners in the Act, and would include 4-H Clubs and extension service programs. (WIA Section 121(b)(2))

21. Q. How do you reconcile spending WIA on STW with the provisions of WIA section 125 (c)(6)(B)?

A. WIA Youth programs are intended to prepare young people for post secondary education and/or employment, and to include linkages between academic and occupational learning. WIA allows funds to be expended on eligible youth for a comprehensive array of services that are identified in Section 129 of the Act. Among these services are paid and unpaid work experience, occupational skills training, and summer employment opportunities linking academic and occupational learning. While WIA funds cannot be used to fund STW grants, they may be used for activities and services that happen to be authorized under the STW legislation so long as these are also allowable activities identified under WIA and are provided to eligible youth.

22. Q. What is the State's role in assisting with the followup of youth, particularly with transitory youth?

A. Follow up services for youth is a local responsibility cited in WIA section 129(c)(2)(I), however the mix of Statewide and local services will determine whether the State has a role in followup activities.

23. Q. Does the number of Youth Council members increase the number of private sector representatives required on the Local Board?

A. No. Youth Council membership requirements are separate from the Local Board membership requirements.

24. Q. Does the local planning process have to include the Youth Council membership along with the Local Board membership, even though some Youth Council members are non-voting?

A. Yes. Section 117(d)(1) and section 118 of the Act state that each Local Board, in partnership with the chief local elected official shall develop and submit a local plan. Portions of that plan relating to youth activities are to be developed by the Youth Council, subject to the approval of the Local Board.

***Additional information on Youth programming under WIA may be found at:**
<http://www.usworkforce.org/asp/siteindex.asp>

Section VI. Various Special Programs

A. Welfare to Work and WIA (NEW)

The Workforce Investment Act of 1998, (WIA), which became fully effective July 1, 2000, mandates the formation of Local "Workforce Investment Boards" (Local Boards) to administer programs within a specific local area and to oversee a One-Stop service delivery system designed to provide quality information and services for customers. The following key questions have been posed regarding the impact of WIA legislation on WtW program operations.

1. Q. Is the Local Workforce Investment Board (Local Board) the successor entity to the Private Industry Council (PIC)?

A. Yes. The Local Board will assume the role previously held by the PIC as the administrative entity for Welfare-to-Work (WtW). (Section 403(5)(D)(ii) of the Social Security Act was amended in October 1998 to expand the definition of "private industry council" to read as follows: "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to the Job Training Partnership Act, (JTPA), or title I of the Workforce Investment Act of 1998, as appropriate." (Pub. L. 105-277)). This change in the WtW authorizing legislation makes it clear that local workforce investment boards (local boards) are intended as successor entity to PICs for purposes of the WtW program. WIA authorized the creation of Local Boards in Section 117. JTPA which authorized the establishment of PIC's is no longer in effect after July 1, 2000.

2. Q. How will WtW fit into the local workforce investment system?

A. 20 CFR 662.200-662.220 of the WIA Final Regulations denotes which entities serve as partners in the One-Stop system. Under WIA, all WtW formula and competitive grantees, including Local Boards, are required partners in the One-Stop service delivery system. Title I of WIA and its Interim Final regulations require a Memorandum of Understanding (MOU) between each partner and the Local Board. MOUs must include information about what services each partner will provide, including coordination of referrals and use of resources. Information on the responsibilities of One-Stop partners, including specific information on MOUs, may be found in 20 CFR part 662.

Technical assistance and samples of MOUs may be found at <http://www.usworkforce.org>.

While the relationship between the WtW competitive grantees and the Local Boards may not be as formal as that of the WtW formula grantee, which in most cases will also be fiscally responsible for WIA funding, all WtW grantees are considered to be covered by the provisions of 20 CFR Part 662 of WIA. A partnership with the local One Stop system can enhance participant services, so competitive grantees should craft cooperative arrangements with the Local Board to maximize support for all participants.

3. Q. If PICs were providing WtW services directly to participants, can the Local Boards (former PICs) do so under WIA and under WtW?

A. Under WIA, one of the key reform principles is focusing local, business-led workforce investment boards on strategic planning and oversight. As a result, Local Boards may only provide core and intensive services under title I of WIA with the agreement of the chief elected official and the Governor. Local Boards may only provide training services funded by title I of WIA if they obtain a waiver from the Governor. Details on these restrictions are outlined in section 117(f) of WIA and 20 CFR 661.310. The Question and Answers page at <http://usworkforce.org/asp/qanda.asp> provides general information on PICs and their transition to Local Boards under WIA.

Under WtW, Local Boards are required to provide job readiness, job placement and post-employment services through contracts and vouchers. While the WtW 1999 Amendments, signed by the President on November 29, 1999, permit grantees that are not Local Boards to provide these services directly, the prohibition on providing these specific services directly still exists for Local Boards. The WtW law and regulations permit Local Boards to provide other WtW services directly (such as outreach, recruitment, assessment, employment activities and job retention/support services), although the Department encourages Local Boards to focus on their strategic planning and oversight responsibilities as described under WIA.

In some cases, PIC's were providing prohibited services directly under WtW due to a misinterpretation of a policy clarification issued by the Department. The new interim final regulations implementing the WtW 1999 Amendments will clarify this policy and require Local Boards to come into compliance with the law and regulation on this issue no later than July 1, 2000.

4. Q. Does the agreement with the WtW State administrative entity have to be modified as a result of a former PIC's transition into a Local Board?

A Yes. Some form of a transaction will have to occur to transfer fiscal authority and liability for WtW grant funds. This will ensure that the State formula grant remains in compliance with the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," codified in the DOL regulations at 29 CFR part 97. These requirements to ensure the sound management of Federal funds are incorporated by reference in both WtW and WIA regulations. However, it is up to each State to determine the nature and extent of the required modifications to local agreements. In some cases this modification may only consist of changing the name of the local entity. In other cases, where substantial changes are taking place in the mode of service delivery, a more extensive modification is likely to be required by the State.

If there is no change in geography, the State should arrange for or facilitate "novation agreements" (See Federal Acquisition Regulations at 48 CFR Subpart 42.12) between the outgoing PIC and the Local Board taking its place. This agreement establishes that all parties are in agreement with the terms and will allow the new entity (the Local Board) to administer the WtW funds as the successor entity.

5. Q. What procedure should be followed if a local workforce investment area's geographic configuration under WIA is different from the service delivery area (SDA) configuration under JTPA?

5. A. If the local geographic configurations change as WIA is implemented, the State entity that administers the WtW grant should ensure that funds are appropriately redistributed among local workforce investment areas. Based on the elements in the State's distribution formula outlined in the WtW State Formula Plan, the State will determine what, if any, adjustments to local area allocations are necessary. States should reapply their original WtW formula to the new areas, based on the data used at the time of the initial allocation, if possible. Adjustments, to the extent needed, should be made only out of funds that are unexpended or unobligated at the local level.

6. Q Does the approved WtW State formula plan require modification in order to reflect this geographical change?

A Yes. If the geographic configurations and WtW formula allocations are different than those provided by the State in the approved FY 98 and/or FY 99 WtW formula plan, then the State should submit a modification to the Department of Labor. The modification would reflect the newly designated local workforce investment areas and the adjusted amount of WtW funds allocated to those areas. The State should submit this modification to the WtW State Plan as soon as possible after either the new local workforce investment area is designated or upon ETA's approval of the WIA State plan.

7. Q. If the State does not have a WtW formula grant, can competitive grantees represent the WtW program on the State Board?

A. Yes. WIA requires the representation of each One-Stop partner program on the State Workforce Investment Board by the lead State agency official with responsibility for the partner program . Where no lead State agency is responsible for a partner program, the partner program is represented by a person with expertise relating to the partner program. For WtW, an official from a competitive grantee may be designated as the representative with expertise relating to WtW, although the Governor may choose to designate some other representative.

8. Q. Are WtW competitive grantees required partners in the local One-Stop delivery system and are they be required to enter into a MOU?

A. Yes. The WtW program, including all WtW formula and competitive grantees, is a partner in the local One-Stop delivery system. In this role, the grantees are considered partners of the One-Stop operator, and, therefore, a member of the Local Board must represent the WtW program. The WIA regulations, at 20 CFR 662.230 and 622.300, require a MOU between each partner and the Local Board outlining what services each will provide, including coordination of referrals and use of resources for services and operating costs of the system.

9. Q If there is more than one WtW competitive grantees in a local area, do there have to be separate Local Board members appointed to represent each grantee?

A No. The CEO must appoint a representative for each One-Stop partner program in the local area, but one representative may represent multiple grantees of a partner program. The CEO may also select more than one representative. For example, the CEO may appoint a representative from multiple grantees of the same program to facilitate more effective representation of the program on the Local Board.

10. Q. Since competitive grantees who are Local Boards (formerly PICs) must contract out most WtW services, will the transition to WIA require a modification to the competitive grant document?

A. The WtW requirement that a Local Board must contract out certain WtW services does not necessarily change a competitive grantee's scope of work, as originally funded. If it was not clear in the original grant document how services were going to be provided (directly or through subrecipients), then a change in the mode of service delivery may not require a modification to the grant document. If a change in the mode of service delivery significantly affects the grant's scope of work, however, then a modification would be necessary. Lack of clarity in the grant document does not relieve a competitive grantee who is a Local Board from the requirements of the WtW statute - providing job readiness, job placement and post-employment services through contracts or vouchers.

If a Local Board has a WtW competitive grant and is providing services in compliance with WtW, but WIA requires them to make other changes in their mode of service delivery, the same standard would apply. A modification would be necessary if the changes in service delivery are different than those expressly stated in the WtW competitive grant document.

Fiscal WtW/WIA Questions and Answers:

1. Q. When a PIC phases out, how are funds transferred to the Local Board? Does the change take place when the geographic configurations for the local workforce investment areas change?

A. If the geographic areas are the same, the parties may enter into a "novation agreement" which, in essence, establishes that all parties are in agreement and transfers funds and the responsibility and liability for those funds over to the new administrative entity (See Federal Acquisition Regulations at 48 CFR Subpart 42.12). If the geographical areas change when the Local Board is established, the State would be responsible for redistributing funds on an equitable basis, using the elements in the State's distribution formula outlined in the WtW State Formula Plan, to ensure that the appropriate funding amounts are available to each local area after transformation to WIA.

2. Q. Can Welfare-to-Work funds be used to help provide youth activities authorized under WIA (including summer employment opportunities) to disadvantaged youth?

A. The legislative intent for the Welfare-to-Work (WtW) program is to place long-term welfare recipients, TANF exhaustees, certain noncustodial parents and other disadvantaged individuals, (including, under the 1999 Amendments, individuals from 18 to 24 years of age who have been in

foster care), into unsubsidized jobs that lead to wage gains and self-sufficiency. WtW is considered a "work first" program, where the focus is to place an individual into a work activity as soon as possible, and concentrate resources on post-employment services to assure that the individual remains working in the labor market with the support and skills development (s)he needs to progress to economic independence. WtW post-employment services (training, mentoring and other

State or local-defined activities), may be provided to participants, as well as job retention services and support services which are not otherwise not available through other sources.

To the extent that WIA youth activities (including summer employment opportunities) can be viewed as part of a continuum of out of school youth services with the goal of placing an individual into an unsubsidized job with potential for wage gains, and/or a better job, WtW funds may be used. WtW funds used to help provide such youth employment activities must, however;

(1) serve only those participants who also qualify as eligible for the WtW program under the WtW Amendments of 1999 - for all competitive grants. For formula grants, the 1999 amendments become effective on July 1, 2000. Prior to this date, the eligibility criteria in §645.212 and §645.213 of the November 18, 1997 WtW Interim Final Rule are in effect for formula grantees.

(2) may be used only for those activities allowable under the WtW Amendments of 1999 - for all competitive grantees. For formula grants, the 1999 amendments become effective on July 1, 2000. Prior to this date, the allowable activities in §645.220 in the November 18, 1997 WtW Interim Final Rule are in effect for formula grantees, and

(3) such activities will eventually result in job placement and retention in unsubsidized employment.

3. Q. Can a formula grantee provide "pre-employment" vocational educational training or job training (not to exceed 6 months) as allowed by Section 802 of the 1999 Amendments during the period July 1, 2000 through September 30, 2000? Can Federal formula funds be spent on this activity during this period?

A. WtW formula funded operating entities may provide "pre-employment" vocational educational training or job training activities to eligible participants during the July 1, 2000 to September 30, 2000 period. However, these entities may not spend Federal formula funds for these activities until October 1, 2000. The intent of this restriction is to prevent the outlay of Federal WtW formula funds until the first day of fiscal year 2001. It is not intended to prevent the normal incurrence of unpaid obligations until that date, provided that Federal WtW

formula funds are not drawn down to liquidate the obligations until October 1, 2000. Therefore operating entities may not draw down WtW formula funds from the Federal Treasury until that date. During the period of July 1, 2000 to September 30, 2000, operating entities may expend matching funds and/or may incur unpaid obligations within the normal course of business, provided that the timing of those transactions ensures that the draw-down of Federal WtW formula funds to liquidate the obligations will not occur until October 1, 2000.

* **Additional WtW policy guidance can be found at:** <http://wtw.doleta.gov/>

B. WIA and the use of Wage Records (NEW)

1. Q. Why do States maintain wage records?

A. Each State is required to maintain quarterly wage record systems for purposes of verifying income and eligibility for various Federal and State benefit programs. (Sections 303(f) and 1137 of the Social Security Act (SSA).) Although wage records are not always collected in the first instance by the Unemployment Insurance (UI) agency, all UI agencies currently house wage records. In all but one State (Michigan), the wage record is used to determine whether an individual has sufficient earnings to qualify for UI.

2. Q. What data elements are found in the wage record?

A. The information contained in wage records varies from State to State. However, all wage records contain at least the following information:

- Quarter (e.g., 3rd quarter of 1999).
- Employee's Social Security Number.
- Wages paid the employee in the quarter.
- Employer information.

Information on employers varies from State to State. At a minimum, the wage record contains information identifying the employer such as a name, address, and State and Federal UI account numbers. The wage record may also contain other information such as Standard Industrial Classification codes (changes to North American Industry Classification System in mid-2000).

The majority of States' wage records contain the employee's name, or at least some letters of the name. For example, a wage record may contain only the first four characters of the employee's last name. A few State wage records contain weeks worked, and records in two States (Washington and Oregon) contain hours worked.

Most State wage records do not contain the following:

- Date of hire or separation.
- Hourly wage rate.
- When in the quarter the wages were earned.
- Information on Federal or military employees.
- Information on independent contractors, the self-employed, and others excluded from coverage.

3. Q. How current is wage record information? When is data from a new quarter available?

A. Each quarter, employers in a State provide wage information on their employees to the UI (or other) agency. This information is required to be supplied 30 or 31 days following the end of the quarter. States start entering wage records into their computers as soon as they are received. The wage records are usually fully entered by the start of the following quarter. For example, wage records for the quarter ending June 30 are due from employers on July 31. In most cases, they will be fully entered by September 30.

4. Q. How long do UI agencies retain wage record information?

A. State UI agencies do not keep wage records on-line indefinitely because only recent wage records are used for determining UI eligibility on new claims. Since most States use the first four of the last five completed calendar quarters available for computing eligibility, these quarters will generally be available. States usually retain one or two quarters of older wage records on-line for use. Although States archive wage record data, obtaining information from these archives is more costly than obtaining current information.

5. Q. What are the Federal confidentiality requirements for UI wage records?

A. The Federal confidentiality requirement is based on Section 303(a)(1), SSA. The Department of Labor (Department), since the early days of the program, has interpreted that provision to require confidentiality of information in State UI records -- in particular, information that may be used to identify particular individuals or employers. The reasons for the confidentiality requirement are to avoid: discouraging individuals from exercising their right to UI under State law; discouraging employers from cooperating in the administration of the program; and notoriety for the program that would accompany the misuse of information in UI administrative records. Information that does not or that cannot be used to identify particular individuals or employers, such as aggregate statistical data or information about the general operations or policies of the State UI agency, is not confidential under the Federal requirement.

The Department has set forth positions on the confidentiality requirements in UI program letters 23-96, 34-97, and 21-99. The Department has also issued a Notice of Proposed Rulemaking (NPRM) at 57 Fed. Reg. 10063 (March 23, 1992) on the confidentiality requirements and intends to issue a final regulation.

6. Q. Are there any circumstances under which confidential information from UI records may be disclosed?

A. Yes. States are permitted but not required to disclose confidential information to:

- A *public official* in the performance of his or her public duties (executive branch officials, and legislative branch officials with oversight responsibility for UI; does not include public university officials).
- An *agent or contractor* of a public official.
- Any entity if the individual or employer to whom the information pertains signs an *informed consent* release (UIPL 23-96 discusses the content of informed consent).

Disclosure for purposes of administering the Workforce Investment Act must fit one of these exceptions and follow the conditions discussed below.

7. Q. Are some State UI laws more protective of UI data than Federal law?

A. Yes. State laws contain confidentiality requirements concerning UI records that, at a minimum, reflect Federal law requirements. However, State law requirements may be more protective.

Section 136(f)(2) of WIA recognizes this, stating that wage records shall be used in measuring State progress on State and local performance measures "consistent with State law." States that have a conflict between their laws and the use of wage records under WIA, however, may wish to amend their laws.

8. Q. Who pays the costs of a UI agency supplying wage record information?

A. States are precluded by Section 303(a)(8), SSA, from using UI grants for any purpose other than administration of the UI program. Section 303(a)(8), SSA requires expenditure of UI grants "solely" for purposes of and in amounts necessary for "proper and efficient administration of" State UI law. This limitation on the use of UI grant funds prevents these funds from being used to fund disclosures for non-UI uses, unless the cost involved is incidental. Requesters of information under the Workforce Investment Act will therefore be required, like other requesters of UI information for non-UI purposes, to pay the costs associated with disclosure.

9. Q. What are the conditions for obtaining confidential wage record information?

A. For any of the optional disclosures, State UI agencies must require recipients of confidential information to follow safeguards to preserve the confidentiality of that information and enter into data sharing agreements which incorporate those safeguards. The Department's position concerning the details of safeguards and agreements required is set forth in UIPLs 23-96 and 34-97. The Department's 1992 NPRM, at 57 Fed. Reg. 10063, also discusses these details. Any final rule on disclosure is expected to address these conditions.

10. Q. How will the UI agency supply wage record information?

A. This will be determined by the States. There are several ways in which the UI agency could make wage record information available. One possibility is for the UI agency to supply wage record information to a single public agency in the State with responsibility for handling the performance accountability and consumer report functions. For this, the State accountability and consumer report agency would be required to have a data sharing agreement in place with the State UI agency and would need to provide reimbursement for the costs of disclosure. The recipient State agency would disclose only aggregate data outside the agency. Another possibility is for the UI agency itself to perform a match of participant data with wage record information and disclose only aggregate data outside the UI agency. A third possibility is for the UI agency to supply wage record data to an educational institution to perform a match of participant data with wage record data. Only aggregate data would be disclosed outside the educational institution. The educational institution would have to be designated an agent or contractor of a public official administering WIA for this arrangement to be consistent with UI confidentiality requirements. Using the educational institution, as opposed to another agent or contractor, may be one way to ensure compliance with requirements on the disclosure of educational records under the Family Educational Rights and Privacy Act (FERPA).

11. Q. What is WRIS and how is it related to the use of wage records for WIA purposes?

A. WRIS refers to the "Wage Record Interchange System" currently under development by States to ensure that the wage records of any State are available to any other State for WIA performance measurement purposes. More information on WRIS is available through the "WRIS watch" maintained by the Interstate Conference of Employment Security Agencies (ICESA) at the

following web site: <http://www.icesa.org>.

12. Q. What are the State and National Directories of New Hires and who has access to them?

A. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established the National Directory of New Hires (NDNH) and State Directories of New Hires (SDNH). The NDNH is maintained by the Social Security Administration on behalf of the Department of Health and Human Services, Office of Child Support Enforcement. States maintain their own SDNHs and generally supply data from it to the NDNH; in some States, UI agencies supply wage and claim information directly to the NDNH.

Under current Federal law, uses of the NDNH are limited to child support and welfare activities, certain Internal Revenue Service activities, and all programs and activities of the Social Security Administration. Federal law requires access to the SDNHs for State child support enforcement agencies, agencies operating employment security and workers' compensation programs, and programs which participate in the income and eligibility verification system under section 1137(b) of the Social Security Act. Access to SDNHs for other programs and activities varies from State to State.

The following information is in these directories:

- New hire information: name, address, and social security number of the employee; name, address, Federal identification number of the employer
- Wage information: name (where available), social security number, and aggregate quarterly wages of the employee; name, address, and Federal identification number of the employer
- UI claim information: name and address (where available), social security number, aggregate quarterly UI payments of the individual; whether the individual is receiving, has received, or has applied for UI.

In some States, additional information is available, such as date of birth, and date of hire.

C. Migrants/Seasonal Farmworkers and Native American Grantees (NEW)

1.Q. Who is ultimately responsible for the One-Stop system established under the Workforce Investment Act (WIA)?

A. The grant recipient, which is the chief elected official of the local area. The operation of the One-Stop centers is the responsibility of the local Workforce Investment Boards (WIB). A local board's function includes setting policy for the local workforce investment system, the development of the local plan for the delivery of workforce investment services and other functions such as coordination with local economic development strategies. (See WIA section 117(d))

2. Q. What does this mean for the Migrant and Seasonal Farmworker (MSFW) program grantees?

A. The nationally administered MSFW program and the Indian and Native American (INA) programs are required One-Stop partners under WIA, which includes membership on the appropriate local board. (See WIA Section 117, paragraph (b)(2)(A)(vi).) These programs must be

represented on local boards in areas where these programs operate.

3. Q. Do the LWIBs operate the One-Stop Centers?

A. Generally not. The local board selects a Center operator. The operator depends on the cooperation of all the participating partners, including those required by WIA to participate. (The nationally administered MSFW and INA grantees are required One-Stop partners under WIA.) The One-Stop operator is responsible to the local board, and all required partners have a seat on the local board.

4. Q. What are the obligations of the MSFW grantees as mandatory partners to the State's One-Stop Centers?

A. Because the MSFW grantee is one of the required partners of the WIA One-Stop system, the MSFW grantee must make arrangements with each of the local One-Stop centers where it operates for making core services available to the MSFW customers it serves.

5. Q. How is this to be accomplished?

By negotiating with the local board on the arrangements for making core services available. The results of the negotiations are expressed in a Memorandum of Understanding (MOU) which serves as the contract between the MSFW grantee and the local board.

6. Q. What is the intention behind all this new activity under the Workforce Investment Act?

The principles of the Workforce Investment Act provide for a customer focused delivery of job assistance and training. This means that we must operate in a supportive manner to members of the public in their search for employment or the job training assistance that is the most appropriate for them. The delivery should be designed to assist customers by quickly assessing their needs and objectives, so as to find the best path for achieving the objective. Job seekers entering a local One-Stop center, enter a single system, ideally at just one physical location, where they will find a variety of services available to them. The delivery of services should appear seamless and undifferentiated to them, despite the underlying separation of programs derived from separate funding streams having competing objectives, services and client profiles.

7. Q. Who are the customers of the One-Stop system?

A. Both job seekers and employers are customers of the One-Stop system.

8. Q. May a Local Workforce Investment Board develop a single Memorandum of Understanding (MOU) to which all partners sign on?

A. Yes, as stated in 20 CFR 662.310, a local board may develop a single "umbrella" MOU which all the partners sign or the partners may enter into separate agreements with the local board. As nationally administered programs, the INA and MSFW grantees will need to negotiate the terms of their partnership with the local One-Stop systems that may include clauses ensuring their distinctive role is clearly recognized.

9. Q. Why is the negotiation of the MOU so important to me as an MSFW program operator?

A. There is no permanent funding specifically earmarked by WIA for One-Stop operations. Consequently, the costs of operating the One-Stop centers will be picked up by each partner, based on each partner's proportionate share of participating in its operation. In other words, each partner will pay the costs of the Centers that are allocable to its funding source(s). It is reasonable for the local board to look to the Migrant and Seasonal Farmworker program to provide, either by cash or in-kind, for the One-Stop Centers' core services that are provided to those MSFWs who are served by the MSFW grantee.

10. Q. Does this mean that the One-Stop Centers are now relieved under WIA from their current responsibility under JTPA to serve MSFWs and INAs equitably?

A. Not at all. Every other One-Stop partner has a responsibility to serve INAs and MSFWs under their respective programs in a fashion resulting in equitable local service levels to these two significant groups. There is a compelling economic reason for their doing so: The formula at WIA section 132 (b)(1)(B)(ii) that is to be used for allocating funds among the States for the Adult and Dislocated Worker programs, includes INAs and MSFWs. The States will receive WIA funding for these programs which is based on data that includes unemployed and economically disadvantaged INAs and MSFWs.

11. Q. What cost allocation issues do I need to be mindful of during the MOU negotiations?

A. As the representative of the MSFW grantee, you can only agree to reimburse the One-Stop Center operation for that which is allocable to your grant. Nonetheless, be prepared if you encounter the expectation that your program is responsible for what amounts to more than its allocable share.

Should you encounter such an expectation from an local board representative, consider it an opportunity,

- to promote greater recognition of MSFWs or INA as State program clients, and
- to advocate that farmworkers and INAs must receive the appropriate consideration to which they are entitled from all the partners of the One-Stop Center

12. Q. Can the State help with local MOU development?

A. It may be beneficial to approach your state to encourage the development of a state level MOU with the mandatory WIA partners of the State. The development of a state level agreement may foster greater chance of success for the MOUs developed by the local WIBs.

13. Q. WIA continues the authorization of the national programs for migrant and seasonal farmworkers and Indians and other Native Americans, but WIA provides that they must access these programs through the One-Stop System. What does this mean for my operation?

A. It means that the outreach and initial assessment each MSFW grantee traditionally carries out for its customers are now part of WIA core services. The core services available at a One-Stop Center

are determined by the local boards. However, the One-Stop's core services may be provided to its customers at other physical locations that make up a "network of affiliated sites". This means that core services provided by an MSFW or INA grantee at one of its locations, are done so on behalf of the local board, pursuant to the MOU which provides the details for accomplishing this, including agreement on associated costs. The end result will be a system that does a better job at finding the most appropriate services for its MSFW customers.

14. Q. Does WIA impose a new cost on my MSFW program for my share of the support of the One-Stop system in my state?

A. The answer depends on the One-Stop's core services and the outcome of MOU negotiations. Given program conditions similar to JTPA, the net change in costs (in-kind or cash) from the current independent way of doing business under JTPA is expected to be negligible in most instances. You now provide pre-enrollment and entry-level services to persons entering your program. These services are defined as core services under WIA and you currently charge the costs of providing these services to your MSFW grant. Under JTPA you have not been providing all the core services that will be available under a WIA One-Stop system because you don't currently have access to those resources. For example, you do not provide under JTPA those WIA core services that are traditionally provided through Wagner-Peyser funded Job Service functions.

Given the emphasis on customer focus under WIA, the system of delivering core services at some One-Stop Centers may be implemented with greater emphasis or intensity, yielding an enhanced level of service that avoids duplication while achieving a system-wide cost savings.

15. Q. Are there advantages contemplated by the WIA authors inherent in the requirement for the nationally funded MSFW and INA grantees to use the local One-Stop center's menu of core services?

A. Yes. Every seeker of assistance from the Workforce Investment System is provided access to the full range of services available. The system should be set up to facilitate the job seeker's search so that he or she quickly finds the services needed, and the services provided are the most appropriate for meeting the job seeker's expectations and needs. This concept translates into the preferred arrangement for job seekers to access these services at one location--even to one individual or team.

16. Q. What are "core" services?

A. Core services encompass a wide range of first tier services such as outreach, job search assistance, initial assessment and eligibility determination for Title I programs. 20 CFR 662.210 provides a list of minimum core services that must be available to adults and dislocated workers through every One-Stop delivery system.

17. Q. Where may MSFWs and other One-Stop customers go to receive core services?

A. Core services will be available at each local One-Stop Center. Local boards may agree for core services to be provided at locations preferred by grantees and MSFWs through electronic or other means.

18. Q. Does this mean the MSFW grantee should have someone on location at the local One-

Stop?

A. That is a matter for negotiation with the WIB. In many instances, electronic means will serve as the "**virtual** no wrong door" for job seeker's entering the WIA One-Stop System. The fact is the WIA principles provide that the MSFW's served under WIA section 167 are provided full access to the One-Stop's core services. Applying this WIA principle perfectly would mean that each job seeker, whether an MSFW, a heavy equipment operator or a cultural anthropologist, would reach the program and service that is appropriate for him/her.

19. Q. How will my participation in the One-Stop system facilitate my operation of the MSFW program?

A. Your participation in the One-Stop system will benefit MSFW program clients by expanding and enhancing your current capability to serve MSFWs. Currently, you occasionally refer persons you do not serve to other agencies where they will receive additional assessments: such referrals and assessments are core services activities. Under the One-Stop system, the past practice of referrals will change dramatically because once the job seeker has entered the One-Stop door, he/she receives an initial assessment that should allow him/her to find the program or service that is best suited to his/her requirements.

20. Q. Since the states' workforce investment programs are required to respect the needs of INAs and MSFWs equally with other groups in developing their service delivery strategies, how do the nationally funded INA and MSFW programs conceptually fit in?

A. To clarify the relationship of the Native American and MSFW grant programs to the rest of the programs of the One-Stop system, one might characterize the national programs as ones providing specialized services that supplement those of the major required partners' programs such as the Adult and Dislocated Worker Program and Wagner-Peyser services. This characterization has the advantage of distinguishing the WIA sections 166 INA and 167 MSFW programs from the principal providers of WIA One-Stop job services.

21. Q. Are Migrant and Seasonal Farmworkers also customers of the state workforce investment programs?

Yes. Farmworkers should be identified as customers of the State Workforce Investment System and their needs addressed in the State plan. The DOL Planning Guidance for the States requires the States to identify customer groups and their projected skill development needs. The Guidance suggests that this analysis could be "segmented into dislocated workers, disadvantaged adults, older workers, veterans, migrant and seasonal farmworkers, Native Americans, persons with disabilities, women and minorities."

The WIA regulations make it clear that ES, Adult and Dislocated workers programs, Vocational Education, etc., have a responsibility to make their program services available on an equitable basis to all groups, such as to Native Americans, MSFWs, disabled workers, women, etc. Conceptually, this equity goal will be achieved by the One-Stop Centers in the manner by which core services are provided.

22. Q. What should an MSFW grantee do if negotiations with a local board are unsuccessful?

A. When an MSFW grantee has endeavored in good faith to negotiate an MOU with a local board and those negotiations reach an impasse, the MSFW grantee should document its efforts to negotiate an MOU agreement and request assistance from ETA's Division of Seasonal Farmworker Programs (DSFP). The grantee may also request assistance from the State Board, as provided by 20 CFR 662.310(b). The failure to successfully negotiate should be reported to the State Board and the Governor.

23. Q. Are there consequences for failure to reach agreement?

A. If a required partner such as the MSFW grantee fails to execute an MOU, 20 CFR 662.310(c) requires suspension of the partner's membership on the local board, and the local board will be ineligible for incentive funds.

24. Q. Are the MSFW grantees required to use the eligible service providers for training services identified by the Local Workforce Investment Boards as provided under WIA section 122?

A. No. Although the MSFW grantees are part of WIA Title I, the provisions in Title I concerning eligible providers apply to formula funded state and local adult and dislocated worker programs. The provisions do not apply to the MSFW program or to the INA program. It applies to training services described in WIA 134(d)(4) for the adult and dislocated worker programs under 133(b). The provisions in section 136(b)(2)(B) pertaining to customer satisfaction do not apply to the MSFW and INA programs.

We anticipate that the MOU negotiation strategy many MSFW grantees may pursue with the local board will normally conclude on an agreement to confine its use of its 167 training funds to those training institutions recognized by the local board as WIA eligible service providers. Such conformity by the MSFW grantee may advance its public relations image with the other One-Stop partners, and it may also strengthen the MSFW grantee's customer service position with farmworkers by facilitating for them, the availability of the One-Stop's performance information on eligible training providers.

(For general business reasons, it is anticipated that MSFW grantees that provide training directly, will want to apply with the local board in the area it operates to qualify as an eligible training provider.)

25. Q. How do Individual Training Accounts (ITAs) affect the MSFW grantee operation?

A. Training services provided to adult and dislocated workers under the *Statewide and Local Workforce Investment System* authorized in subtitle B of WIA title I, must generally be made available to eligible adults and dislocated workers, through ITAs. The national programs under subtitle D of WIA title I are not required to use ITAs.

26. Q. What are the requirements regarding the provision of intensive and training services by MSFW grantees?

A. Under WIA, the national grantees retain control over the intensive and training services they provide, and the MSFW and INA programs continue to be administered nationally under WIA.

27. Q. Recent demographic shifts have led to the condition within many rural communities where many of the MSFWs speak only Spanish. What should one expect to occur under WIA to enable Spanish language individuals to participate in the services of the One-Stop system?

A. The universal access principle that embodies the "no wrong door" concept requires local boards take proactive measures ensuring that the One-Stop Centers are truly open to all the Center's potential customers. For rural communities facing a Spanish language issue in serving MSFWs, local boards may seek assistance locally to address it. For some MSFW grantees, this condition is a potential collaboration opportunity that may be addressed during the MOU negotiations.

28. Q. How Can MSFW program representatives influence state policy?

A. By serving on the State WIB Board. Section 111(b)(1)(C)(v) of WIA provides for the appointment of persons who are "representative of individuals and organizations that have expertise in the delivery of workforce investment activities including chief Executive Officers of ... community based organizations within the State."

29. Q. Are there opportunities for Section 167 operators to be involved in the state WIA planning process?

A. WIA requires that States plan WIA in collaboration with interested parties such as local elected officials, Workforce Development Boards, youth councils, business, labor and community based organizations. The State is required to "assure coordination of and avoid duplication among workforce investment activities authorized under..." Title I. The full utilization of the MSFW program under WIA Title I, section 167, will dramatically expand the system's capacity to meet the needs of the States' farmworker customers.

30. Q. Once again, please restate the WIA principles for me.

A. There are 7 WIA principles, stated as follows:

- STREAMLINED SERVICES
- EMPOWERING INDIVIDUALS
- UNIVERSAL ACCESS
- INCREASED ACCOUNTABILITY
- NEW ROLES FOR LOCAL BOARDS
- STATE AND LOCAL FLEXIBILITY
- IMPROVED YOUTH PROGRAMS

31. Q. Which principles have the greatest impact on the performance of the MSFW program?

A. As a mandatory One-Stop partner, the MSFW program is represented on the local board and is required to negotiated its MOU to make available to all the MSFWs it serves the One-Stop system's core services. These responsibilities contribute to streamlining of services and universal access for MSFW grantees .