

Mass Workforce Issuance

Workforce Issuance No. 14-56

Policy **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Operations Managers

cc: WIA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: July 10, 2014

Subject: **WIA Title I Performance Incentives and Sanctions, Revised**

Purpose: To notify CEOs, Local Workforce Investment Boards, One-Stop Career Center Operators and other local workforce investment partners of the Commonwealth's revised policy with regard to both incentives and sanctions related to local WIA Title I performance. This policy issuance revises and replaces guidance provided in WIA Communication No. 08-48, WIA Title I Performance Incentives and Sanctions (11/12/2008).

Background: Section 666.400 of the WIA Final Regulations requires that states use a portion of the funds reserved for statewide workforce investment activities under WIA Title I to provide incentive grants to local areas for exemplary performance with regard to the measures incorporated into the local Annual Plan. The amount of funds and the criteria used for determining exemplary performance levels needed to qualify for the incentive grants are determined by the Governor.

Section 666.420 of the WIA Final Regulations outlines the sanctions, technical assistance activities and corrective actions required of states if a local area fails to meet the negotiated levels of performance for the Title I core indicators.

On October 10, 2007, USDOL issued [Training and Employment Guidance Letter No. 9-07, Revised Incentive and Sanction Policy for Workforce Investment Act Title IB Programs.](#)

TEGL No. 9-07 revised the financial sanctioning formula for failure to meet negotiated Adult, Dislocated Worker and Youth measures that had been described in TEGL 19-02 (2/10/2003). Furthermore, TEGL No. 9-07 revised the performance incentive and sanction policy for states in order to align the policy with the implementation of Common Measures that were adopted by many states (including Massachusetts) under a waiver granted by USDOL.

The Commonwealth has developed this policy issuance for local performance to align with performance accountability requirements consistent with those described in TEGL No. 9-07.

Policy: A local area determined to have achieved exemplary performance on Title I performance based on the criteria described below, will be eligible for an incentive award from funds allotted for WIA Title I Statewide workforce investment activities. In accordance with § 666.400(b) the amount of available funding is determined by the Governor.

Annual performance attainment is finalized in October of each fiscal year, following the close of the first quarter, when the State reports annual performance for the prior fiscal year in the federal annual ETA 9091 report. At that time a determination is made with regard to local workforce areas that have met the criteria for an incentive award. Massachusetts reserves funds from the current fiscal year to provide incentive grants for exemplary local performance levels reached the prior fiscal year. The level of the award will be determined each year, based upon funding availability.

A. Evaluating Performance for Incentives and Sanctions

The extent to which each local area exceeds, meets or falls below its negotiated performance levels will be examined in the following manner. For each core performance measure, the percentage by which each area met its negotiated performance level will be calculated. For example, if an LWIB had a 70% negotiated performance level for the adult entered employment rate and the local area's actual performance was 70%, they would have achieved 100% of their negotiated performance level. If the local area's actual performance was only 35%, they would have achieved only 50% of their negotiated target level. This percentage of the negotiated level will be referred to as the performance score for each measure.

Using the process established by USDOL in TEGL No. 9-07, (10/10/2007) the following ranges are established to assess performance on individual negotiated goals:

Exceeds – Score of 100.0% or higher of the negotiated performance level;
Meets – Score of 80.0% through 100.0% of the negotiated performance level; and
Fails – Score of less than 80.0% of the negotiated performance level.

For the purpose of measuring local WIA Title I performance with respect to potential incentive award eligibility, the Commonwealth will measure local performance against the following Common Measures:

Adults and Dislocated Workers:

1. Entered Employment Rate;
2. Employment Retention Rate; and
3. Average Six Months Earnings.

WIA Youth the measures are:

1. Employment or Education Rate;
2. Degree or Certificate Attainment Rate; and
3. Literacy/Numeracy Gain.

An average performance score will be calculated from the scores for each measure in the program performance group, for each of the three performance groups (Adults, Dislocated Workers and Youth). For example, if the performance scores for the 3 adult measures are 90, 100, and 110 the average performance score for the adult group will be equal to 100 (sum of the three scores divided by three).

B. Incentive Awards

The criteria that will be applied to determine whether or not a local area is eligible for an incentive award are:

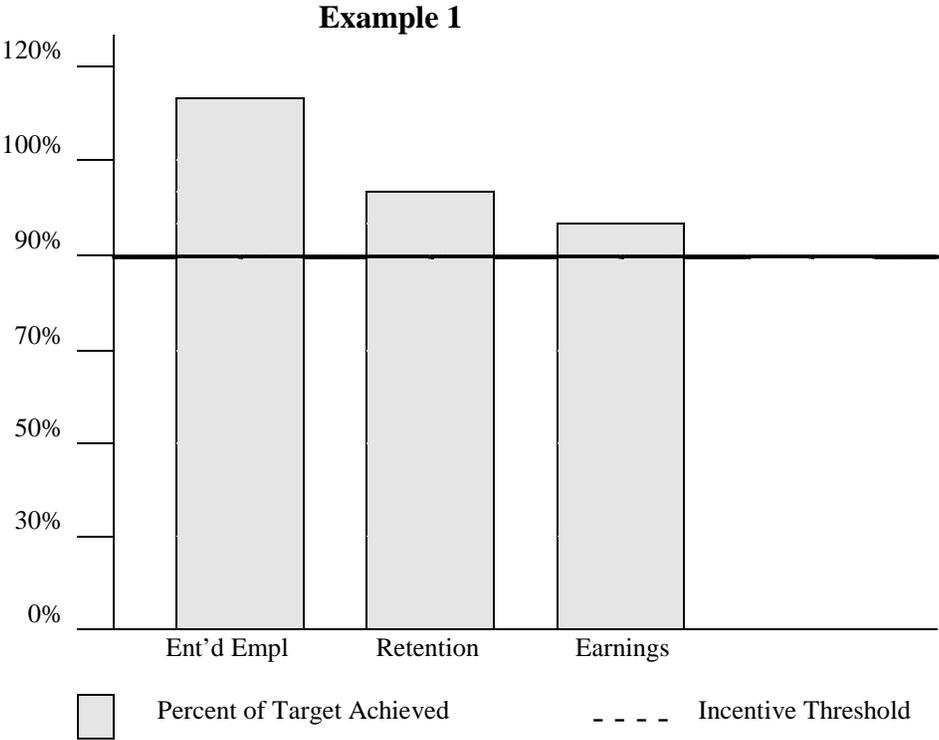
- Performance is at, or above 90% of the negotiated level for each applicable WIA measure described above; and
- The score for the average attainment rates for each of the WIA performance groups (adults, dislocated workers and youth) is at, or above 100%; and
- The local area has not requested a revision to lower its negotiated performance levels for any measure after the end of the third quarter of the program/performance year (March 31).

To be eligible for an incentive award, a local workforce area must meet two criteria:

1. The performance score for each of the applicable measures must be at or above 90.0% of the negotiated level for each applicable WIA measure; and
2. The average of the aggregate or cumulative score in each of the three program performance groups (adults, dislocated workers and youth) must be at or above 100.0%.

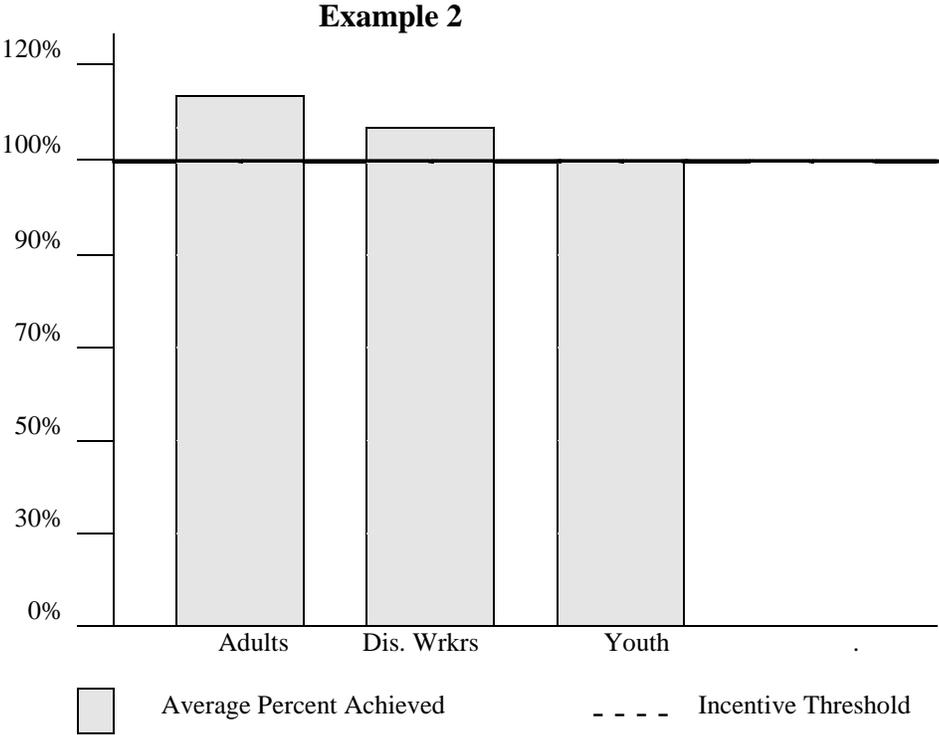
LWIBs achieving both the minimum score of 90.0% on every measure as well as averaging at least 100.0% in each of the three program groups will be determined to have achieved exemplary performance and will qualify for an incentive award allotment. The level of the local incentive awards will be determined each year,

based upon funding availability.

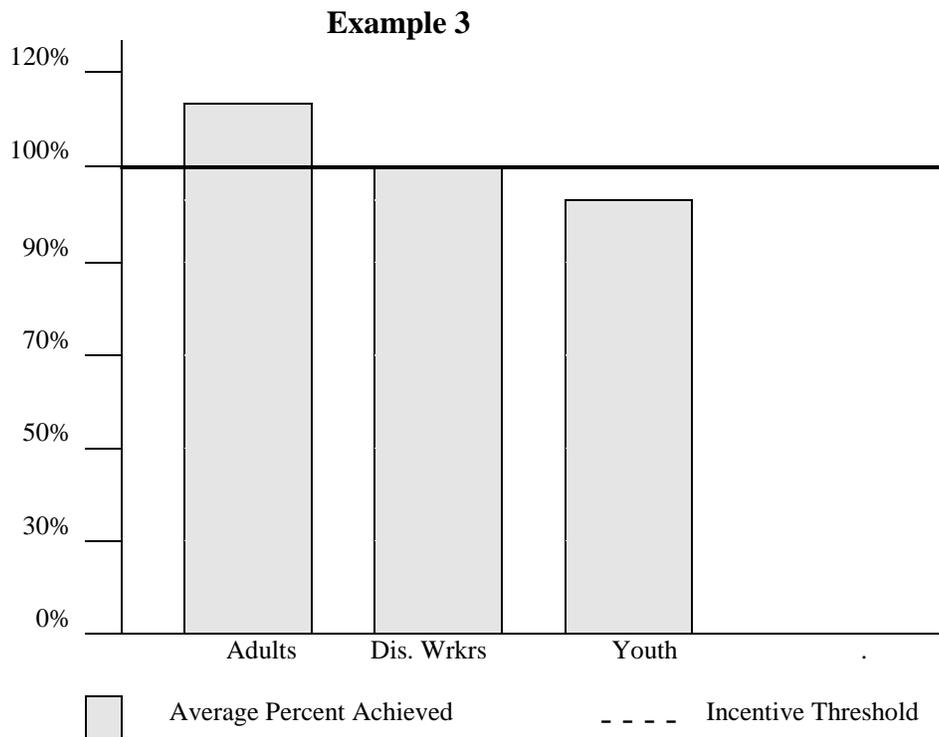


Example 1 shows the three performance measures for the adult performance group, and the extent to which an LWIB exceeded or fell below the negotiated performance levels on each of those measures. Note that the LWIB did not achieve two of the targets. However, since the performance on each of the measures was above the 90% threshold, the LWIB is within the acceptable performance range for an incentive under this criteria.

The following two examples illustrate how the average program group scores would be used to determine an LWIB's eligibility for an incentive award. In each example, the bars for each program group represent the average score for all measures in the group. Incentive awards will only be available for a local area that achieves an average score in each program group (adult, dislocated worker, youth) of 100% or greater, and if the local area also achieves a score of 90% of the negotiated level on each individual measure.



Example 2 shows the 100% incentive threshold and average program scores for each program group. An LWIB has an average score of 115% of the negotiated target for the adult program, 110% for the dislocated worker program, 100% for the youth program (and did not fall below 90% of negotiated target on any of the measures). The LWIB would qualify for an incentive award.



In **Example 3**, an LWIB has average program group scores of 100% or higher of negotiated performance levels in two program groups but less than 100% average score on Youth. The LWIB would not qualify for an incentive award. The average program scores will not be averaged across the three program groups to produce a single summary score for all measures. An LWIB cannot make up a deficit in one program performance group by exceeding performance in another.

C. Incentive Award Process

Similar to the federal-to-state incentive award process, where states are determined eligible and then must submit an application in response to the USDOL solicitation for incentive grants, the Commonwealth will require LWIBs to submit a plan for the use of incentive awards. The performance scores for each workforce area will be calculated from the data used to compile the Commonwealth's Annual Report to USDOL. Notice will be provided to LWIBs, CEOs, and Fiscal Agents after the Annual Report is submitted each year identifying which areas qualify for the incentive award. LWIBs will be requested to submit a description of the planned use of the incentive grant, with the signature of the LWIB Chair and CEO. The plan should be developed in consultation with appropriate parties including the fiscal agent, career center operators and the youth council. The incentive award grant has no cost category limitations but must be used for activities authorized under Title I. Examples include innovative programs for adults and/or youth, supplements to existing career center and youth activities, capacity building initiatives for career center and service provider staff, etc.

D. Failing to Meet the Negotiated Levels of Performance

In accordance with this policy issuance and consistent with performance measurement revisions implemented by USDOL (TEGL No. 9-07), local areas will only be measured against the following measures with respect to implementation of a performance improvement plan and/or financial sanction:

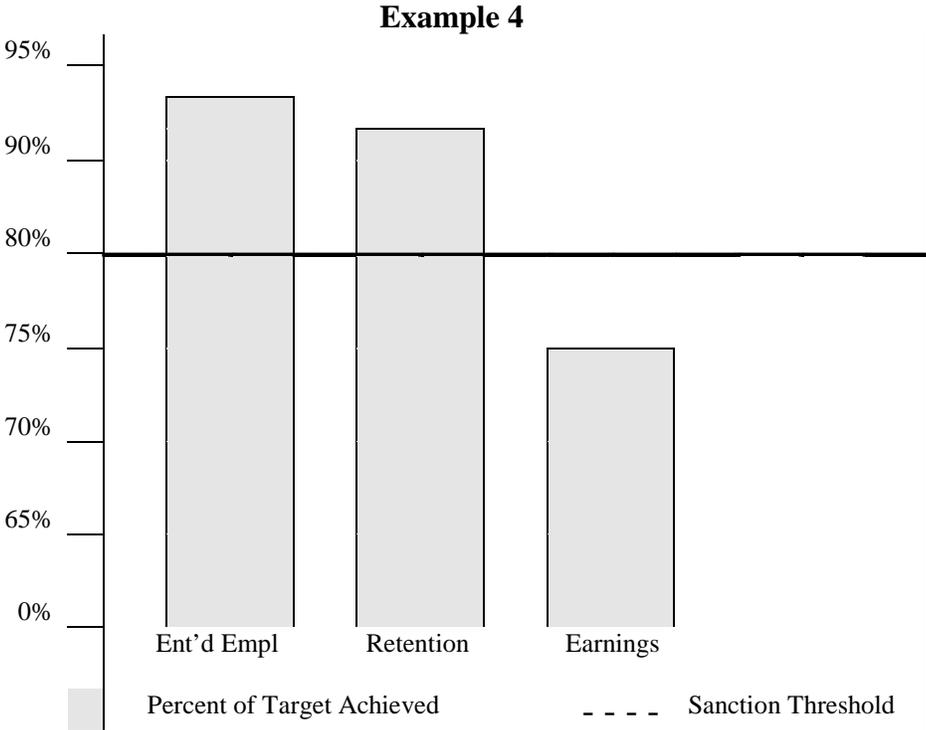
For Adults and Dislocated Workers:

- Entered Employment Rate;
- Employment Retention Rate; and
- Average Six Months Earnings.

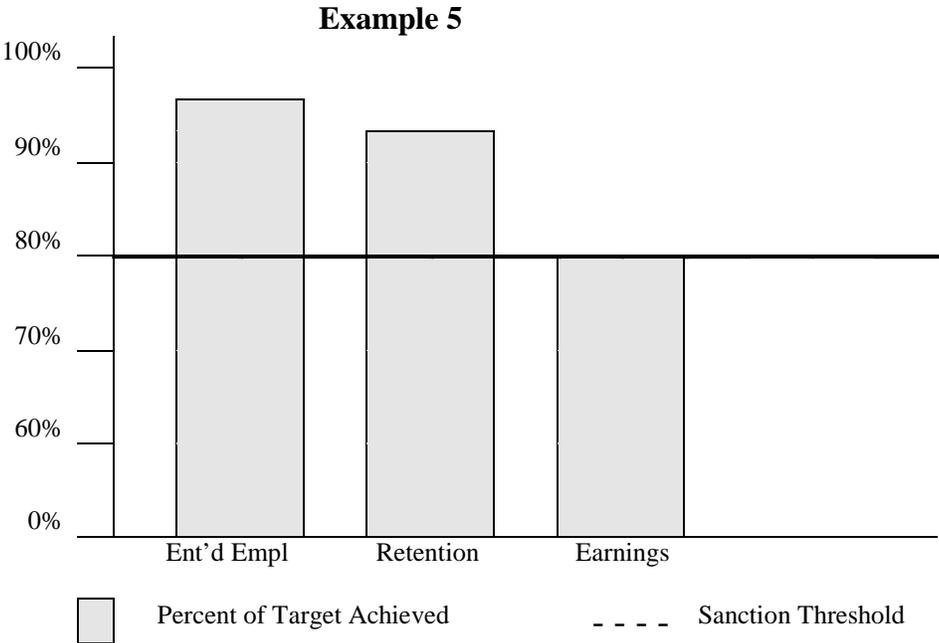
For WIA Youth the measures are:

- Employment or Education Rate;
- Degree or Certificate Attainment Rate; and
- Literacy/Numeracy Gain.

The lowest acceptable performance score is calculated as 80% of these applicable LWIB negotiated levels. LWIBs must attain 80% of the target performance level on each measure for performance to be determined acceptable. If a local area falls below the 80% threshold for any one performance measure for two consecutive years, the LWIB may be subject to sanction. The Commonwealth will review possible sanctions on a case by case basis.



Example 4: An LWIB has met or exceeded its negotiated target performance on two measures by performing 93% on entered employment, 91% on retention, but only achieved 75% of the negotiated performance target for earnings change. The LWIB cannot make up for failing on one performance measure by exceeding performance on the other measures in a performance group. The LWIB may be subject to sanction if it fails this same measure for a second, consecutive year.



Example 5: An LWIB did not achieve 100% of the negotiated performance targets on any of the adult measures. However, the LWIB did achieve at least 80% of the negotiated performance target on each of these measures. The LWIB is determined to have met all performance levels and would not be subject to sanction.

E. Unacceptable Performance

The first year that a LWIB experiences unacceptable performance, the Commonwealth will provide technical assistance. Regions that have failed a single performance measure for two consecutive years must have in place an approved corrective action plan, including performance benchmarks and timeframes. The technical assistance may include the development of a local performance improvement plan, recommendations on modifications to the local plan, or other actions designed to assist the local area in improving performance.

If it is determined that a local performance improvement plan is appropriate, the elements of this plan will be developed jointly with the LWIB. This plan would include the following components:

1. Statement regarding which performance measures will be improved through the implementation of the plan;
2. Analysis of the performance problem, including a description of problem solving techniques used to determine the most likely causes of the problem and a description of the most likely causes;
3. Identification of possible actions to improve performance, and a description of what actions the LWIB will take to improve; and
4. A timetable for implementing the selected options.

F. Sanctions

If a local area fails to meet the negotiated level of performance for the applicable performance measures for two consecutive program years, the Commonwealth must take corrective actions as required by §666.420 of the WIA Final Regulations. Depending on the number of measures that the local area fails to meet, and the extent to which they were not met, the Commonwealth may require a local performance improvement plan or modification to such a plan if already in place.

The corrective actions may include the development of a reorganization plan under which the Commonwealth:

1. Requires the appointment and certification of a new Local Board;
2. Prohibits the use of particular service providers or One-Stop partners that have been identified as achieving poor levels of performance;
3. Requires other appropriate measures designed to improve the performance of the local area; and/or
4. Imposes a financial sanction in the form of a reduction in the annual allotment for the program area, up to a maximum of five percent, consistent with TEGL No. 9-07.

Note: The effective use of sanction authority related to performance will include a range of actions, with the ultimate goal of improving services to customers. Financial sanctions will be considered when it is clear that a local area has not taken reasonable steps to address its poor performance; however, levying a financial penalty will not be the sole purpose or result of a sanction.

No reorganization plan will be imposed without prior consultation with the Local Workforce Investment Board and chief elected official. After discussions with the LWIB and CEO, a final statement of the required steps and actions will be issued by the Commonwealth. The local area may appeal to the Governor to rescind or revise a reorganization plan not later than thirty (30) days after receiving notice of the plan. The Governor must make a final decision within 30 days after receipt of the appeal. The Governor's final decision may be appealed by the LWIB to the Secretary of Labor not later than thirty (30) days after the local area receives the decision. The decision by the Governor to impose a reorganization plan becomes effective at the time it is issued, and remains effective unless the Secretary rescinds or revises the reorganization plan. The Secretary must make a final decision with thirty (30) days upon receipt of the appeal.

References: Workforce Investment Act of 1998, Sections 134 and 136
WIA Final Regulations, Part 666, Federal Register, August 11, 2000
USDOL TEGL No. 8-99, March 3, 2000
USDOL TEGL No 19-02, February 10, 2003
USDOL TEGL No 9-07, October 10, 2007

Effective: This policy is effective retroactive to July 1, 2013; for Fiscal Year 2014 Performance

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.